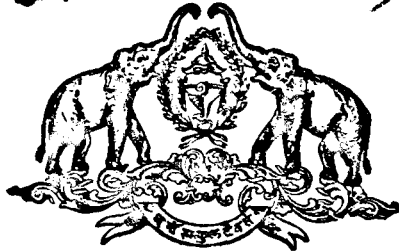


THE
ACTS AND PROCLAMATIONS
OF
TRAVANCORE

VOLUME II

1087—1099 M. E.
(1911—1923)



PUBLISHED BY
THE GOVERNMENT OF TRAVANCORE

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PREFACE.

This Volume opens with Act I of 1087 and contains in chronological order the Statutes enacted till the close of 1099 M. E. It is compiled on the lines followed in Volume I.

Certain Enactments appearing in these two Volumes have been repealed and certain others further amended while the printing was in progress. A list of such Enactments together with references to the repealing or amending Statutes is prefixed to this Volume as a Note.

Trivandrum,
1st June 1949.

T. P. Krishnan Nair.
P. N. Sitarama Iyer.

NOTE.

*List of Enactments contained in Vols. I and II which
have been subsequently repealed or further amended.*

Vol. I.

Act I of 1050.	Native Passenger Ships Act.	Repealed by Act XXIII of 1124.
Proclamation (16-10-1050).	Trial of European British Subjects Proclamation.	Repealed by Act XXIII of 1124.
Proclamation (22-3-1051).	Special Appellate Judge Proclamation.	Repealed by Act XXIII of 1124.
Act II of 1054.	Coffee Stealing Prevention Act.	Repealed by Act XXIII of 1124.
Act II of 1068.	Forest Act.	Amended by Act X of 1124.
Act III of 1079.	Hindu Religious Endowments Act.	Amended by Act V of 1123.
Proclamation (25-2-1084).	Special Court of Appeal Proclamation.	Repealed by Act XXIII of 1124.
Act II of 1084.	Civil Courts Act.	Amended by Act XV of 1124.

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Act IX of 1087.	Rubber Thefts Prevention Act.	Repealed by Act XXIII of 1124.
Proclamation (9-1-1088.)	Transfer of Cases by Special Appellate Judge Proclamation.	Repealed by Act XXIII of 1124.
Act IV of 1090.	Opium Act.	Affected by Act XXIV of 1124.
Act IX of 1090	Succession Certificate Act.	Amended by Act XX of 1124.
Proclamation (30-11-1091).	Kandukrishi Wet Land (Restriction on Conversion).	Repealed by Proclamation dated 27-5-1949.
Act IV of 1091.	Land Conservancy Act	Amended by Act XX of 1124.
Proclamation (22-11-1092).	Enemy Trading Proclamation.	Repealed by Act XXIII of 1124.
Act VII of 1092.	Markets Act.	Amended by Act XX of 1124.

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THE
ACTS AND PROCLAMATIONS
OF
TRAVANCORE

VOLUME II

ACT I OF 1087.

THE TOBACCO ACT.

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ACT I OF 1087.

AN ACT TO REGULATE THE CULTIVATION, MANUFACTURE, POSSESSION, TRANSPORT, IMPORT, EXPORT, AND SALE OF TOBACCO.

Passed by His Highness the Maha Raja of Travancore on the 28th September 1911 corresponding with the 12th Kanni 1087, under Section 13 of Act V of 1073.

Whereas it is expedient to consolidate and amend the law regulating the cultivation, manufacture, possession, transport, import, export and sale of tobacco; It is hereby enacted as follows :—

Tobacco was one of the articles of State Monopoly till 1039 M. E. when the monopoly system was abolished and import duty was substituted in its place. In 1010 provision was made to safeguard the revenue derived from articles of Sirkar monopoly. Sec. 38, Act VI of 1010 enacted as follows :—

“Should persons be found smuggling or trading in articles of Sirkar monopoly, such as Tobacco, Pepper, Cardamom, Arrack, &c., such persons and those who may be accessory to such offence, or who may be suspected of such offence shall be apprehended and tried under the Rules of this Regulation and all smuggled articles shall be confiscated to the Sirkar.”

In cases of offences relating to State Monopolies, Act VII of 1010 detailed the procedure for trial, etc.

Act VIII of 1063 repealed the above provisions in so far as they related to Tobacco. This

Act was amended by Act II of 1066 so as to make the provisions of the Criminal Procedure Code applicable to searches and arrests. Certain further amendments to Act VIII of 1063 were made by Act II of 1076, by which provisions were enacted for taking steps to prevent smuggling as also for sale of Tobacco by license only in places where smuggling was suspected to exist.

Act I of 1087. This Act repealed the Acts referred to above and consolidated the law relating to Tobacco.

Objects and Reasons. “The chief point on which the Bill departs from the previous Regulations is a provision permitting the cultivation of indigenous tobacco under necessary safeguards. No explanation can now be seriously required for opening a fresh and profitable industry to the people, without seriously telling upon the revenue of the State. In more than one Session of the Sri

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Tobacco Act of 1087" and it shall come into force on the 1st Short title and commencement. Thulam 1087 ;

2. (1) Acts VIII of 1066 and II of 1076 are hereby repealed. Repeal of enactments.

(2) But all Notifications, Rules and orders made under the Act hereby repealed, shall be deemed to have been respectively made Saving of Notifications, Rules, &c. under this Act, except in so far as such Notifications, Rules and orders may be inconsistent herewith.

Mulam Popular Assembly, representations have been brought forward, requesting permission for the cultivation of tobacco. It is therefore deemed desirable to afford the people reasonable facilities for the cultivation of the article, providing at the same time, whatever precautions may be necessary in the interests of revenue.

"In prosecutions for Excise offences, at present the accused are frequently discharged owing to the prosecution being too rigorously required to prove the non-payment of duty or other wilful contravention of the law on the defendant's part. In special enactments affecting revenue, it has been considered expedient and permissible, both here and in British India, to presume the guilt of the person appearing under suspicious circumstances and to call upon him to clear himself by rebutting the presumption. A

provision founded on this practice is therefore introduced in the Bill.

"Agian, in prosecutions under Tobacco law, Criminal Courts at present invariably refuse to accept the charge-sheet presented by the Excise Inspector and insist upon the lodging of a complaint on oath by the Officer. It is proposed in the Bill to remove this serious inconvenience, by making the charge sheet presented by the Excise Inspector a sufficient basis for the prosecution."—

S. O. & R., T. G. G. dated 14-6-1910.

For Report of the Select Committee see T. G. G. dated 7-2-1911.

For legislative proceedings see T. G. G. dated 28-9-1909, 27-9-1910, 7-3-1911 & 19-9-1911.

The Act was published in T. G. G. dated 10-10-1911.

3. In this Act, unless there be something repugnant
 Interpretation. in the subject or context,—

“Tobacco” shall include snuff, cigars, cigarettes,
 “Tobacco.” beedies, tobacco powder and other pre-
 parations or admixtures of tobacco ;

“Import” means to bring into any part of Travancore
 “Import.” from sea or from any foreign territory ;

“Export” means to take out of Travancore to sea or
 “Export.” to any foreign territory ;

“Transport” means to remove from one place to
 “Transport.” another within Travancore.

CHAPTER II.

CULTIVATION, MANUFACTURE, POSSESSION, TRANS- PORT, IMPORT, EXPORT, AND SALE OF TOBACCO.

4. Except as permitted by this Act, or by any other
 Prohibitions. enactment relating to tobacco for the
 time being in force, or by the Rules
 published under this Act or under any such enactment, no
 one shall,

(*a*) cultivate, (*b*) manufacture, (*c*) possess, (*d*) trans-
 port, (*e*) import, (*f*) export, or (*g*) sell tobacco.

CHAPTER III.

POWER TO SEARCH, SEIZE AND ARREST.

5. Whenever an Officer of the Excise Department not
 below the rank of an Inspector, or an
 Power to certain Officer in charge of a Police-station, or
 officers to search any other class of Officer of Govern-
 houses, &c., with- ment, superior in rank to a peon or
 out warrant. constable, who may be authorised by
 the Dewan in this behalf by Notification in the Gazette, has
 reason to believe that tobacco liable to confiscation under
 this Act, is manufactured, kept or concealed in any build-
 ing, conveyance, vessel or enclosed place, and that the

delay occasioned by obtaining a search-warrant under Section 9 will prevent the execution thereof; he may, after recording his reasons and the grounds of his belief,—

(a) enter into any such building, conveyance, vessel or place ;

(b) in case of resistance, break open any door and remove any other obstacle to such entry ;

(c) seize such tobacco and all materials used in the manufacture thereof and any other thing which he has reason to believe to be liable to confiscation under this Act ;

(d) detain and search, and, if he thinks proper, arrest any person whom he has reason to believe to be guilty of any offence relating to such tobacco under this Act :

Provided that every person arrested under this Section shall be admitted to bail by such Officer as aforesaid, if sufficient bail be tendered for his appearance before a Magistrate or an Officer of the Excise Department not below the rank of an Inspector.

6. Any Officer of the Excise, Police or Land Revenue Department may—

Power to seize tobacco in open place.

(a) seize, in any open place or in transit, any tobacco or other thing which he has reason to believe to be liable to confiscation under this Act, and

(b) detain and search any person whom he has reason to believe to be guilty of any offence under this Act, and, if such person has tobacco in his possession, arrest him.

Our Government may, by Notification, and subject to such conditions as may be prescribed in such Notification, empower all or any of the Officers or classes of Officers mentioned in para 1 of this Section, either by name or in virtue of their Offices, throughout the State or in any local area to admit a person arrested under this Section to bail to appear, when summoned or otherwise directed, before an Excise Officer having jurisdiction to enquire into the offence for which such person has been arrested, and may cancel or vary such Notification :

Provided that, if the Officer making the arrest under this Section be not empowered as aforesaid to admit to bail, the person arrested shall be forthwith forwarded to the nearest Officer so empowered.

And it shall be the duty of such Officer empowered as aforesaid to admit such person to bail if sufficient bail be tendered for his appearance before an Excise Officer having jurisdiction to enquire into the case.

7. All Officers of the Police and Land Revenue Departments shall be legally bound to assist any Excise Officer in carrying out the provisions of this Act.

Officers of certain Departments to assist.

8. Every Officer employed by Government, other than an Excise Officer, shall be bound to give immediate information of the commission of an offence under this Act to an Excise Officer, and every Excise 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.

Offences to be reported, &c.

9. The Excise Commissioner, or the Assistant Excise Commissioner, the Circle Officer, or other Officer authorised by Our Dewan in this behalf either personally or in right of his office, or a Magistrate, may issue a warrant for the arrest of any person whom he has reason to believe to have committed an offence relating to tobacco, or for the search, whether by day or night, of any building, conveyance, vessel or place, in which he has reason to believe tobacco liable to confiscation is kept or concealed.

Issue of warrants.

10. Whenever any Officer makes any arrest or seizure under this Act, he shall, within twenty-four hours next after such arrest or seizure, make a full report of all the particulars of such arrest or seizure to his immediate official superior, as well as to the nearest Magistrate having jurisdiction.

Report of arrest and seizures.

11. (a) When any person is arrested under the provisions of Section 5, 6 or 9 of this Act, he shall, unless bail shall have been accepted under the provisions of Section 5 or 6, be forthwith forwarded to an Excise Inspector, or if there be no such Officer within a distance of ten miles from the place at which the arrest took place, to the nearest Police-station, with a report of the circumstances under which such arrest was made.

Person arrested how to be dealt with.

(b) 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 Excise 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.

(c) On any person being brought in custody before such Excise Inspector as aforesaid or appearing before him on bail, such Officer shall, after such enquiry as he may deem fit, either (1) admit him to bail to appear before the Magistrate having jurisdiction, or, in default of bail, forward him in custody to such Magistrate, or (2) release him on his executing a bond with or without sureties as such Officer may think proper, to appear, if and when so required, before such superior Officer as the Government may, by general or special order, appoint in this behalf, and make a full report to such superior Officer of the circumstances under which such release was made.

12. Every such superior Officer, on receipt of such report, shall, after such further enquiry as he considers necessary either release the accused or cause his appearance before the Magistrate having jurisdiction, in the manner provided in Section 11.

Procedure by the superior Officer.

13. 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

Bond of accused and sureties.

terms of the bond and shall continue to attend until otherwise directed by the Officer before whom he was bailed to attend :

Provided that the Officer admitting any person to bail may, at his discretion, dispense with the requirement of a surety or sureties to the bond executed by such person.

14. When, by reason of default of appearance of a person bailed to appear before an Excise Inspector or such superior Officer as is mentioned in Section 11, such Inspector or superior 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 like case of default of appearance by a person bailed to appear before his own Court.

15. Any Excise Officer holding an enquiry in the manner provided in Section 11, may summon any person to appear before himself to give evidence on such enquiry or to produce any document relevant thereto which may be in his possession or under his control :

Provided that no such Excise 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.

16. 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.

17. Persons so summoned shall attend as required and shall answer truly all questions relating to such enquiry put to them by such Officer, other than questions the answer 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.

18. It shall be lawful for an Excise 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 enquiry; and such person shall be bound so to answer accordingly and the provisions of Section 17 shall apply to such answers.

19. 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 Excise Inspector and to any person summoned by him to appear under the provisions of this Act.

20. When an Excise 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

Report of Excise Inspector gives jurisdiction to a competent Magistrate.

Sec. 20. Sec. 170 of the repealed Criminal Procedure Code Act V of 1067 corresponds to Sec. 186 of Act VIII of 1117.

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 report had been made to him under Clause (b) of Section 170 of the Code of Criminal Procedure.

21. When an Excise 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.

22. 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 a 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 Excise Inspector may be, and from thence to the Court having jurisdiction to try the case.

23. 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 Excise Inspector, all articles seized under this Act, which may be delivered to them; and shall allow any Excise 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.

24. In the case of any alleged illegal cultivation of tobacco, the crop shall not be removed, but shall, pending disposal of the case, be attached by an Officer, superior in rank to a peon or constable, who may, in right of his office, be authorised by Our Dewan in this behalf by Notification in the Gazette, and such Officer shall require the cultivator to give bail in a reasonable amount to be fixed by such Officer, for his appearance before the Magistrate by whom the case is to be disposed of, and such cultivator shall not be arrested unless within a reasonable time he fails to give such bail.

CHAPTER IV.

OFFENCES AND PUNISHMENTS.

25. Any person who, in contravention of this Act or of Rules made or orders issued hereunder,—

Penalty for illegal cultivation, etc., of tobacco.

(a) cultivates, (b) manufactures, (c) possesses, (d) transports, (e) imports, (f) exports, or (g) sells, tobacco, or

(h) transports, imports or exports tobacco by any route not legally sanctioned for that purpose, when such route has been prescribed, or

(i) omits to warehouse tobacco or removes or does any act in respect of warehoused tobacco, or

(j) otherwise contravenes any provision of the Act or Rules made or orders passed thereunder, or attempts or abets the contravention of any provision of the Act or Rules made or orders passed thereunder,

shall, on conviction before a Magistrate, be punished for each such offence with imprisonment, for a term which may extend to six months, or with fine which may amount to five hundred rupees, or with both. On a second or

subsequent conviction, he shall be liable to imprisonment for a period not exceeding a year or fine not exceeding one thousand rupees, or both. Where fine is imposed, the convicting Magistrate shall direct the offender to be imprisoned in default of payment of the fine for a term which may extend to three months, and such imprisonment shall be in excess of any other imprisonment to which he may have been sentenced for the offence.

26. Whoever, in order to the committing of any of the offences under Section 25, is armed with fire-arms, or other offensive weapons, or, whether so armed or not, is disguised in any way, or, being so armed or disguised, is found within Our territories engaged in the cultivation or manufacture of tobacco without proper authority, or with tobacco on which the duty or fee leviable has not been paid, shall be punished with imprisonment which may extend to two years and shall also be liable to fine.

27. In prosecutions under Sections 25 and 26, it shall be presumed, until the contrary is proved, that all tobacco which the accused is unable to account for satisfactorily is tobacco in respect of which he has committed an offence under this Act.

28. (1) In any case in which an offence under Section 25 or 26 has been committed,

What things are liable to confiscation.

(a) the tobacco so cultivated,
(b) the tobacco in respect of which any offence under either of the said Sections has been committed,

(c) where, in the case of offence under Clause (d), (e) or (f) of Section 25, the offender is transporting, importing or exporting any tobacco exceeding the quantity, if any, which he is permitted to transport, import or export, as the case may be, the whole of the tobacco which he is transporting, importing or exporting, and

(d) where, in the case of an offence under Clause (g) of Section 25, the offender has in his possession any tobacco other than the tobacco in respect of which the offence has been committed, the whole of such other tobacco,

shall be liable to confiscation.

(2) The vessels, packages and coverings in which any tobacco liable to confiscation under this Section is found, the other contents, if any, of the vessels or packages in which such tobacco may be concealed, the animals and conveyances used in carrying it, and the implements or articles, if any, employed in the cultivation or manufacture of tobacco, shall likewise be liable to confiscation.

29. (1) When the offender is convicted, or when the person charged with an offence under this Act is acquitted, but the Magistrate decides that the tobacco or other things seized (if any) are liable to confiscation, such confiscation may be ordered by the Magistrate.

Order of confiscation by whom to be made.

(2) When an offence against the Act has been committed but the offender is not known or cannot be found, or when tobacco not in the possession of any person cannot be satisfactorily accounted for, the case shall be enquired into and determined by the Excise Commissioner, the Assistant Excise Commissioner, the Circle Officer, or by any other Officer authorised by Our Government in this behalf, either personally or in right of his office, who may thereupon order such confiscation :

Provided that no such order shall be made until the expiration of one month from the date of seizing the tobacco or other things intended to be confiscated, or without hearing the persons (if any) claiming any right thereto.

(3) Whenever confiscation is 'authorised by' this Act, the officer ordering it may, in lieu of confiscation, give the owner of the thing liable to be confiscated an option to pay such fine as the Officer thinks fit.

30. Any Excise, Police or other Officer mentioned in Sections 5 and 6, who, without reasonable ground of suspicion enters or searches, or causes to be entered or searched any building, conveyance, vessel or place, or vexatiously and unnecessarily seizes the property of any person, on the

Vexatious entries, searches, seizures and arrests.

pretence of seizing or searching for any tobacco or other thing liable to confiscation under this Act, or vexatiously and unnecessarily detains, searches or arrests any person shall, for every such offence, be punished with fine not exceeding five hundred rupees, and, in default of payment of the fine, to imprisonment for a term which may extend to six months.

CHAPTER V.

MISCELLANEOUS.

31. Our Dewan may, with Our sanction, from time to time by Notification in the Gazette, Power to make make Rules consistent with this Act—
Rules.

- (a) permitting absolutely or subject to the payment of any duty or fee or to any other conditions, and regulating, within the whole or any specified part of Travancore, the cultivation, manufacture, possession, transport, import, export and sale of tobacco ;
- (b) prescribing the routes by which tobacco shall be transported, imported or exported ;
- (c) authorising the establishment of ware-houses or bankshalls for storing tobacco legally cultivated in, or imported into, Our territories ;
- (d) fixing the mode, time and place of levying the duty ;
- (e) regulating the safe custody of tobacco ware-housed under Clause (c) above, the levy of fees for such ware-housing, the removal of such tobacco for sale or exportation or transport and the manner in which it shall be disposed of, if any duty or fee leviable on it be not paid within such period from the date of ware-housing the same as Our Dewan may, from time to time, prescribe ;
- (f) regulating the disposal of all things confiscated under this Act ;

- (g) fixing the rewards to be paid to Officers or informers out of the proceeds of fines and confiscations under this Act ; and
- (h) generally to carry out the provisions of this Act.

When routes have been prescribed under Clause (b), no tobacco shall be transported, imported or exported except through such routes ; and when ware-houses or bank-shalls have been established under Clause (c), the owner of all tobacco legally cultivated in or imported into Our territories, shall deposit it in such ware-houses or bank-shalls.

The Dewan may also, with Our sanction, by Notification in the Gazette, cancel or modify such Rules.

32. Any duty or fee payable or imposed under this Act or any Rule made hereunder, and any dues payable by a cultivator, may be recovered from the person primarily liable to pay the same to Government or from his surety, if any, as if it were arrears of land revenue.

Recovery of arrears of fees, duties, etc.

33. Excise Officers superior in rank to an Excise Inspector may exercise the same powers throughout the local area to which they are appointed as may be exercised by such Inspector within the limits of his jurisdiction.

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34. The provisions of the Code of Criminal Procedure for the time being in force shall be applicable to all searches and arrests made under this Act and to all other matters of procedure in cases arising under this Act.

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THE REGISTRATION ACT.

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AN ACT TO AMEND THE LAW RELATING TO THE REGISTRATION OF DOCUMENTS.

*Passed by His Highness the Maha Raja of Travancore
on the 7th October 1911 corresponding with the
21st Kanni 1087, under Section 13 of Act
V of 1073.*

Preamble. Whereas it is expedient to amend the law relating
to registration of documents; It is
hereby enacted as follows :—

Year.	No.	Short title.	Effect of subsequent Legislation.
1087	II	Registration Act.	Repealed in part by Acts XXIV of 1115 and XX of 1118. Amended by Acts II of 1098. S. 6 and Schedule I), of 1106, II of 1111. XXIV of 1115, XVII of 1120 and XXXIV of 1120.

Act I of 1025, (Secs. 12 to 14) made provisions for regulating the numbering and issue of stamped cadjans. It was enacted that the Zillah Courts shall obtain the requisite number of stamped cadjans from the Appeal Court and furnish them to the Munsiffs to whom the Public Notaries shall apply for such number of stamped cadjans as may be required by them and the Notaries shall after executing the documents furnish them to the applicants and receive the Notary's fee. As this system was found defective in many respects, Act I of 1042 was passed on the lines of the British Indian Registration Act XX of 1866. Act I of 1042 was subsequently amended by Act III of 1052.

Act I of 1070 repealed Act I of 1042 and re-enacted the law on the subject. This Act was modelled on the lines of the British Indian Registration Act III of 1877 which superseded Act XX of 1866. In British India, Act III of 1887 was subsequently replaced by Act XVI of 1908. The law now in force on the subject in Travancore, *viz*, Act II of 1087, which repealed Act I of 1070 closely follows the Indian Registration Act XVI of 1908.

Act II of 1087. *Objects and Reasons.* "The most important feature of this Bill is the proposal to do away with the present Rule (Sec. 25 of the Regulation) that every document presented for Registration shall be accompanied by a true

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copy of the same. Regulation I of 1070 was modelled on the corresponding British Indian Act III of 1877. But the practice of requiring duplicate copies is no part of that Act. However necessary or beneficial it might have been deemed at the time of its introduction, the working of the last several years has shown that the disadvantages of the system outweigh far any benefit derivable from it. It retards the process of registration, entailing unnecessary trouble both to the registering officers and the public. Moreover, the new form of Index No. 2, recently introduced by Government at the suggestion of the Director, which embodies all the material parts of the document and which is to be preserved in safe custody at a central record office, is amply sufficient to secure all the advantages of the rule in question. The system of making thumb impressions of the executants of documents with their signatures also materially helps in the same direction.

2. "How expensive in the aggregate the 'copy' system is to the public may be seen from the fact that the sale proceeds of printed forms in 1083 together with the scribe's fees borne by the parties amounted to more than half a lakh of rupees. It is therefore proposed to abolish the practice with a view to save expenditure and trouble to the public and to facilitate the work of Registration offices.

3. The other modifications * * * are proposed with a view to afford greater facilities to the

public in getting their documents registered and to curtail departmental work by simplifying the procedure of registration." S. O. & R., T. G. G. dated 24-8-1909.

For Report of the Select Committee see T. G. G. dated 26-4-1909.

For legislative proceedings see T. G. G. dated 15-6-1909; 7-12-1909; 7-6-1910; 27-9-1910 and 19-9-1911.

The Act was published in T. G. G. dated 10-10-1911.

Act II of 1098. The Destruction of Records Act, II of 1098 (S. 6 and Schedule) amended Sec. 64.

Act I of 1106. *Objects and Reasons.* "It has been brought to the notice of Government that leases (Kuthakapattom leases, for example) for any the smallest rent executed by or to Government departments are liable to registration under the existing Registration Regulation [Section 10 (1) (c)] if the term reserved by such leases exceeds one year and that this is causing needless inconvenience and trouble to the Departments and private parties. It has been in that connection noticed also that grants and assignments of Government land would require registration under the strict terms of the Regulation although some of them are not, as a matter of fact, registered. Records of such leases, grants and assignments are always available in Government offices and are preserved there in safe custody, and Government consider that it is not quite necessary to get them registered in

the Registry offices. It is proposed by this Bill therefore to exempt leases by or to Government if the yearly rent reserved does not exceed fifty rupees and the term does not exceed twelve years and also to take power for Government to exempt any grants of land made by Government." *S. O. & R., T. G. G. dated 14-1-1930.*

For Report of the Select Committee see *T. G. G. dated 1-4-1930.*

For legislative proceedings see *L. C. P. Vol. XVI, Pp. 153, 154, 533 and Vol. XVII, P. 41.*

The Act was published in *T. G. G. dated 23-9-1930.*

Act II of 1111. Objects and Reasons. "Section 15 of the Travancore Registration Regulation 1087, though it provides for the registration of a memorandum of a decree or order of Court creating, declaring, transferring, limiting or extinguishing any right, title or interest in immovable property, does not provide for a similar registration in the case of attachments of immovable property. To rectify this omission, this Bill is proposed." *S. O. & R., T. G. G. dated 23-10-1934.*

In introducing the Bill the Official member in charge said:—There is now in our law, unlike the corresponding British Indian Act, a provision that titles acquired in respect of immovable property by Court transactions should be registered in Registry offices. The provision is in Section 15. This provision serves a very useful purpose in that it provides a complete record of all the transactions regarding immovable pro-

perties registered in Registry Offices. It may be noticed, however, that this Section does not make any provision for the registration of attachment of immovable properties. An immovable property that is sold through a Court will be registered. If a property is attached, it is not registered. That is how it stands now. If a person wants to find out whether a property is attached or not, he has now no means of getting that information. It is a very useful information that should be available to everybody. This fact came to the notice of the Laws Delays Commissioner and he suggested that some such provision as in the Bill may be made in the Registration Regulation. Recently, the Land Mortgage Bank also found the difficulty because they lent out moneys very largely on the security of immovable properties. And they have no means of finding whether a property is under attachment or not. This matter was referred to the High Court and the High Court agreed to the proposal that the Regulation may be amended. It may perhaps interest the House to know that in a case reported in Volume XX of the Travancore Law Journal, the High Court adverted to this fact. The proposed amendment proposes to add to Section 15 a Clause to the effect that the attachment of properties should be registered in Sub-Registry Offices. There is no corresponding provision in the British Indian Act. * * * *A. P. Vol. IV, Pp. 333, 334.*

For legislative proceedings see *A. P. Vol. IV, Pp. 333, 334;*

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Vol. VII, Pp. 511, 516 and C. P. Vol. VII, Pp. 142-151.

The Act was published in *T. G. G. dated 7-1-1935.*

Act XXIV of 1115. *Objects and Reasons.* "Under the Registration Act (II of 1087), a Sub-Registrar has no jurisdiction to register a document unless he is moved to do so by a person who has executed, or claims under it or by the representative or assign of such person or by an agent of such person, representative or assign duly authorised by a Power of Attorney executed and authenticated in the manner prescribed by Section 26 of the Act. The registration of a document produced by any other person is invalid in law and insufficient to create any interest in the immovable property dealt with under the document. It is desirable to provide against the possible hardship arising in such cases. The preparation of duplicate indexes as provided for in Section 48 has been found to be wasteful of public time and labour serving no useful purpose. Hence the Bill." *S. O. & R., T. G. G. dated 16-4-1940.*

For legislative proceedings see *A. P. Vol. XV, Pp. 587, 588 and C. P. Vol. XV, Pp. 223, 224.*

The Act was published in *T. G. G. dated 9-7-1940.*

Act XX of 1118. *Objects and Reasons* "Under Section 23 of the Registration Act the Sub Registrar at the head quarters of a District may receive and register a document relating to immovable property even though no portion of it is

situate within his jurisdiction. But Section 20 provides that in the case of every other Sub-Registrar some portion at least of the property dealt with by the document should be within his Sub-District. Section 23 is seldom availed of by the public. But it has become the general practice now to get a document registered under Section 20 by including in it some property described to be within the Sub-District of the Sub-Registrar before whom the document is produced for registration. The effect of the registration of such a document has been considered by a Full Bench of the High Court reported in 7 T. L. J., 113. It has been held there that the inclusion of an existing property over which the executant of a document has no rights whatsoever or a property over which the executant has some rights but which are not intended to be dealt with under the document does not invalidate the document but that the inclusion of a property which has no existence whatsoever will render the document invalid. This has led to very curious results in that the executants without regard to the inconvenience that might arise therefrom to others include in their documents properties which do exist within the Sub-District but which actually belong to other persons. One way of dealing with such transactions is to penalise the parties by invalidating such documents. But this, it is considered is not quite in public interest especially because of the decision referred to above and the practice which has

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grown up as a result of the decision. After a careful consideration of the whole question Government have come to the conclusion that it will be more in public interest to alter the law so as to invest all Sub-Registrars with the powers which are now exercised by the Sub-Registrar at the headquarters of a District.

Clause 2 proposes to substitute a new Section for Section 20 enabling the executants of a document to get the document registered at the place where the executants reside or where all the executants desire the document to be registered irrespective of the location of the property dealt with by the document. As the power would render unnecessary the special powers enjoyed by the Sub-Registrar at the headquarters of a District, Section 23 is proposed to be deleted.....The remaining Clauses propose changes consequent on the above alterations." S. O. & R., T. G. G. dated 24-11-1942.

For Report of the Select Committee see T. G. G. dated 30-3-1943.

For legislative proceedings see A. P. Vol. XXI, Pp. 65-66, 202-203; C. P. Vol. XXI, P. 109.

The Act was published in T. G. G. dated 29-6-1943.

Act XVII of 1120. *Objects and Reasons.* "The object of the proposed amendment is to enable Government to introduce a system of licensing of document writers so as to insist on a minimum standard of efficiency. Section 64 of the Registration Act gives Government power to make the necessary

Rules for the conduct of business in Registration Offices. There are at present no Rules under which any kind of control could be exercised over the document writers. It is proposed to introduce a system of licensing in order to have some sort of supervision and control over them in the interest of the public. For this purpose a provision for the necessary power, to make Rules has to be made. Hence the proposed amendment." S. O. & R., T. G. G. dated 9-1-1945.

For legislative proceedings see A. P. Vol. XXV, Pp. 172-174; C. P. Vol. XXV, P. 42.

The Act was published in T. G. G. dated 20-3-1945.

Act XXXIV of 1120.—*Objects and Reasons.* "Under Section 12 of the Travancore Registration Act, if a document presented for registration is not in Malayalam or Tamil, it must be accompanied by a true translation in Malayalam or Tamil. Thus at present if a document presented for registration is in English, it must be accompanied by a true translation in Malayalam or Tamil even if the Registering Officer knows English. It is considered that such a restriction is unnecessary in any case in which the Registering Officer understands the language of the document. Hence the Bill." S. O. & R. T. G. G. dated 29-5-1945.

For legislative proceedings see A. P. Vols. XXV, Pp. 430-431; XXVI, P. 111 and C. P. Vol. XXVI, P. 67.

The Act was published in T. G. G. dated 14-8-1945.

PART I.

PRELIMINARY.

1. (1) This Act may be called "The Travancore Registration Act, 1087."
Short title.

(2) It shall come into force on the 1st day of Vrischikom 1087.
Commencement.

2. (1) On and from that day, Act I of 1070 shall be
Repeal of Act. repealed.

(2) But all appointments, Notifications, Rules, and orders made, and all Districts and Sub-Districts formed, and all Offices established, and all Tables of fees prepared under the Act hereby repealed, shall be deemed to have been respectively made, formed, established and prepared under this Act, except in so far as such Rules and orders may be inconsistent herewith.

(3) References made in Acts passed before the 1st day of Vrischikom 1087 to the Act hereby repealed shall be read as if made to the corresponding Sections of this Act.

3. In this Act, unless there is anything repugnant in
Definitions. the subject or context,—

(1) "Addition" means the place of residence and the profession, trade, rank and title, if any, and the religion, race or tribe, of a person described, and in the case of a native of India, his caste, if any, and his father's or karanavan's name, or where he is described as the son of his mother, then his mother's name :

Sec. 3 (6). Sec. 2 (7) of the Indian Act defining the term "lease" runs thus:—"Lease" includes a counterpart, Kabuliyat, an undertaking to cultivate or occupy, and an agreement to lease."

Sec. 3 (7). The term 'minor' is defined in the Indian Act as follows:—"Minor" means a per-

son who, according to the personal law to which he is subject has not attained majority."

Sec. 3 (9). The Indian Act defines the term 'representative' as follows:—"representative" includes the guardian of a minor or the committee or other legal curator of a lunatic or idiot."

- (2) "Book" includes a portion of a book and any number of sheets connected together with a view of forming a book or portion of a book :
- "Book."
- (3) "District" and "Sub-District" respectively mean "District" and "Sub-District," a District and a Sub-District formed under this Act :
- (4) "Endorsement" and "Endorsed" include and apply to an entry in writing by a Registering Officer, on a rider or covering slip to any document tendered for registration under this Act :
- "Endorsement" and "Endorsed."
- (5) "Immovable property" includes land, buildings, hereditary allowances, rights to ways, lights, ferries, fisheries, or any other benefit to arise out of land, and things attached to the earth or permanently fastened to anything which is attached to the earth, but not standing timber, growing crops, nor grass :
- "Immovable property."
- Exception.*—Things attached to the earth or permanently fastened to anything which is attached to the earth, when transferred for the purpose of being detached and enjoyed by the transferee, do not come within the meaning of this Section :
- (6) "Lease" includes a counterpart, an accepted undertaking to cultivate or occupy, and an agreement to lease :
- "Lease."
- (7) "Minor" means a person who has not completed the age of eighteen years, except in the case of authorities to adopt, in which a minor shall be taken to mean a person who according to the personal law to which he is subject, has not attained majority :
- "Minor."
- (8) "Movable property" includes standing timber, growing crops and grass, fruit upon, and juice in, trees, and property of every other description except immovable property :
- "Movable property."
- (9) "Representative" includes the guardian of a minor, a lunatic or an idiot.
- "Representative."

PART II.

OF THE REGISTRATION ESTABLISHMENT.

4, The general supervision and control over all Registration Offices in Our territories, shall be exercised by an Officer to be appointed by Our Government and styled "Director of Registration."

Director of Registration.

5. (1) For the purpose of this Act, Our territories shall, with Our sanction, be divided into Districts and Sub-Districts, and their limits may, from time to time, be altered with such sanction.

Districts and Sub-Districts.

(2) The Districts and Sub-Districts formed under this Section together with the limits thereof, and every alteration of such limits, shall be notified in the Government Gazette.

(3) Every such alteration shall take effect on such day, after the date of the Notification, as is therein mentioned.

6. (1) Every District shall be in charge of an Officer styled "Registrar," and every Sub-District, in charge of an Officer styled "Sub-Registrar."

Registrars and Sub-Registrars.

(2) Appointments of Registrars and Sub-Registrars shall be made by Our Government, and shall be notified in the Government Gazette, except in the case provided for in Section 7 of this Act.

7. (1) When any Sub-Registrar is absent, whether on duty or otherwise, or when his office is temporarily vacant, the senior clerk in the office shall be *ex-officio* Sub-Registrar of that office till relieved; and for the purposes of Section 175 of the Criminal Procedure Code, such senior clerk doing duty as *ex-officio* Sub-Registrar shall be considered to be

Absence of Sub-Registrar or Registrar from his Sub-District or District or vacancy of his office.

a person not removable from his office without the sanction of Our Government.

(2) When any Registrar is absent or when his office is temporarily vacant, the local Sub-Registrar, till relieved, shall perform, during such absence, all the duties of a Registrar, except those mentioned in Sections 66 and 67.

(3) Any change of charge mentioned in paras (1) and (2) of this Section shall be immediately reported to the Director of Registration.

8. The Director of Registration, the Registrars and Sub-Registrars, shall use a seal bearing the device of "Our Coat of Arms" and the following inscription in English and Malayalam or Tamil :—

"The seal of the Director of Registration, Travancore, or of the Registrar or Sub-Registrar of....."

9. (1) Our Government shall provide, for the office of every Registering Officer, the books necessary for the purposes of this Act.

(2) The books so provided shall be in the Forms prescribed by Our Government, and the pages of such books shall be consecutively numbered in print and stamped with the seal of the Director of Registration, and the number of pages in each book shall be certified on the title-page by the Officer by whom such books are issued.

(3) Every Office of a Registrar shall be provided by Our Government with a fire-proof box. Suitable provision shall be made by Our Government for the safe custody of records connected with the registration of documents in Registration Offices.

PART III.

OF REGISTRABLE DOCUMENTS.

10. (1) The following documents shall be registered, if they have been executed on or after the date on which Act I of 1042 or Act III of 1052 or Act I of 1070 or this Act came or comes into force, namely,—

Documents of which registration is compulsory.

- (a) non-testamentary instruments which purport or operate to create, declare, assign, limit, extinguish or surrender, whether in present or in future, any right, title or interest, whether vested or contingent, to or in immovable property ;
- (b) non-testamentary instruments which acknowledge the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation, extinction or surrender of any such right, title or interest ; and
- (c) leases of immovable property from year to year, or for any term exceeding one year, or reserving a yearly rent.

(2) nothing in [Sub-Section (1)] applies to—

- (i) any composition deed ; or
- (ii) any instrument relating to shares in a Joint Stock Company, notwithstanding that the assets of such Company consist in whole or in part of immovable property ; or

Sec. 10. The bracketed words in Sub-section (2) of this Sec. were substituted for the words "Sub-clauses (a) and (b) of this Section" and Sub-clauses (vi) and (vii) to Sub-section (2) were added by Sec. 2, Act I of 1106. See. *supra* for Objects and Reasons. Clauses (a) and (b) of the corresponding Sec. 17 (1) of the Indian Act read thus :—

"(a) instruments of gift of immovable property; (b) other non-testamentary instruments which purport...or extinguish, whether in present...title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immovable property."

Sub-sections (2) and (3) of the corresponding Sec. 17 of the

(iii) any endorsement upon or transfer of any debenture issued by any such Company ; or

(iv) any document not itself creating, declaring, assigning, limiting, extinguishing or surrendering any right, title or interest to or in immovable property, but merely creating a right to obtain another document which will, when executed, create, declare, assign, limit, extinguish or surrender any such right, title or interest ; or

Indian Act as amended by Acts II of 1927 and XXI of 1929 are as follow:—

“(2) Nothing in.....(i) any composition deed’; or (ii) any instrument.....property ; or (iii) any debenture issued by any such Company and not creating, declaring, assigning, limiting or extinguishing any right, title or interest, to or in immovable property except in so far as it entitles the holder to the security afforded by a registered document whereby the Company has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures ; or (iv) any endorsement upon.....any such Company ; or (v) any document not itself.....extinguishing any right, title or interest of the value of one hundred rupees and upwards to or in immovable property, but merely creating.....limit or extinguish any such right, title or interest; or (iv) any decree or order expressed to be made on a compromise and comprising immovable property other than that which is the subject-matter of the suit or proceeding; or (vii) any grant of immovable property by the Crown ; or (viii) any instrument of partition made by a Revenue Officer ; or (ix) any order granting a loan or instrument of

collateral security granted under the Land Improvement Act, 1871 or the Land Improvement Loans Act, 1883 ; or (x) any order granting a loan under the Agriculturists Loans Act, 1884, or instrument for securing the repayment of a loan made under that Act ; or (xi) any endorsement on a mortgage deed acknowledging the payment of the whole or any part of the mortgage-money, and any other receipt for payment of money due under a mortgage when the receipt does not purport to extinguish the mortgage; or (xii) any certificate of sale granted to the purchaser of any property sold by public auction by a Civil or Revenue Officer.

Explanation.—A document purporting or operating to effect a contract for the sale of immovable property shall not be deemed to require or ever to have required registration by reason only of the fact that such document contains a recital of the payment of any earnest money or of the whole or any part of the purchase-money.

(3) *Authorities to adopt a son, executed after the first day of January 1872 and not conferred by a Will, shall also be registered.”*

Sec. 83 of our Act exempts certain documents executed by or in favour of Government from registration.

(v) decrees or orders of Courts and awards ;

[(vi) leases of immovable property executed by, or on behalf of, or to, Our Government for any term not exceeding twelve years and reserving any annual rent not exceeding fifty rupees ; or

(vii) such grants or classes of grants by Our Government of immovable property or of any interest in immovable property as may be notified in this behalf by Our Government.]

11. Any of the following documents may be registered

Documents of which registration is optional. under this Act, namely,—
 (a) instruments (other than Wills) which purport or operate to create, declare, assign, limit, extinguish or surrender any right, title or interest to or in movable property ;

(b) leases of immovable property for any term not exceeding one year ; [and other leases not required by Section 10 to be registered.]

(c) Wills or authorities to adopt ; and

(d) all other documents not required by Section 10 to be registered.

Sec. 11. The bracketed words were added by Sec. 3, Act I of 1106. The corresponding Sec. 18 of the Indian Act as amended by Act XXXIII of 1940 runs as follows:—“Any.....namely:—
 (a) instruments (other than instruments of gift and Wills) which purport or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of a value less than one hundred rupees, to or in immovable property; (b) instruments acknowledging the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest ; (c) leases of immovable property for any term not

exceeding one year and leases exempted under Sec. 17; (cc) instruments transferring or assigning any decree or order of a Court or any award when such decree or order or award purports or operates to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of a value less than one hundred rupees, to or in immovable property ; (d) instruments (other than Wills) which purport... ..or extinguish any right, title or interest to or in movable property ; (e) Wills ; and (f) all other documents not required by Sec. 17 to be registered.”

12. If any document duly presented for registration be not in Malayalam or Tamil, [or be Documents in language other than Malayalam or Tamil. in a language which the Registering Officer does not understand, he shall] refuse to register the document unless it be accompanied by a true translation in Malayalam or Tamil and also by a true copy of the original document.

13. (1) The Registering Officer may, in his discretion, refuse to accept for registration any document in which any interlineation, blank, erasure or alteration appears, unless the persons executing the document attest with their signatures or initials, such interlineation, blank, erasure or alteration.

(2) If the Registering Officer registers any such document, he shall, at the time of registering the same, make a note in the Register of such interlineation, blank, erasure or alteration.

14. (1) No non-testamentary document relating to immovable property shall be accepted for registration, unless it contains a description of such property sufficient to identify the same.

(2) Houses, gardens and paddy fields shall be described by their names (if any), Survey numbers, area, situation, boundaries, District, Sub-District and Pakuthi in which they are situate, and by such other particulars as shall suffice for the purpose of identification.

Sec. 12. The bracketed words were substituted for the words "the Registering Officer shall" by Sec. 2, Act XXXIV of 1120. For Objects and Reasons see *supra*.

Sec. 14. There is no provision similar to Sub-sec. (4) in the corresponding Sec. 21 of

the Indian Act. Sec. 22 of the Indian Act provides that "*failure to comply with the provisions of Sec. 21, Sub-sec. (2) or Sub-sec. (3), shall not disentitle a document to be registered if the description of the property to which it relates is sufficient to identify that property.*"

(3) No non-testamentary document containing a map or plan of any property comprised therein, shall be accepted for registration, unless it be accompanied by a true copy of the map or plan, or, in case such property is situate in several Sub-Districts, by such number of true copies of the map or plan as are equal to the number of such Sub-Districts.

(4) If the document does not contain a sufficient description of the immovable property to which it relates, the Registering Officer may allow the party who executed the document to file a schedule setting forth the additional information; and, if the said party fails to do so within a fixed time, the Registering Officer may allow the party who presented the document for registration, to file a schedule setting forth the additional information. Such schedule shall be treated as a part of the document presented for registration.

PART IV.

OF SENDING TO A REGISTRATION OFFICE MEMORANDA OF DECREES AND ORDERS AFFECTING IMMOVABLE PROPERTY.

15. When any Civil Court shall, by a decree or order, create, declare, transfer, limit or extinguish any right, title or interest of any person to or in any immovable property situate in any part of Travancore, such Court shall cause a memorandum of the said decree or order to be sent to the Sub-Registrar or to every Sub-Registrar within whose Sub-District the whole or any portion of the property is situate and such memorandum shall, so far as may be practicable, describe the property in the manner required by Section 14; and the memorandum so received shall be filed in Book I [and when any Civil Court shall at any stage of its proceedings make an order for the attachment, or for the raising of

Sec. 15. The bracketed words were added by Sec. 2, Act II of 1111. For Objects and Rea- sons *see supra*. This provision is not found in the Indian Act.

an attachment, of any immovable property situate in any part of Travancore or an order operating in effect as an attachment or as the raising of an attachment, of any such property, the Court shall likewise cause a memorandum of the said order to be sent to the Sub-Registrar or to every Sub-Registrar within whose Sub-District the whole or any portion of the property is situate, and such memorandum shall as far as may be practicable describe the property in the manner required by Section 14 and the memorandum so received shall be filed in Book I.]

PART V.

OF THE TIME OF PRESENTATION.

16. Subject to the provisions contained in Sections 17 and 18, no instrument (other than a Will) shall be accepted for registration (whether the registration be compulsory or optional), unless presented for that purpose to the proper Officer within ninety days from the date of its execution, if such instrument is executed in Travancore or in any other part of India or in Ceylon ; and one hundred and eighty days, if the instrument is one purporting to have been executed by all or any of the parties out of India or Ceylon :

Provided,—

(a) that a copy of a decree or order may be presented within ninety days from the day on which the decree or order was made, or where it is appealable, within ninety days from the day on which it becomes final ; and

(b) that, where there are several persons executing a document at different times, such document may, subject to the provisions of Sections 17 and 18, be presented for registration and re-registration within ninety days or one hundred and eighty days from the date of each execution, according as the execution was in or out of India or Ceylon.

Sec. 16. The maximum period allowed for presentation of documents for registration under the Indian Act is four months from the date of execution irrespective of the place of execution.

17. If any instrument shall not have been presented for registration till after the expiration of the time prescribed in that behalf in the last preceding Section, it shall be lawful for the Registering Officer, where the delay in presentation shall not exceed ninety days, to accept the instrument for registration on payment, as penalty, of a sum not exceeding ten times the amount of the proper registration fee.

Provision where delay in presentation is unavoidable.

18. Whenever a Registration office is closed on the last day of any period provided in this Act for the presentation of any document, such last day shall, for the purposes of this Act, be deemed to be the day on which the office re-opens.

Provision where office is closed on last day of period for presentation.

19. A Will may, at any time, be presented for registration or deposited in manner hereinafter provided.

Will may be presented or deposited at any time.

PART VI.

OF THE PLACE OF REGISTRATION.

20. [Every non-testamentary document, whether relating to immovable property or not, mentioned in Sections 10 and 11 may be presented for registration in the office of the Sub-Registrar in whose Sub-District the document was executed or in the office of any other Sub-Registrar at which all the parties executing the document desire the same to be registered.]

Place of registering instruments.

Sec. 17. The corresponding Sec 25 of the Indian Act provides that the delay in presentation should be "owing to urgent necessity or unavoidable accident."

Sec. 20. This Sec. was substituted by Sec. 2, Act XX of 1118. For Objects and Reasons see *supra*. The original Sec. was as follows :—

"20. Place for registering

instruments relating to land. Save as in this Part otherwise provided, every non-testamentary document relating to immovable property mentioned in Sections 10 and 11 shall be presented for registration in the office of a Sub-Registrar within whose Sub-District the whole or any portion of the property to which such instrument relates is situate."

21. [*Place of registering other instruments.*] Omitted by Section 3, Act XX of 1118.

22. A copy of a decree or order not affecting immovable property may be presented for registration in the office of the Sub-Registrar in whose Sub-District the original decree or order was made or passed, or in the office of any other Sub-Registrar at which all the persons claiming under the decree or order desire the copy to be registered.

23. [*Registration by the Sub-Registrars at the Headquarters of Districts.*] Omitted by Section 3, Act XX of 1118.

24. In ordinary cases, the registration or deposit of documents under this Act shall be made only at the office of the Officer authorised to accept the same for registration or deposit:

Registration or acceptance for deposit at private residence.

Provided that such Officer may, on special cause being shown, attend at the residence of any person desiring to present a document for registration or to deposit a Will, accept for registration or deposit such document or Will, and record any admission made by the executant or testator as the case may be. Every Registering Officer so attending shall report the same immediately to the Director of Registration.

Secs. 21 and 23. These Secs. were omitted by Sec. 3, Act XX of 1118. They ran as follow:—

"21. *Place of Registering other instruments.* Every non-testamentary instrument other than an instrument referred to in the last preceding Section, may be presented for registration in the office of the Sub-Registrar in whose Sub-District the instrument was executed, or in the office of any other Sub-Registrar at which all the persons executing the instrument desire the same to be registered.

23. *Registration by the Sub-Registrars at the Headquarters of Districts.* The Sub-Registrars at the Headquarters of a District may receive and register any document referred to in Section 23, without regard to the situation, in any part of Travancore, of the property to which the documents relate."

The reasons for the omission are set forth in the Objects and Reasons appended to the Amending Bill for which see *supra*.

PART VII.

OF PRESENTING DOCUMENTS FOR REGISTRATION.

25. Every non-testamentary document to be registered under this Act, whether such registration be compulsory or optional, shall, subject to the provisions of Section 24, be presented [* *] by—

Persons to present documents for registration.

- (a) some person executing or claiming under the same, or, in the case of a copy of a decree or order, claiming under such decree or order ;
or
- (b) the representative or assign of such person ;
or
- (c) the agent of such person, representative or assign.

26. (1) For the purposes of this Act, an agent shall mean a person duly authorised by a power-of-attorney executed and authenticated in the manner following namely,—

Powers-of-attorney recognisable for purposes of Section 25.

- (a) if the principal at the time of executing the power-of-attorney resides in any part of Travancore, a power-of-attorney executed before, and authenticated by, the Registrar or Sub-Registrar within whose District or Sub-District the principal resides ; or a power-of-attorney duly registered by a Sub-Registrar on the admission of the principal but not on that of his agent ;

Sec. 25. The words "at the proper Registration Office" which occurred within brackets were omitted by Sec. 4, Act XX of 1118.

Sec. 26. The corresponding Section 33, of the Indian Act runs as follows :—"33 (1) For the purposes of Section 32, the following powers-of-attorney shall alone be recognized,

namely,—(a) if the principal...
...within whose District or Sub-District the principal resides ; (b) if the principal at the time aforesaid resides in any other parts of British India a power-of-attorney executed before and authenticated by any Magistrate ; (c) if the principal at the time aforesaid does not reside in British India a

- (b) if the principal at the time aforesaid resides anywhere out of Travancore, a power-of-attorney executed before, and authenticated by, a Magistrate, a Notary Public or any Officer who is empowered to register documents, or any Court, Judge, British Consul, Vice-Consul or Representative of His Majesty or of the Government of India, or, where there is a regular system of registration of assurances, a power-of-attorney duly registered by a Registrar or Sub-Registrar on the admission of the principal but not on that of his agent :

Provided that the following persons shall not be required to attend at any Registrtion office, for the purpose of executing any such power-of-attorney as is mentioned in Sub-clause (a) of this Section, namely,—

Proviso as to persons infirm or in jail or exempt from appearing in Court.

- (i) persons who, by reason of bodily infirmity, are unable, without risk or serious inconvenience, so to attend ;
- (ii) persons who are in Jail under Civil or Criminal process ; and
- (iii) persons exempt by law from personal appearance in Court.

(2) In the case of every such person, the Registrar or Sub-Registrar, (as the case may be), if satisfied that the power-of-attorney has been voluntarily executed by the person purporting to be the principal, may attest the same without requiring his personal attendance at his office.

power-of-attorney executed before and authenticated by a Notary Public, or any Court, Judge, Magistrate, British Consul or Vice-Consul or Representative of His Majesty or of the Central Government. Provided..... as is mentioned in Clauses (a) and (b) of this Section, namely :—(i) persons... so to attend ; (ii) persons..... civil or criminal process ; and

(iii) persons..... in Court. (2) In the case of..... Registrar, or Sub-Registrar or Magistrate (as the case may be)..... at the Office or Court aforesaid. (3) To obtain evidence..... the Registrar or Sub-Registrar or Magistrate may either himself go to the house..... examination. (4) Any power-of-attorney..... in that behalf."

(3) To obtain evidence as to the voluntary nature of the execution, the Registrar or Sub-Registrar shall go to the house of the person purporting to be the principal, or to the Jail in which he is confined and examine him or issue a commission for his examination.

(4) Any power-of-attorney mentioned in this Section may be proved by the production of it without further proof, when it purports on the face of it to have been executed before, and authenticated by, the person or Court hereinbefore mentioned in that behalf.

(5) Any power-of-attorney referred to in this Section shall be deemed to be in force, until it is cancelled in the manner required by the Rules made under Section 64 of this Act.

Explanation.—The word “agent” in this Section includes also a sub-agent appointed under the special authority granted for that purpose in the power-of-attorney executed by the principal to the agent.

27. (1) Subject to the provisions contained in this Part and in Sections, 34, 36, 38, 64, 69, 71 and 82, no document shall be registered under this Act, unless the persons executing such document or their representatives, assigns or agents authorised as aforesaid, appear before the Registering Officer.

(2) Appearance under Sub-section (1) above may be simultaneous or at different times.

(3) The Registering Officer shall thereupon—

- (a) enquire whether or not such document was executed by the persons by whom it purports to have been executed,
- (b) satisfy himself as to the identity of the persons appearing before him and alleging that they have executed the document,
- (c) in the case of any person appearing as a representative, assign or agent, satisfy himself of the right of such person so to appear, and

- (d) in the case of a donee of any authority to adopt or the adoptive person, satisfy himself as to the identity of such donee or adoptive person.

23. (1) (a) If all the persons executing the document appear personally before the Registering Officer and are personally known to him, or, if he be otherwise satisfied that they are the persons they represent themselves to be, and if they all admit the execution of the document ; or

Procedure on admission of execution.

- (b) in the case of any person appearing by a representative, assign, or agent, if such representative, assign or agent, admits the execution ; or,

- (c) if the person executing the document is dead, and his heir, representative or assign appears before the Registering Officer and admits the execution ;

the Registering Officer shall register the document as directed in Sections 50, 51, 53 and 54.

(2) The Registering Officer may, in order to satisfy himself that the persons appearing before him are the persons they represent themselves to be, or for any other purpose contemplated by this Act, examine any one, whether summoned or not.

(3) (a) If any of the persons by whom the document purports to be executed, denies its execution, or,

Procedure on denial of execution.

Sec. 28. Sub-sec. (2) of the corresponding Sec. 35 of the Indian Act is as follows :—

“The Registering Officer maycontemplated by this Act, examine any one *present in his office.*”

Clause (c) of Sub-Sec. (3) in that Act is :—“If any person... is dead, and *his representative*

or assign denies its execution, the Registering Officer shall refuse to register the document as to the person so denying, appearing or dead.”

There is no Clause corresponding to Clause (d) of Sub-section (3) of this Section in the Indian Act.

- (b) if any such person appears to the Registering Officer to be a minor, an idiot or a lunatic, or,
- (c) if any person by whom the document purports to be executed is dead, and his heir, representative or assign, or, if there are two or more heirs, representatives or assigns, any one of them, denies its execution, or,
- (d) if any person by whom the document purports to be executed or his representative or assign, after being duly summoned, fails to appear before the Registering Officer on the date mentioned in the summons, the Registering Officer shall refuse to register the document as to the person so denying, appearing, dead, or not appearing.

[28-A. Notwithstanding anything to the contrary contained in this Act, if in any case a document requiring registration has been accepted for registration by a Sub-Registrar from a person not duly empowered to present the same, and has been registered, any person claiming under such document may, within ninety days from his first becoming aware that the registration of such document is invalid, present such document or cause the same to be presented, in accordance with the provisions of this Part for re-registration in the office of the Sub-Registrar in which the document was originally registered; and upon the Sub-Registrar being satisfied that the document was so accepted for registration from a person not duly empowered to present the same, he shall proceed to the re-registration of the document as if it had not been previously registered, and as if such presentation for re-registration was a presentation for registration made within the time allowed therefor under Part V, and all the provisions of this Act, as to registration of documents, shall apply to such re-registration; and such document, if duly re-registered in

Sec. 28-A. This Section was the corresponding provision has been included in the Part added by Sec. 2, Act XXIV of 1115. For Objects and Reasons titled "Of the time of presentation." *see supra*. In the Indian Act

accordance with the provisions of this Section, shall be deemed to have been duly registered for all purposes from the date of its original registration :

Provided that, within three months from the 1st day of Chingom 1116, any person claiming under a document to which this Section applies may present the same or cause the same to be presented for re-registration in accordance with this Section, whatever may have been the time when he first became aware that the registration of the document was invalid.]

PART VIII.

OF ENFORCING THE APPEARANCE OF EXECUTANTS AND WITNESSES.

29. If the Registering Officer or the person presenting any document for registration or claiming under any document, desires the appearance of any person, whose presence or testimony is necessary for the registration of such document, such

Procedure where appearance of executant or witness is desired.

Officer may, in his descretion, request the Munsiff within whose local jurisdiction the person to be summoned resides, to issue a summons requiring him to appear at the Registration office either in person or by duly authorised agent, as in the summons may be mentioned, and at a time named therein.

30. The Munsiff, upon receipt of the peon's fee payable in such cases, shall issue the summons accordingly and cause it to be served upon the person whose appearance is so required, in the manner provided for in the Code of Civil Procedure.

Munsiff to issue and cause service of summons.

31. (1) (a) A person who by reason of bodily infirmity is unable, without risk or serious inconvenience, to appear at the Registration office, or

Persons exempt from appearance at Registration office.

(b) a person in Jail under Civil or Criminal process, or

(c) persons exempted by law from personal appearance, in Court, shall not be required so to appear.

(2) In the case of every such person, the Registering Officer shall go to the house of such person or to the Jail in which he is confined, and examine him, or, if such house or Jail be not within his jurisdiction, issue a commission to the local Sub-Registrar for the examination of such person.

32. The law in force for the time being as to summonses, commissions and compelling the attendance of witnesses, and for their remuneration in suits before Civil Courts, shall, save as aforesaid and *mutatis mutandis*, apply to any summons or commission issued and any person summoned to appear under the provisions of this Act.

Laws as to summonses and witnesses.

PART IX.

OF PRESENTING WILLS.

33. The testator, or, after his death, any person claiming as executor or otherwise under a Will, may present it to any Sub-Registrar for registration.

Persons entitled to present Wills.

34. (1) A Will presented for registration by the testator may be registered in the same manner as any other document.

Registration of Wills.

(2) A Will presented for registration by any other person entitled to present it, shall be registered, if the Registering Officer is satisfied—

(a) that the Will was executed by the testator,

(b) that the testator is dead, and

(c) that the person presenting the Will, is under Section 33, entitled to present the same.

PART X.

OF THE DEPOSIT OF WILLS.

35. Any testator may, either personally or by his agent, deposit with any Registrar his Will in a sealed cover superscribed with the name of the testator and that of his agent, if any, and with a statement that it is a Will.

Deposit of Wills.

Part IX. In the Indian Act, Part is "Of presenting Wills and Authorities to Adopt."

36. (1) On receiving such cover, the Registrar, if satisfied that the person presenting the same for deposit is the testator or his agent, shall transcribe in his Register Book V the superscription aforesaid, and shall note in the same Book and on the said cover, the year, month, day and hour of such presentation and receipt, and the names of any persons who may testify to the identity of the testator or his agent, and any legible inscription which may be on the seal of the cover.

(2) The Registrar shall then place and retain the sealed cover in his fire-proof box.

37. If the testator who has deposited such cover wishes to withdraw it, he may apply in writing, either personally or by duly authorised agent, to the Registrar who holds it in deposit, and such Registrar, if satisfied that the applicant is actually the testator or his agent, shall deliver the cover accordingly and take a receipt for the same.

38. (1) If on the death of a testator who has deposited a sealed cover under Section 35, application be made to the Registrar who holds it in deposit to open the same, and if the Registrar is satisfied that the testator is dead and that the applicant has a right to know its contents and deposits a sum sufficient to cover the expense of copying the contents thereof, he shall, in the applicant's presence, open the cover and cause the contents thereof to be copied into his Book II.

(2) When such copy has been made, the Registrar shall re-deposit the original Will.

39. (1) No Court shall order the production of any Will deposited under this Part during the life-time of the testator. But it may order the production of such Will after the death of the testator.

(2) When such order is made, the Registrar shall, unless the Will has already been copied under Section 38, open the cover and cause the Will to be copied into his Book II, and make a note on such copy that the original has been removed into Court in pursuance of the order aforesaid.

PART XI.

OF THE EFFECTS OF REGISTRATION AND NON-REGISTRATION.

40. A registered document shall operate from the time from which it would have commenced to operate, if no registration thereof had been required or made, and not from the time of its registration.

Time from which registered document operates.

41. All non-testamentary documents duly registered under this Act and relating to any property, whether movable or immovable, shall take effect against any oral agreement or declaration relating to such property.

Registered document relating to property when to take effect against oral agreements.

But nothing in this Section shall apply to an oral agreement relating to movable property, where such agreement is accompanied by delivery of possession.

Sec. 41. The corresponding Sec. 48 of the Indian Act as amended by Act XXI of 1929 runs as follows:—"All non-testamentary documents duly registered under this Act. . . declaration relating to such property, *unless where the agreement or declaration has been accompanied or followed by delivery of possession*, and the same

constitutes a valid transfer under any law for the time being in force: Provided that a mortgage by deposit of title-deeds as defined in Section 58 of the Transfer of Property Act, 1882, shall take effect against any mortgage deed subsequently executed and registered which relates to the same property."

42. No document required by Section 10 to be registered shall—

Effect of non-registration of documents required to be registered. (a) affect any immovable property comprised therein, or (b) be received as evidence of any transaction affecting such property, unless it has been registered.

PART XII.

OF THE DUTIES AND POWERS OF REGISTERING OFFICERS.

(A) *The Register Books and Indexes.*

43. (1) The following Books shall be kept in the several offices hereinafter named,

Register Books to be kept in the several offices. that is to say :—

(a) In all Sub-Registry offices :—

Book I. "Register of non-testamentary documents relating to immovable property ; "

Book II. "Register of Wills ; "

Book III. "Miscellaneous Register ; "

Book IV. "Record of reasons for refusal to register."

(b) In the offices of Registrars—Books II and IV and also Book V. "Register of deposit of Wills."

(2) In Book I shall be entered or filed all documents or memoranda registered under Sections 10 and 11 or received under Sections 15, 59, 60 and 84, which relate to immovable property and are not Wills.

Sec. 42. The corresponding Sec. 49 of the Indian Act as amended by Act XXI of 1929 reads thus :—"49. No document required by Section 17, or by any provision of the Transfer of Property Act, 1882 to be registered shall—(a) affect therein, or (b) confer any power to adopt or (c) be received..... unless it has been registered: Provided that an unregistered document affecting immovable property and required by this

Act or the Transfer of Property Act, 1882 to be registered may be received as evidence of a contract in a suit for specific performance under Chapter II of the Specific Relief Act, 1887 or as evidence of part performance of a contract for the purpose of Section 53-A of the Transfer of Property Act 1882, or as evidence of any collateral transaction not required to be effected by registered instrument."

(3) In Book III shall be entered all documents registered under Section 11, which do not relate to immovable property.

44. (1) (a) The day, hour and place of presentation and the signature of every person presenting a document for registration, shall be endorsed on every such document at the time of presenting it ;

Endorsements on document presented.

(b) A receipt for such document shall be given by the Registering Officer to the person presenting the same ; and

Receipt for document.

(c) Subject to the provisions contained in Section 55, every document admitted to registration shall, without unnecessary delay, be copied in the Book appropriated therefor, as far as possible, according to the order of its admission.

Documents admitted to registration to be copied.

(2) Any interlineation, blank, erasure or alteration which appears in the original document admitted to registration, shall be accurately and carefully noted in the copy thereof entered in the Book.

(3) All such Books shall be authenticated at such intervals and in such manner as may, from time to time, be prescribed by the Rules made under Section 64 of this Act.

45. All entries in each Book shall be numbered in a consecutive series which shall commence and terminate with the year, a fresh series being commenced at the beginning of each year.

Entries to be numbered consecutively.

46. In every office in which any of the Books hereinbefore mentioned are kept, there shall be prepared current Indexes of the contents of such Books, and every entry in such Indexes shall be made, so far as practicable, immediately after the Registering Officer has copied or filed a memorandum of the document to which it relates.

Current Indexes and entries therein.

47. (1) Four such Indexes shall be made in all Registration offices and shall be named respectively, Index No. I, Index No. II, Index No. III and Index No. IV.

Indexes to be made by Registering Officers.

(2) Index No. I shall contain the names and additions of all persons executing, and of all persons claiming under every document entered or memorandum filed in Book I.

(3) In the case of memoranda of decrees and orders filed in Book I, Index No. I shall also contain the names of the plaintiff and the defendant, and, when there are more plaintiffs or defendants than one, the names of the first plaintiff and the first defendant, with the words "and others" following.

(4) Index No. II shall contain the particulars mentioned in Section 14 relating to every document entered, or memorandum or copy of sale certificate filed, as the Director, from time to time, directs in that behalf.

(5) Index No. III shall contain the names and additions of all persons executing and of all persons claiming under every document entered in Book III.

(6) Index No. IV shall contain the names and additions of all persons executing every Will entered in Book II and of the executors and persons respectively appointed thereunder, and, after the death of the testator (but not before), the names and additions of all persons claiming under the same.

(7) Each Index shall contain such other particulars and shall be prepared in such Form as the Director, from time to time, directs.

Extra particulars in Indexes.

48. [*Copy of entries in Indexes Nos. I, II and IV to be sent to the Registrar. Such copy to be filed in Central Record Office.*] Omitted by Section 3, Act XXIV of 1115.

Sec. 48. This Section was omitted by Sec. 3, Act XXIV of 1115. The omitted Sec. read thus:—"48. (1) *Copy of entries on Index Nos. I, II and IV to be sent to the Registrar.* Every

Sub-Registrar shall, in the beginning of every month send to the Registrar to whom he is subordinate, a copy of all entries made by such Sub-Registrar during the preceding

49. (1) Subject to the previous payment of the fees payable in that behalf, Books I and IV and the Indexes relating to Book I, shall be at all times open to inspection by any person applying to inspect the same; and, subject to the provisions of Section 55, copies of entries in such Books shall be given to all persons applying for such copies.

(2) Subject to the same provisions, copies of entries in Book II and in the Index relating thereto, shall be given to the persons executing the documents to which such entries relate, or to their agents and, after the death of the executants, but not before, to any person applying for such copies.

(3) Subject to the same provisions, copies of entries in Book III and in the Index relating thereto, shall be given to any person executing or claiming under the documents to which such entries respectively refer, or to his agent or representative, or to any person applying for the same with a certificate from any Court.

(4) The requisite search under this Section for entries in Book II shall be made only by the Registering Officer.

(5) All copies given under this Section shall be signed and sealed by the Registering Officer, and shall be admissible for the purpose of proving the contents of the original documents.

(B) The procedure on admitting to registration.

50. (1) On every document admitted to registration, there shall be endorsed, from time to time, the following particulars, namely:—

(a) the signature and addition of every person admitting the execution of the document; and, if such execution

month in Indexes Nos. I, II and IV. (2) *Such copy to be filed in Central Record Office.* The copy so received shall be filed in the Central Record office after examination."

has been admitted by the representative assign or agent of any person, the signature and addition of such representative, assign or agent ;

- (b) the signature and addition of every person examined in reference to such document under any of the provisions of this Act ; and
- (c) any payment of money or delivery of goods made in the presence of the Registering Officer in reference to the execution of the document, and any admission of receipt of consideration in whole or in part, made in his presence in reference to such execution.

(2) If any person admitting the execution of a document refuse to endorse the same, the Registering Officer shall nevertheless register it, but shall, at the same time, endorse a note of such refusal.

51. The Registering Officer shall affix the date and his signature to all endorsements made under Sections 44 and 50, relating to the same document and made in his presence on the same day.

Such endorsement to be dated and signed by Registering Officer.

52. Wherever practicable, the parties shall be required to sign their names in full in addition to affixing their symbolical signatures (Oppoos), if any, and, on a document being presented for registration, if the Registering Officer finds that the name of the executant in the body of the document itself is not written in full, he shall call on such executant to supply the omission before accepting the document for registration.

Parties to sign their names in full.

53. (1) After such of the provisions of Sections 27, 28, 44, 50 and 51 as applied to any document presented for registration, have been complied with, the Registering Officer shall endorse thereon a certificate containing the word "registered" together with the number and page of the Book in which the document has been copied.

Certificate showing that document has been registered and number and page of Book in which it has been copied.

(2) Such certificate shall be signed, sealed and dated by the Registering Officer and shall then be admissible for the purpose of proving that the document has been duly registered in manner provided by this Act, and that the facts mentioned in the endorsements referred to in Section 51 have occurred as therein mentioned.

54. (1) The endorsements and certificate referred to and mentioned in Sections 51 and 53 shall thereupon be copied into the margin of the Register Book, and the copy of the map or plan, if any, mentioned in Section 14, shall be filed in Book I.

Endorsements and certificates to be copied.

(2) The registration of the document shall thereupon be deemed complete and the document shall be returned to the person who presented the same for registration, or to such other person, if any, as he has nominated in writing in that behalf on the receipt mentioned in Section 44.

Document to be returned.

55. (1) When a document is presented for registration under Section 12, the translation shall be transcribed in the Register of documents of the nature of the original, and together with the copy referred to in Section 12 shall be filed in the Registration Office.

Procedure on presenting document in language other than Malayalam or Tamil,

(2) The endorsements and certificate respectively mentioned in Sections 51 and 53 shall be made on the original and, for the purpose of making the copies required by Section 49 and the memoranda under Sections 59 and 60, the translation shall be treated as if it were the original.

56. Every registering Officer may, at his discretion, administer an oath to any person examined by him under the provisions of this Act.

Power to administer oaths.

57. Every Registering Officer may, at his discretion, record the statements made by each person examined and such statement shall be read over, or, if made in a language with which such person is not acquainted, interpreted to him in a language with which he is acquainted,

Record of substance of statements.

and, if he admits the correctness of such statement, it shall be signed by him and the Registering Officer.

58. Every statement recorded and signed as in the last preceding Section, shall be admissible for the purpose of proving that the statements therein recorded were made by the persons and under the circumstances therein stated.

Such statements admissible as evidence.

(C) *Special duties of Sub-Registrars.*

59. Every Sub-Registrar, on registering a non-testamentary document relating to immovable property not wholly situate in his Sub-District [or wholly situate outside his Sub-District] shall make a memorandum thereof and of the endorsements and certificate thereon, and send the same, together with the copy of the map or plan, if any, mentioned in Section 14, to every other Sub-Registrar in whose Sub-District any part of such property is situate; and such Sub-Registrar shall file such memorandum and the copy of the map or plan, if any, in his Book I.

60. [*Procedure on Registration under Section 23.*] Omitted by Section 6, Act XX of 1118.

(D) *The Control of the Registration Department.*

61. Every Registrar shall exercise such powers of control and supervision over the Sub-Registrars within his District as may be conferred on him by the Rules passed under Section 64 of this Act.

Registrar to superintend and control Sub-Registrars.

Sec. 59. The bracketed words were inserted by Sec. 5, Act XX of 1118.

Sec. 60. This Section was omitted by Sec. 6, Act XX of 1118: The omitted Section read thus:—"60. *Procedure on registration under Section 23.* On any document being registered under Section 23, a memorandum of such document and of the endorsements and certifi-

cates thereon shall be forwarded together with a copy of the map or plan, if any, mentioned in Section 14, to every Sub-Registrar within whose Sub-District the whole or any part of the property to which the instrument relates, is situate, and the Registering Officer receiving such memorandum shall follow the procedure prescribed for him in Section 59."

62. (1) Every Registrar and Sub-Registrar shall perform the duties of his office under the superintendence and control of the Director of Registration.

Director to superintend and control Registering Officers.

(2) The Director of Registration shall have authority to issue (whether on complaint or otherwise) any order, consistent with this Act, which he considers necessary in respect of any act or omission of any Registrar or Sub-Registrar subordinate to him, or in respect of the rectification of any error regarding the book or the office in which any document shall have been registered.

63. The Director of Registration may, in the exercise of his discretion, remit, wholly or in part, any fee or penalty levied over and above the amount of the proper registration fee.

Power of the Director of Registration to remit fees or penalties.

64. (1) The Dewan may, with Our sanction, make, from time to time, Rules consistent with this Act,—

Dewan's power to make Rules.

(a) providing for the safe custody of books, papers and documents; [* * *]

(b) declaring the languages in which, and the materials on and in and with which, documents presented for registration are to be written or printed, the size of such documents and the extent of blank space to be left thereon ;

[(bb) providing for the grant of licenses to document writers, the revocation of such licenses, the terms and conditions subject to which and the authority by whom such licenses shall be granted and generally for all purposes connected with the writing of documents to be presented for registration.]

Sec. 64. The words "and also for the destruction of such books, papers and documents as need no longer be kept" which occurred within brackets in Sub-section 1, Clause (a),

were repealed by Sec. 6 and Schedule of Act II of 1098. Clause (bb) of Sub-section (1) was added by Sec. 2, Act XVII of 1120.

- (c) regulating the amount of penalties imposed under Section 17 ;
- (d) regulating the exercise of the discretion reposed in the Registering Officer by Sections 56 and 57 ;
- (e) regulating the authentication by a Registrar or Sub-Registrar of the Books kept in their respective offices under Section 43 ;
- (f) pointing out the course to be adopted by the parties for cancelling the powers-of-attorney granted by them ; and
- (g) making such further provision as may be found necessary for the working of this Act.

(2) The Rules made under this Section shall be published in the Government Gazette and shall then have the same force as if they were inserted in this Act.

PART XIII.

OF REFUSAL TO REGISTER.

65. (1) Every Sub-Registrar refusing to register a document, [***] shall make an order of refusal and record his reasons for such order in his Book IV and endorse the words "registration refused" on the document ; and on application made by any person executing or claiming under the document, shall, without payment and unnecessary delay, give him a copy of the reasons so recorded.

(2) No Registering Officer shall accept for registration a document so endorsed unless and until, under the provisions hereinafter contained, the document is directed to be registered.

Sec. 65. The words "except on the ground that the property to which it relates is not situate within his Sub-District" which occurred within the brackets were omitted by Section 7, Act XX of 1118.

66. (1) Except where the refusal is made on the ground of denial of execution or on the ground that the person by whom the document purports to be executed has not appeared before the Sub-Registrar after being summoned, an appeal shall lie against an order of a Sub-Registrar refusing registration (whether the registration of such document is compulsory or optional) to the Registrar to whom such Sub-Registrar is subordinate, if presented to such Registrar within thirty days from the date of the order, exclusive of the time occupied in obtaining copy of the order, and the Registrar may reverse or alter such order.

(2) If the order of the Registrar directs the document to be registered and the document is duly presented for registration within thirty days after the making of such order, exclusive of the time occupied in obtaining copy of the order, the Sub-Registrar shall obey the same, and thereupon, shall, so far as may be practicable, follow the procedure prescribed in Sections 50, 51 and 53; and such registration shall take effect as if the document had been registered when it was first duly presented for registration.

67. (1) When a Sub-Registrar has refused to register a document on the ground that any person by whom it purports to be executed, or his representative or assign denies its execution, or on the ground that the person by whom the document purports to be executed, has not appeared before him after being summoned, any person claiming under such document, or his representative, assign or agent, may, within thirty days after the making of the order of refusal, exclusive of the time occupied in obtaining copy of the order, apply to the Registrar to whom such Sub-Registrar is subordinate, in order to establish his right to have the document registered.

(2) Such application shall be in writing and shall be accompanied by a copy of the reasons recorded under

Section 65; and the statements in the application shall be verified by the applicant in manner required by law for the verification of plaints.

68. In such case the Registrar shall, as soon as conveniently, enquire,—

Procedure of Registrar on such application.

(a) whether the document has been executed, and

(b) whether the requirements of the law for the time being in force have been complied with on the part of the applicant or person presenting the document for registration, as the case may be, so as to entitle the document to registration.

69. (1) If the Registrar finds that the document has been executed and that the said requirements have been complied with, he shall order the document to be registered.

Order to register and procedure thereon.

(2) If the document be duly presented for registration within thirty days after the making of such order, exclusive of the time occupied in obtaining copy of the order, the Sub-Registrar shall obey the same and thereupon shall, so far as may be practicable, follow the procedure prescribed in Sections 50, 51 and 53.

(3) Such registration shall take effect as if the document had been registered when it was first duly presented for registration.

(4) The Registrar may, for the purpose of an enquiry under Section 68, summon and enforce the attendance of witnesses and compel them to give evidence as if he were a Civil Court, and he may also direct by whom the whole or any part of the costs of any such enquiry shall be paid, and such costs shall be recoverable as if they had been awarded in a suit under the Code of Civil Procedure.

(5) A copy of the order relating to the costs, duly authenticated by the signature and seal of the Registrar, shall, on the application of the party in whose favour such

order is passed, be forwarded to the Munsiff within whose jurisdiction the other party resides. The Munsiff shall execute the order in the manner prescribed for execution of decrees, on the application of such party or his representative or assign.

70. (1) Every Registrar refusing to direct the registration of a document under Section 66 or Section 69, shall make an order of refusal and record the reasons for such order in his Book IV, and, on application made by any person executing or claiming under the document, shall, without payment and unnecessary delay, give him a copy of the reasons so recorded.

(2) No appeal lies from any order under this Section.

71. (1) Where the Registrar refuses to order the document to be registered under Section 66 or Section 69, any person claiming under such document or his representative, assign or agent, may, within ninety days after the making of the order of refusal, exclusive of the time occupied in obtaining copy of such order, institute in the Civil Court of competent jurisdiction within the local limits of whose original jurisdiction is situate the office in which the document is sought to be registered, a suit for a decree directing the document to be registered in such office, if it be duly presented for registration within thirty days after the passing of such decree; and in the case of an appeal, after the passing of the final decree, exclusive of the time occupied in obtaining copy of the decree.

(2) The provisions contained in Sub-sections (2) and (3) of Section 69 shall, *mutatis mutandis*, apply to all documents presented for registration in accordance with any such decree, and, notwithstanding anything contained in this Act, the document shall be receivable in evidence in such suit.

PART XIV.

OF THE FEES FOR REGISTRATION, SEARCHES
AND COPIES.

72. (1) With Our sanction, the Dewan shall prepare Fees to be fixed. a Table of fees payable—

- (a) for the registration of documents ;
- (b) for searching the Registers ;
- (c) for making or granting copies of reasons, entries or documents before, on or after registration ;

And of extra or additional fees payable—

- (d) [* * * *]
- (e) for filing translations ;
- (f) for attending at private residences ;
- (g) for the safe custody and return of documents ;
and
- (h) for such other matters as appear necessary to effect the purposes of this Act.

(2) The Dewan May, from time to time, with Our Alteration of fees. sanction, alter such Table.

73. A table of the fees so payable shall be published in the Government Gazette, and a copy thereof in English and Malayalam or Tamil shall be exposed to the public view in every Registration Office.

74. (1) All fees for the registration of documents under this Act, and all penalties under Section 17, shall be payable on the presentation of such documents.

Fees and penalties payable on presentation and to be credited to Government.

(2) All such fees and penalties shall be remitted to the Treasury of the Taluk or to such other Treasury as the Dewan may, from time to time, direct, and shall be credited to Government.

Sec. 72. Clause (d) viz., "for every registration under Section 23 ;" was omitted by Section 8, Act XX of 1118.

PART XV.

OF PENALTIES.

75. Every Registering Officer appointed under this Act and every person employed in his office for the purposes of this Act, who, being charged with the endorsing, copying, translating or registering of any document presented or deposited under its provisions, endorses, copies, translates or registers such 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, as defined in the Penal Code, to any person, shall be punished with imprisonment for a term which may extend to seven years, or with fine, or with both.

Penalty for incorrectly endorsing, copying, translating or registering documents with intent to injure.

Act and every person employed in his office for the purposes of this Act, who, being charged with the endorsing, copying, translating or registering of any document presented or deposited under its provisions, endorses, copies, translates or registers such 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, as defined in the Penal Code, to any person, shall be punished with imprisonment for a term which may extend to seven years, or with fine, or with both.

76. Whoever—

Penalty for certain other offences.

Making false statement before a Registering Officer

(a) intentionally makes any false statement, whether on oath or not, and whether it has been recorded or not, before any Officer acting in execution of this Act, in any proceeding or enquiry under this Act, or

Delivering false copy or translation.

(b) intentionally delivers to a Registering Officer, in any proceeding under Section 12, a false copy or translation of a document, or

False personation.

(c) falsely personates another, and in such assumed character, presents any document, or makes any admission or statement, or causes any summons to be issued, or does any other act in any proceeding or enquiry under this Act, or

(d) abets within the meaning of the Penal Code, anything made punishable by this Act.

Abetment of offences under this Act.

shall be punished with imprisonment for a term which may extend to seven years, or with fine, or with both.

77. A prosecution for any offence under this Act, coming to the knowledge of a Registering Officer in his official capacity, may, with the permission of the Director of Registration, be commenced by the Registrar or Sub-Registrar whose District or Sub-District, as the case may be, the offence has been committed.

78. (1) Every Registering Officer appointed under this Act shall be deemed a public servant within the meaning of the Penal Code.

(2) Every person shall be legally bound to furnish information to such Registering Officer when required by him to do so.

(3) In Section 226 of the Penal Code, the words "judicial proceeding" shall be deemed to include any proceeding under this Act.

(4) A Registrar shall, but a Sub-Registrar shall not, as such, be deemed a Court within the meaning of Sections 359, 360, 361 and 362 of the Code of Criminal Procedure.

(5) Orders passed by a Registrar under Sections 359, 360, 361 and 362 of the Code of Criminal Procedure, shall be appealable to the Sessions Court within whose local jurisdiction the office of such Registrar is permanently held.

PART XVI.

MISCELLANEOUS.

79. Documents, other than Wills and authorities to adopt, remaining unclaimed in any Registration office for a period exceeding one year, may be destroyed.

Sec. 78. The corresponding Sub-secs.
 Sec. 84 of the Indian Act does not contain the last two under the Indian Act is 2 years.

80 No Registering Officer shall be liable to any suit, claim or demand by reason of anything in good faith done or refused in his official capacity.

Registering Officer not liable for anything *bona fide* done or refused in his official capacity.

81. Nothing done in good faith, pursuant to this Act, or any Act hereby repealed, by any Registering Officer, shall be deemed invalid merely by reason of any defect in his appointment or procedure.

Nothing so done invalidated by defect in appointment or procedure.

82. (1) Notwithstanding anything herein contained, it shall not be necessary for any Officer of Government or any public functionary, to appear in person or by agent at any Registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity or to sign as provided in Section 50.

Registration of instrument executed by Government Officers or public functionaries.

(2) When any instrument is so executed, the Registering Officer to whom such instrument is presented for registration may, if he thinks fit, refer to any Officer of Government or any public functionary, as the case may be, for information respecting the same, and, on being satisfied of the execution thereof, shall register the instrument.

83. (1) Nothing contained in this Act or in any Act hereby repealed, shall be deemed to require or to have at any time required the registration of any of the following documents, namely :—

Exemption of certain documents executed by or in favour of Our Government.

(a) Documents issued by any Officer engaged in making a settlement or revision of settlement of land revenue and which form part of the records of such settlement.

(b) Documents and maps issued by any Officer engaged on behalf of Our Government in making or revising the survey of any land and which form part of the record of such survey.

(2) All such documents and maps shall, for the purposes of Section 42, be deemed to have been and to be registered in accordance with the provisions of this Act.

84. Every Court granting a certificate of sale of immovable property under Section 313 of the Code of Civil Procedure shall send a copy of such certificate to the Registering Officer within the local limits of whose jurisdiction the whole or any part of the immovable property comprised in such certificate is situate and such Officer shall file the copy in his Book I.

ACT III OF 1087.

AN ACT TO AMEND THE REVENUE RECOVERY ACT, I OF 1068.

*Passed by His Highness the Maha Raja of Travancore,
on the 31st January 1912, corresponding to the
18th Makarom 1087, under Section 13
of Act V of 1073.*

Whereas it is expedient to amend the Revenue Recovery Act, I of 1068; It is hereby enacted as follows:—

I. Substitute the following for Section 51 of the Act:—

“ Nothing in this Act shall be held to prevent parties deeming themselves aggrieved by any decision or order passed or proceedings taken, under this Act, for 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:

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.”

ACT IV OF 1087.

AN ACT TO AMEND THE STAMP ACT IV OF 1080.

*Passed by His Highness the Maha Raja of Travancore,
on the 31st January 1912, corresponding to the
18th Makarom 1087, under Section 13
of Act V of 1073.*

Whereas it is expedient to amend the Stamp Act IV of 1080; It is hereby enacted as follows:—

In the Schedule of the said Act, the following amendments shall be made.

I. For Article No. 5, the following shall be substituted:—

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.

Exemption.

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.

THE STAMP (AMENDMENT) ACT.

II. In Article No. 12, for Clause (b), the following shall be substituted :—

(b) Where payable otherwise than on demand, but not more than one year after date or sight—	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.	Rs.	A	P.
Rs.									
If the amount of the bill or note does not exceed	200			0	1	0	0	1	0
If it exceeds Rs. 200 & Do.	400			0	4	0	0	2	0
Do. 400 Do.	600			0	6	0	0	3	0
Do. 600 Do.	1,000			0	12	0	0	6	0
Do. 1,000 Do.	1,200			1	2	0	0	9	0
Do. 1,200 Do.	1,600			1	8	0	0	12	0
Do. 1,600 Do.	2,500			2	4	0	1	2	0
Do. 2,500 Do.	5,000			4	8	0	2	4	0
Do. 5,000 Do.	7,500			6	12	0	3	6	0
Do. 7,500 Do.	10,000			9	0	0	4	8	0
Do. 10,000 Do.	15,000			13	8	0	6	12	0
Do. 15,000 Do.	20,000			18	0	0	9	0	0
Do. 20,000 Do.	25,000			22	0	0	11	4	0
Do. 25,000 Do.	30,000			27	0	0	13	8	0
and for every additional Rs. 10,000 or part thereof in excess of Rs. 30,000				9	0	0	4	8	0

III. In Article No. 14, in the first column, for 'Rs. 25', 'Rs. 10' shall be substituted.

IV. In Article No. 27, the following shall be substituted.—

27. Debenture (whether a mortgage debenture or not), being a marketable security transferable—

(a) by endorsement or by a separate instrument of transfer;

The same duty as a Bond (No. 14) for the same amount.

(b) by delivery.

The same duty as a Conveyance (No. 23) for a consideration equal to the face amount of the debenture.

Explanation.—The term 'Debenture' includes any interest coupons attached thereto but the amount of such coupons shall not be included in estimating the duty.

ACT IV OF 1087.

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 the benefit of the debenture-holders; Provided that the debentures so issued are expressed to be issued in terms of the said mortgage-deed.

V. In Article No. 30, for Clause (a), the following shall be substituted:—

(a) High Court.

Three hundred and fifty rupees.

VI. In Article No. 38, in the second column, for 'five rupees', 'ten rupees' shall be substituted.—

VII. In Article No. 43, the following shall be substituted:

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.

THE STAMP (AMENDMENT) ACT

VIII. In Article No. 54, the following shall be substituted:—

54. Reconveyance of mortgaged property—

- | | |
|-------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|
| <p>(a) if the consideration for which the property was mortgaged does not exceed Rs. 1,000;</p> | <p>The same duty as a Conveyance (No. 23) for the amount of such consideration as set forth in the reconveyance.</p> |
| <p>(b) in any other case.</p> | <p>Ten rupees.</p> |

IX. In Article No. 59, in the second column, for the words "Three-quarters of " the words "One and a half times" and in the *Exemptions*, for the word "three-quarters" each time it occurs, the words "one and a half" shall be substituted.

X. In Article No. 62, in the second column, for the word "One-quarter" where it occurs opposite Clauses (a) and (b), the word "One-half" shall be substituted.

ACT VI OF 1087.

THE COURT FEES ACT.

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ACT VI OF 1087.

AN ACT TO MODIFY AND RE-ENACT THE LAW RELATING TO COURT-FEES.

*Passed by His Highness the Maha Raja of Travancore,
on the 24th February 1912, corresponding with
the 12th Kumbhom 1087, under Section 13
of Act V of 1073.*

Whereas it is expedient to modify and re enact the law relating to the fees payable on suits, appeals or other Civil and Revenue proceedings and petitions, and to levy fees on certain class of Criminal petitions; It is enacted as follows :—

Year	No.	Short title	Effect of subsequent Legislation.
1087	VI	Court Fees Act	Repealed in part and amended by Act VIII of 1100, Sec. 139 and Schedule II. Amended by Act II of 1105, Secs. 157-160 and Act XIV of 1118.

The earliest provisions of law relating to Court fees are contained in Sections 8 and 9 of Act I of 1010 and Section 10 of Act IV of 1010. (For these provisions see Notes under Acts I of 1010 and IV of 1010). A separate enactment relating to Court fees was passed for the first time in the year 1053 M. E. as Act II of 1053. In regard to this statute the Administration Report of the year 1053 states as follows :—

“3. The practice which regulated the determination of institution fees on Civil suits

in our Courts was that a fee of 5 per cent, was levied on such suits only as were valued at 1,000 Rupees or less, and that when the suit was of higher value, the fee on the whole amount fell to 4 or 3 or 2 per cent, according as the subject of litigation was estimated to be above 1,000 or 10,000 or 25,000 Rupees. In this respect we differed from the practice of the British Indian Courts, where the centage falls as the value of the suit rises, but the higher percentage is still maintained up to the maximum of

ACT VI OF 1087.

the amount for which it would have been leviable if the suit was not in excess of that amount.

"4. The practice of the British Courts had the advantage of our own in this respect, that it destroyed the inducement on the part of a plaintiff to value the subject of his litigation higher than it really was with a view to a reduction in fee and thus to cheat the Government out of its legitimate dues. The effect was demoralising, while the public exchequer lost what it was fairly entitled to. This state of things rendered imperative an amendment of Section 10 of Regulation IV of 1010 which directed the scale of fees. The introduction of a scale of fees on petitions &c., presented to the Courts was deemed necessary with the view to check reckless and indiscriminate presentation of petitions.

"5. His Highness the Maha Raja was therefore pleased to enact Regulation II of 1053, having for its object the revision of the existing scale of Court Fees and introduction of a scale of Fees on Vakalaths, Petitions and other Documents, presented to the Courts."—

A. R. 1053.

Act II of 1053 contained no provision for valuing suits and for fixing the amount of Court fees to be levied in suits whose value could not be estimated. There was also no provision enabling Courts to refund Court fees in cases where the party had good reasons to claim such refund. These defects were remedied by Act I of 1062 which repealed Act II of 1053

and re-enacted the law on the subject. Act I of 1062 was repealed by the statute now in force, viz., Act VI of 1087.

Act VI of 1087. *Objects and Reasons.* " * Past experience in the working of the Regulation has disclosed the necessity for its modification, to keep abreast of the progressive state of the litigation in the country, and to bring it on a line with the enactment on the subject in British India. The Bill does not contemplate any material variation from the scale of fees prescribed by the existing law ; but it proposes to add to the Schedule certain documents received or furnished by Public Officers, and to levy some light fees thereon as is done in British India, under the Court Fees Act No. VII of 1870. The Schedules have been recast mostly on the lines of the said Act. Certain alterations have also been made in the body of the Regulation to render its provisions clearer ; and wherever in any respect the existing law was found to operate too severely on the litigant public, the necessary amendments have been made."— *S. O. & R., T. G. G. dated 15-6-1909.*

For Report of the Select Committee *see T. G. G. dated 10-5-1910.*

For legislative proceedings *see T. G. G. dated 16-6-1908 ; 28-9-1909 ; 27-9-1910 ; 13-12-1910 ; 20-6-1911 and 23-1-1912.*

The Act was published in *T. G. G. dated 27-2-1912.*

Act VIII of 1100. Sec. 139 and the second Schedule of this Act (The Civil Procedure Code)

SEC. 1. THE COURT FEES ACT.

1. This Act may be called "The Court Fees Act."

Short title.

It extends to the whole of Travancore. And it shall
Local extent. come into force on the first day of
Commencement. Edavom 1087.

2. Act I of 1062 and para 2 of Section 26 of the Land
Acquisition Act III of 1067, are hereby
Repeal. repealed.

repealed Sec. 12 and Article VII of Schedule II of Act VI of 1087.

Act II of 1105. Secs. 157 to 160 of this Act (The Probate and Administration Act) added Chapter I-A, Schedule I, Articles VII-A and X and Schedule III to Act VI of 1087.

See also Notes under Act II of 1105.

Act XIV of 1118. *Objects and Reasons.* "Under Section 13(g) of the Court Fees Act, applications (other than those for execution of decrees) presented to Munsiff's Courts in non-appealable cases are declared to be not chargeable with any fee. The largest number of applications falling under this category are those relating to copies of records. It is however observed that a large number of such applications is rejected for failure on the part of the applicants to proceed further with those applications. In most cases such applications are presented without good faith.

This is an abuse of the privilege conferred on parties, resulting in much waste of public time. Complaints by applicants are not also infrequent that such applications are not properly posted in the registers kept for the purpose, but such allegations are never substantiated. After careful consideration of the whole question Government have come to the conclusion that it would be in public interest if a small fee of two chuckrams is levied in respect of such applications also. Hence the Bill *"—

S. O. & R., T. G. G. dated 11-11-1941.

For Report of the Select Committee see T. G. G. dated 6-10-1942.

For legislative proceedings see A. P. Vol. XIX, Pp. 69-85; Vol. XXI, Pp. 55-59 and C. P. Vol. XXI, Pp. 27-29.

The Act was published in T. G. G. dated 23-2-1943.

CHAPTER I.

FEEs IN COURTS AND PUBLIC OFFICES.

3. No document of any of the kinds specified in the First or Second Schedule to this Act annexed, shall be filed, exhibited, or recorded in any Court of Justice (or shall be received in or furnished from any Public office), unless in respect of such document, there be paid a fee of an amount not less than that indicated by either of the said Schedules as the proper fee for such document.

Fees on documents filed, etc. in Courts or in Public Offices.

4. The amount of fee payable under this Act in suits, original or appeal, shall be computed as follows :—

Computation of fees payable in certain suits.

1. In suits for money (including suits for rent, pattom, michavarom, adukkuvathu, olappanom, or other dues of like nature, damages or compensation, or arrears of maintenance, of annuities, or of other sums payable periodically)—according to the amount claimed :

For money.

Sec. 3. The corresponding Sec. 6 of the Indian Act has the words "Except in the courts here-in-before mentioned" at the beginning. The Courts referred to are the High Courts and Courts of small causes at the Presidency towns in respect of which Sections 3 to 5 make provision.

Sec. 4. The proviso to Clause (i) is not in the Indian Act. Clause (iv) of the Indian Act contains two more Sub-clauses viz., "to enforce the right to share in any property on the ground that it is joint family property" and to obtain a declaratory decree or order where consequential relief is prayed". The latter Sub-clause

is Sub-clause (d) of Clause (v) of this Section with a material difference. Clause 8 of the Indian Act relating to suits to set aside an attachment runs as follows :—" (viii). In suits to set aside an attachment of land or of an interest in land or revenue—according to the amount for which the land or interest was attached: Provided that, where such amount exceeds the value of the land or interest, the amount of fee shall be computed as if the suit were for the possession of such land or interest."

There is an additional clause in the Indian Act which runs thus :— "(ix) In suits against

Provided that, if, in a suit for arrears of maintenance, a *bona fide* question of right to receive maintenance is raised, the Court shall require the plaintiff to pay an additional fee according to the provisions of Clause ii of this Section.

ii. suits to establish the right to maintenance, annuity or other sum payable periodically—according to the value of the subject-matter, and such value shall be deemed to be ten times the amount claimed to be payable for one year.

For maintenance, annuities or other sums payable periodically.

iii. In suits for movable property other than money, where the subject-matter has a market-value—according to such value at the date of presenting the plaint.

For other movable property having a market-value.

iv. In suits—

(a) for movable property, where the subject-matter has no market-value, as for instance in the case of documents relating to title,

For movable property of no market-value.

(b) to obtain an injunction,

For an injunction.

(c) for accounts, and

For settlement of accounts.

a mortgagee for the recovery of the property mortgaged, and in suits by a mortgagee to foreclose the mortgage, or where the mortgage is made by conditional sale, to have the sale declared absolute—according to the principal money expressed to be secured by the instrument of mortgage."

The Sub-clauses in the Indian Act corresponding to Clause (viii) Sub-clauses (b) and (c) run thus:—"of a contract of mortgage—according to the amount agreed to be secured" and "of a contract of lease—according to the aggregate amount of the time or premium (if any) and of the rent agreed to be paid during the first year of the term."

(d) for a right to some benefit (not herein otherwise provided for) to arise out of

For easements. land—

according to the amount at which the relief sought is valued.

In all such suits, the plaintiff shall state the amount at which he values the relief sought.

v. In suits—

(a) for the recovery of land, house or garden,

'For lands and gardens. which are not based on a contract,

(b) to eject kanom holders or tenants who have a right to permanent occupancy, or are enjoying under a perpetual lease or under a lease for a term exceeding twenty-five years,

To eject tenants.

(c) to enforce a right of pre-emption in respect

To enforce a right of pre-emption. of land, house or garden, or

(d) to obtain a declaratory decree or order, whether or not consequential relief is prayed for—

To obtain a declaratory decree.

according to the market-value of the subject-matter and such value, in cases of dispute, shall be taken to be ten times the annual gross profits of such land or garden where it is capable of yielding annual profits minus the assessment paid, if any, to the Sirkar.

vi. In suits for recovery of trees, apart from the

To enforce a right of pre-emption in respect of trees and houses. soil on which they stand, or of houses, not based on a contract, or to enforce a right of pre-emption in respect of such property—according to the market-value.

vii. In suits to set aside an attachment (Civil,

To set aside an attachment. Criminal or Revenue)—according to the amount for which the attachment was made :

Provided that, where such amount exceeds the market-value of the property, calculated under the preceding provisions, the amount of fee shall be computed as if the suit was for the recovery of such property.

viii. In suits for specific performance of contract. or for recovery of immovable property including trees, when such suits are based on a contract,—

For specific performance.

(a) in the case of a contract of sale—according to the amount of consideration,

(b) in the case of mortgage—according to the principal money expressed to be secured by the instrument of mortgage or agreed to by the contract,

(c) in the case of leases granted or agreed to be granted to those who have no right of permanent occupancy,

(1) for a term not fixed—according to one year's rent, together with the premium or fine, if any,

(2) for a fixed term not exceeding twenty-five years—according to one-fifth of the aggregate amount of rent payable thereunder together with the premium or fine, if any.

ix. In the following suits between land-lord and tenant—

(a) to enhance the rent—according to ten times the additional rent claimed.

Between land-lord and tenant.

(b) (1) for renewal of kanom deeds or leases or their counter-parts,

(2) for abatement of rent, where it is not coupled with any other relief, and

(3) for the recovery of the occupancy of land or garden from which a tenant has been illegally ejected by the land-lord—

according to the amount of the rent of the land payable for the year next before the date of presenting the plaint.

x. If, in any suit, the defendant pleads a set-off, he shall be required to file a written

Where the defendant pleads set-off. statement, containing the particulars thereof, and such written statement shall be treated as a plaint in a cross suit and Court fees levied from him thereon, according to the provisions of this Act.

5. The amount of fee payable under this Act on a memorandum of appeal (including those provided for in the Land Acquisition and Forest Acts) or of objections on appeal under Section 532 of the Code of Civil Procedure, shall be calculated, as if it was a suit under the provisions of the preceding Section, for the reliefs claimed in the memorandum of appeal or of objections.

6. Where a suit or appeal embraces two or more distinct subjects, the plaint or memorandum of appeal shall be chargeable with the aggregate amount of the fees to which the plaints or memoranda of appeal, in suits embracing separately each of such subjects, would be liable under this Act.

7. Where several reliefs are sought for in the alternative, in respect of one and the same subject-matter, the plaint or memorandum of appeal shall be chargeable with the highest amount of fee payable in respect of any one of the reliefs.

Sec 5. The corresponding Section 8 of the Indian Act runs thus:— "*The amount of fee payable under this Act on a memorandum of appeal against an order relating to compensation under any Act for the time being in force for the acquisition of land for public purposes shall be computed according to the difference*

between the amount awarded and the amount claimed by the appellant."

Sec. 6. In the Indian Act the corresponding Sec. has the following 2nd para:—"Nothing in the former part of this Section shall be deemed to affect the power conferred by the Code of Civil Procedure, Section 9."

8. If the Court sees reason to think that the market-value of any immovable property including trees, as is mentioned in the plaint or memorandum of appeal, has been wrongly estimated, the Court may, for the purpose of computing the fee payable, issue a commission to any proper person, directing him to make such local or other investigation as may be necessary, and to report thereon to the Court. If, as the result of any such investigation, the Court finds that the market-value has been wrongly estimated, the Court, if the estimation has been excessive, may, in its discretion, refund the excess paid as such fee; but, if the estimation has been insufficient, the Court shall require the plaintiff to pay, within such time as it may fix, so much additional fee as would have been payable, had the said market-value been rightly estimated. If the additional fee is not paid within such time, the suit shall be dismissed :

Power to ascertain market-value.

Procedure where it is wrongly estimated.

Provided that the Court may extend the time within which such additional fee should be paid either before or after the expiry of the time previously fixed.

9. In suits for mesne profits or for immovable property and mesne profits or for accounts, if the profits or amount decreed are or is in excess of the profits claimed, or of the amount at which the plaintiff valued the relief sought, the decree shall not be executed, until the difference between the fee actually paid and the fee which would have been payable, had the suit comprised the whole of the profits or amount so decreed, shall have been paid.

Procedure in suit for mesne profits or accounts when amount decreed exceeds amount claimed.

Where the amount of mesne profits is left to be ascertained in the course of the execution of the decree,

Sec. 8. In the Indian Act, the corresponding Section has no proviso.

Sec. 9. The corresponding Section of the Indian Act does not contain the third paragraph

nor the explanation but has the words "if the additional fee is not paid within such time as the Court shall fix, the suit shall be dismissed" at the end of paragraph 2.

if the profits so ascertained exceed the profits claimed, the further execution of the decree shall be stayed, until the difference between the fee actually paid and that which would have been payable, had the suit comprised the whole of the profits so ascertained, is paid.

If, in a suit for accounts or partition, the Court finds that the defendant is entitled to recover property from the plaintiff, the Court may give a decree accordingly, but the defendant shall not execute it, before paying the Court fee on the relief as granted, according to the provisions of this Act.

Explanation.—Nothing in this Section shall be construed to authorise the levy, in the Court of original jurisdiction, of Court fee on the amount of mesne profits or interest accruing due in respect of the subject-matter, between the date of the institution of the suit and the final execution of the decree.

10. Every question relating to valuation, for the purpose of determining the fee leviable under this Act, shall be decided by the Court before which it is raised. The order of the Court, except when it dismisses the suit or appeal on the ground of erroneous valuation, shall be final between the parties to the proceedings in which the question is raised :

Sec. 10. The corresponding Sec. 12 of the Indian Act runs as follows :—

“12. (i) Every question relating to valuation for the purpose of determining the amount of any fee chargeable under this Chapter on a plaint or memorandum of appeal shall be decided by the Court in which such plaint or memorandum, as the case may be, is filed, and such decision shall be final as between the parties to the suit.

(ii) But whenever any such suit comes before a Court of appeal, reference or revision, if such Court considers that the

said question has been wrongly decided to the detriment of the revenue, it shall require the party by whom such fee has been paid to pay so much additional fee as would have been payable had the question been rightly decided, and the provisions of Section 10, paragraph (ii), shall apply.”

Sec. 10 (ii) referred to above is as follows :—“In such case the suit shall be stayed until the additional fee is paid. If the additional fee is not paid within such time as the Court shall fix, the suit shall be dismissed.”

Provided that, whenever any such proceeding comes before a Court of appeal, revision or reference, and if such Court considers that the said question had been wrongly decided to the detriment of the revenue, it shall require the party by whom the fee is payable, to pay the additional fee, within a time to be fixed by such Court (the Court having power to extend the time at its discretion), and, in default of payment, shall dismiss the suit, appeal or application, as the case may be, in respect of which the additional fee is due.

11. In the following cases, and to the extent specified, the Court may order the refund of Court fees:—

When Courts may order refund of Court fees.

(a) when a suit or appeal is compromised, or when a suit is decided solely on the admission of the parties, without any investigation, one-half of the Court fee paid on the plaint or memorandum of appeal as the case may be ;

(b) when a suit is remanded to the lower Court for investigation, and decision *de novo*,

(1) the whole of the Court fee paid on the memorandum of appeal, if the remand order covers the whole suit,

Sec. 11: Secs. 13 to 15 of the Indian Act contain the provisions relating to refund and correspond with this Section. They are given below:—

“13. If an appeal or plaint, which has been rejected by the lower Court on any of the grounds mentioned in the Code of Civil Procedure, is ordered to be received, or if a suit is remanded in appeal on any of the grounds mentioned in Section 351 of the same Code (= Or XLI, r. 23 of Act V of 1908), for a second decision by the lower Court, the Appellate Court shall grant to the appellant a certi-

ificate authorising him to receive back from the Collector the full amount of fee paid on the memorandum of appeal: Provided that if, in the case of a remand in appeal, the order of remand shall not cover the whole of the subject-matter of the suit, the certificate so granted shall not authorise the appellant to receive back more than so much fee as would have been originally payable on the part or parts of such subject-matter in respect whereof of the suit has been remanded.

“14. Where an application for a review of judgment is presented on or after the ninetieth

- (2) so much only of the fee as would have been payable on the part or parts of the subject-matter in respect whereof the suit has been remanded, if the order of remand covers only part or parts of the subject-matter;
- (c) when the Court (original or appeal) reverses or modifies on review, its former judgment, on a ground of mistake of law or fact, but not on account of the laches of the parties,
- (1) in the case of reversals, the whole fee paid on the application for review, minus the fee payable on petitions to the Court, and,
- (2) in the case of modifications, so much only of the fee as would have been payable, if the application for review was confined to the part of the judgment modified :

but nothing in this Section shall entitle the applicant to any refund under Clause (c), when the reversal or modification is due wholly or in part to fresh evidence which might have been produced at the original hearing ;

- (d) when a Court of first or second appeal orders the receipt of a plaint or appeal rejected by a lower Court on any of the grounds mentioned in the Code of Civil Procedure, the

day from the date of the decree, the Court, unless the delay was caused by the applicant's laches, may, in its discretion, grant him a certificate authorising him to receive back from the Collector so much of the fee paid on the application as exceeds the fee which would have been payable had it been presented before such day.

" 15. Where an application for a review of judgment is admitted, and where, on the re-hearing, the Court reverses or modifies its former decision on the ground of mistake in law or

fact, the applicant shall be entitled to a certificate from the Court authorising him to receive back from the Collector so much of the fee paid on the application as exceeds the fee payable on any other application to such Court under the Second Schedule to this Act, No. 1, Clause (b) or Clause (d).

But nothing in the former part of this Section shall entitle the applicant to such certificate where the reversal or modification is due, wholly or in part, to fresh evidence which might have been produced at the original hearing."

whole or so much of the fee as in the case of remands for investigation and decision *de novo* ;

- (e) when an application for a review of judgment is presented on or after the ninetieth day from the date of the decree, on payment of full fees, so much of the fee paid on the application as exceeds the fee which would have been payable had it been presented before such day, if the Court finds that the delay was not caused by the applicant's laches.

12. [*Repealed by Section 139 & Schedule II, Act VIII, of 1100.*]

13. Nothing contained in this Act shall render the Exemption of following documents chargeable with certain documents. any fee :—

- (a) Written statements other than those on which *ad valorem* fees are leviable ;
- (b) first application for summons to a witness or witnesses, either to give evidence or to produce documents or in respect of the filing of an exhibit ;
- (c) petition or appeal presented or Vakalath executed by a prisoner in duress or under restraint of any Criminal Court or its Officers, and petitions presented by Civil debtors while under duress ;
- (d) petitions presented by a judgment-creditor, during the execution of a decree, requesting the Court to take certain steps in aid of execution, provided the prescribed fee is paid on the first application, and the execution case is pending on the file ;

Sec. 12. The repealed Sec. ran as follows :—“ No respondent shall be allowed to object to the portion of the decree not appealed against, unless he pays, seven days before the date fixed for hearing, or within such further time as the Court may, on special application, deem fit to grant, the additional Court fee which would have been payable on the appeal, if it had comprised the part of the decree so objected to.”

- (e) requisitions made by the Government for copies of judgment and decree or order or records in suits or proceedings ;
- (f) objections to attachment of property in execution of decrees, when they are made by or on behalf of the Government ;
- (g) applications (other than applications for execution of decrees [or for copies of judgments, decrees, orders or records]) presented to Munsiffs in non-appealable cases ;
- (h) applications for sums ordered to be refunded under Section 11 ;
- (i) complaints by a public servant (as defined in the Travancore Penal Code) ;
- (j) application for the payment of money due by the Government to the applicant ;
- (k) application for compensation under any law for the time being in force relating to the acquisition of property for public purposes ; and
- (l) petition, application, charge or information, respecting any offence, when presented, made or laid to or before a Police-Officer.

[CHAPTER I-A.

PROBATE AND LETTERS OF ADMINISTRATION.

13-A. (1) Where an application for probate or letters of administration is made to any Court, the Court shall cause notice of the application to be given to the Division Peishkar.

Notice of application for probate or letters of administration to be given to Revenue authorities and procedure thereon.

(2) The Division Peishkar within the local limits of whose revenue jurisdiction the property of the deceased

Sec. 13. Clause (g). The words "or for copies of judgment... or records" occurring within brackets were inserted by Sec. 2, Act XIV of 1118.

Chapter I-A. Containing Secs. 13-A to 13-K was added by Sec. 158, Act II of 1105.

or any part thereof is, may at any time inspect, or cause to be inspected, and take or cause to be taken copies of the record of any case in which application for probate or letters of administration has been made; and if, on such inspection or otherwise, he is of opinion that the petitioner has under-estimated the value of the property of the deceased, the Division Peishkar may, if he thinks fit, require the attendance of the petitioner (either in person or by agent), and take evidence and inquire into the matter in such manner as he may think fit, and if he is still of opinion that the value of the property has been under-estimated, may require the petitioner to amend the valuation.

(3) If the petitioner does not amend the valuation to the satisfaction of the Division Peishkar, the Division Peishkar may move the Court before which the application for probate or letters of administration was made to hold an inquiry into the true value of the property:

Provided that no such motion shall be made after the expiration of six months from the date of the exhibition of the inventory required by Section 102, Travancore Probate and Administration Act, 1105.

(4) The Court, when so moved as aforesaid, shall hold or cause to be held an inquiry accordingly and shall record a finding as to the true value, as near as may be, at which the property of the deceased should have been estimated. The Division Peishkar shall be deemed to be a party to the inquiry.

(5) For the purpose of any such inquiry, the Court or person authorised by the Court to hold the inquiry may examine the petitioner for probate or letters of administration on oath (whether in person or by commission) and may take such further evidence as may be produced to prove the true value of the property. The person authorised as aforesaid to hold the inquiry shall return to the Court the evidence taken by him and report the result of the inquiry, and such report and the evidence so taken shall be evidence in the proceedings, and the Court may record a finding in accordance with the report unless it is satisfied that it is erroneous.

(6) The finding of the Court recorded under Sub-section (4) shall be final, but shall not bar the entertainment and disposal by the Division Peishkar of any application under Section 13-F.

(7) Our Government may make Rules for the guidance of the Division Peishkar and persons deputed by them in the exercise of the powers conferred by Sub-section (2).

13-B. Where any person, on applying for the probate of a Will or letters of administration, has estimated the property of the deceased to be of greater value than the same has afterwards proved to be, and has consequently paid too high a Court fee thereon, if within six months after the true value of the property has been ascertained such person produces the probate or letters to the Division Peishkar of the Division in which the probate or letters has or have been granted,

and delivers to the Division Peishkar a particular inventory and valuation of the property of the deceased, verified by affidavit or affirmation,

and if the Division Peishkar is satisfied that a greater fee was paid on the probate or letters than the law required,

the said Division Peishkar may—

- (a) cancel the stamp on the probate or letters, if such stamp has not been already cancelled :
- (b) substitute another stamp for denoting the Court fee which should have been paid thereon : and
- (c) make an allowance for the difference between them as in the case of spoiled stamps, or repay the same in money, at his discretion.

13-C. Whenever it is proved to the satisfaction of the Division Peishkar that an executor or administrator has paid debts due from the deceased to such an amount as, being deducted out of the amount or value of the estate, reduce the same to a sum which, if it had been the whole

Relief where debts due from a deceased person have been paid out of his estate.

gross amount or value of the estate would have occasioned a less Court fee to be paid on the probate or letters of administration granted in respect of such estate than has been actually paid thereon under this Act,

the Division Peishkar may return the difference provided the same be claimed within three years after the date of such probate or letters :

but, when, by reason of any legal proceeding, the debts due from the deceased have not been ascertained and paid, or his effects have not been recovered and made available, and in consequence thereof the executor or administrator is prevented from claiming the return of such difference within the said term of three years, the Division Peishkar may allow such further time for making the claim as may appear to be reasonable under the circumstances.

13-D. Whenever a grant of probate or letters of administration has been or is made in respect of the whole or the several grants. Relief in cases of several grants. property belonging to an estate, and the full fee chargeable under this Act has been or is paid thereon, no fee shall be chargeable under the same Act when a like grant is made in respect of the whole or any part of the same property belonging to the same estate.

Whenever such a grant has been or is made in respect of any property forming part of an estate, the amount of fees then actually paid under this Act shall be deducted when a like grant is made in respect of property belonging to the same estate, identical with or including the property to which the former grant relates.

13-E. The probate of the Will or the letters of administration of the effects of any person deceased shall be deemed valid and available by his executors or administrators for recovering, transferring, or assigning any movable or immovable property whereof or whereto the deceased was possessed or entitled, either wholly or partially, as a Probates declared valid as to trust property, though not covered by Court fee.

trustee, notwithstanding the amount or value of such property is not included in the amount or value of the estate in respect of which a Court fee was paid on such probate or letters of administration.

13-F. (1) Where any person, on applying for probate or letters of administration, has estimated the estate of the deceased to be of less value than the same has afterwards proved to be, and has in consequence paid too low a Court fee thereon, the Division Peishkar of the Division in which the probate or letters has or have been granted may, on the value of the estate of the deceased being verified by affidavit or affirmation, move the District Judge who granted the probate or letters of administration to hold an enquiry.

Provision for case where too low a Court fee has been paid on probates, etc.

(2) The Judge after following the procedure prescribed in Section 13-A, Sub-sections (4) and (5), may record a finding as to the valuation of the estate. The Court may direct that the probate or letters of administration be duly stamped on payment to the Division Peishkar of the full Court fee which ought to have been originally paid thereon in respect of such value, and of the further penalty, if the probate or letters is or are produced within one year from the date of the grant, of not more than twice, or if it or they, is or are produced after one year from such date, of not more than five times, such proper Court fee without any deduction of Court fee originally paid :

Provided that, if the application be made within six months after the ascertainment of the true value of the estate and the discovery that too low a Court fee was at first paid on the probate or letters and if the Court is satisfied that such fee was paid in consequence of a mistake, or of its not being known at the time that some particular part of the estate belonged to the deceased, and without any intention of fraud or to delay the payment of the proper Court fee; the Court may remit the said penalty, and cause the probate or letters to be duly stamped on payment only of the sum wanting to make up the fee which should have been at first paid thereon.

(3) The District Judge shall communicate his decision to the Division Peishkar.

13-G. In the case of probate or letters of administration on which too low a Court fee has been paid at first, the Division Peishkar shall not cause the same to be duly stamped in manner aforesaid, until the executor or administrator has given such security to the Court by which the probate or letters of administration has or have been granted as ought to have been given on the granting thereof, in case the full value of the estate of the deceased had been then ascertained.

Administrator to give proper security before letters stamped under Section 13-E.

13-H. Where too low a Court fee has been paid on any probate or letters of administration in consequence of any mistake, or of its not being known at the time that some particular parts of the estate belong to the deceased, if any executor or administrator acting under such probate or letters does not, within six months after the discovery of the mistake, or of any effects not known at the time to have belonged to the deceased, apply to the Division Peishkar, and pay what is wanting to make up the Court fee which ought to have been paid at first on such probate or letters, he shall forfeit the sum of two hundred rupees, and also a further sum at the rate of ten rupees per cent. on the amount of the sum wanting to make up the proper Court fee.

Executors, etc., not paying full Court fee on probate, etc., within six months after discovery of underpayment.

13-I (1) No order entitling the grant of probate or letters of administration shall be made upon an application for such grant until the petitioner has filed in the Court a valuation of the property in the form set forth in the third Schedule, and the Court is satisfied that the fee mentioned in Article X of the first Schedule has been paid on such valuation.

Payment of Court fees in respect of probates and letters of administration.

(2) The grant of probate or letters of administration shall not be delayed by reason of any motion made by the Division Peishkar under Section 13-A, Subsection (3).

13-J. (1) Any excess fee found to be payable on an inquiry held under Section 13-A, Sub-section (5), and any penalty or forfeiture under Section 13-H, may, on the certificate of the Division Peishkar, be recovered from the executor or administrator as if it were an arrear of land revenue by any Tahsildar in any part of Travancore.

(2) The Division Peishkar may remit the whole or any part of any penalty or forfeiture as aforesaid, or any part of any penalty under Section 13-F, or of any Court fee under Section 13-F, in excess of the full Court fee which ought to have been paid.

13-K. Nothing in Section 3 or Section 19 shall apply to probate or letters of administration.]
 Sections 3 and 19 not to apply to probates and letters of administration.

CHAPTER II.

PROCESS FEES.

14. The High Court shall make Rules as to the following matters :—
- High Court to make Rules as to process fees.
- i. The fee chargeable for serving and executing processes issued by such Court and by the other Civil and Criminal Courts ;
 - ii. the number of process servers to be attached to each such Court and their remuneration ; and
 - iii. the refund of process fees.

The High Court may, from time to time, alter and add to the Rules.

All such Rules, alterations and additions, after being confirmed and sanctioned by Our Government, shall be published in the Official Gazette and shall thereupon have the force of law.

The Revenue Courts shall be regulated by Rules framed by Our Government who may, from time to time, alter and add to the Rules.

All such Rules, alterations and additions shall be published in the Official Gazette and shall thereupon have the force of law.

The Rules in force at the date of the passing of this Act shall continue in force, until new Rules are sanctioned.

15. A Table in the English, Tamil and Malayalam languages, showing the fees chargeable for such service and execution shall be exposed to view in a conspicuous part of each Court.

CHAPTER III.

OF THE MODE OF LEVYING FEES.

16. All fees chargeable under this Act shall be collected in stamps.

17. The stamps used to denote any fees chargeable under this Act, shall be impressed or adhesive, or partly impressed and partly adhesive, as Our Government may, by Notification in the Official Gazette, from time to time, direct.

18. Our Government may, in such case, make, from time to time, Rules for regulating—

Rules for supply, number, renewal and the keeping of accounts of stamps.

(a) the supply of stamps to be used under this Act ;

(b) the number and description (whether impressed or adhesive) of stamps to be used for denoting any fee chargeable under this Act ;

(c) the renewal of damaged or spoiled stamps ;

(d) the keeping of accounts of all stamps used under this Act ;

(e) the mode in which the refunds of Court or process fees shall be made ; and

(f) the cancellation of stamps in modes additional to that indicated in Section 21.

All such Rules shall be published in the Official Gazette and shall thereupon have the force of law.

19. No document which ought to bear a stamp under this Act, shall be of any validity, unless and until it is properly stamped.

Proper fee levied on documents inadvertently received.

But, if any such document is, through mistake or inadvertence, received, filed or used in any Court or Office, without being properly stamped, the presiding or senior Judge in the Civil and Criminal Courts or the head of the Office as the case may be, or, in the case of High Court, any Judge of such Court, may, if he thinks fit, order that such document be stamped as he may direct; and on such document being stamped accordingly, the same and every proceeding relating thereto shall be as valid as if it had been properly stamped in the first instance.

The Court may also pass an order in favour of the Sirkar, after giving notice to the party liable and hearing his objection, for the recovery from him, with the expenses of such recovery, any Court fee which he ought to have paid but has not paid; and the Sirkar may recover the same as if the said order was a decree in its favour.

20. Where any document is amended in order merely to correct a mistake and to make it conform to the original intention of the parties, it shall not be necessary to impose a fresh stamp.

Amended document.

21. No document requiring a stamp under this Act, shall be filed or acted upon in any proceeding in any Court or Office, until the stamp has been cancelled.

Cancellation of stamp.

Such Officer as the Court or the head of the Office may, from time to time, appoint, shall, on receiving any such document, forthwith effect such cancellation, by

punching out the figure head so as to leave the amount designated on the stamp untouched, and the part removed by punching shall be burnt or otherwise destroyed.

CHAPTER IV.

MISCELLANEOUS.

22. Our Government may, from time to time, by Notification in the Official Gazette, reduce or remit, in the whole or in any part of the Travancore State, all or any of the fees mentioned in the Schedules to this Act annexed, and may, in like manner, cancel or vary such order.

Power to reduce or remit fees.

23. Whenever an application or petition containing a complaint or charge of an offence other than an offence for which Police-Officers may arrest without warrant, is presented to a Criminal Court, the Court, if it convicts the accused person, shall, in addition to the penalty imposed upon him, order him to repay to the complainant, the fee paid on such application or petition.

Re-payment of fees paid on application to Criminal Courts.

Where the complainant has paid fees for serving processes in the cases mentioned in the preceding paragraph of this Section, the Court, if it convicts the accused person, shall, in addition to the penalty imposed on him, order him to repay such fees to the complainant.

All fees ordered to be repaid under this Section may be recovered as if they were fines imposed by the Court.

24. Whenever the filing or exhibition, in a Criminal Court, of a document in respect of which the proper fee has not been paid, is, in the opinion of the presiding Judge, necessary to prevent a failure of justice, nothing contained in Section 3 shall be deemed to prohibit such filing or exhibition.

Admission in Criminal cases of documents for which proper fee has not been paid.

25. Our Government may, from time to time, make
Sale of stamps. Rules for regulating the sale of
is to be conducted and the duties and remuneration of
such persons. the person by whom alone such sale

All such Rules shall be published in the Official Gazette and shall thereupon have the force of law.

Any person appointed to sell stamps, who disobeys any Rule made under this Section, and any person not so appointed, who sells or offers for sale any stamp, 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.

SCHEDULE I.

Ad valorem, Fees.

	Value of suits.		Fee leviable.	Value of suits.		Fee leviable.
	When the amount exceeds.	When the amount does not exceed.		When the amount exceeds.	When the amount does not exceed.	
	Fanams.	Fanams.	Fanams.	Fanams.	Fanams.	Fanams.
I. Plaint, written statement pleading a set off or memorandum of appeal not otherwise provided for in this Act or of cross-objection presented to any Civil or Revenue Court.	0	100	5	4,700	4,800	240
	100	200	10	4,800	4,900	245
	200	300	15	4,900	5,000	250
	300	400	20	5,000	5,100	255
	400	500	25	5,100	5,200	260
	500	600	30	5,200	5,300	265
	600	700	35	5,300	5,400	270
	700	800	40	5,400	5,500	275
	800	900	45	5,500	5,600	280
	900	1,000	50	5,600	5,700	285
	1,000	1,100	55	5,700	5,800	290
	1,100	1,200	60	5,800	5,900	295
	1,200	1,300	65	5,900	6,000	300
	1,300	1,400	70	6,000	6,100	305
	1,400	1,500	75	6,100	6,200	310
	1,500	1,600	80	6,200	6,300	315
	1,600	1,700	85	6,300	6,400	320
	1,700	1,800	90	6,400	6,500	325
	1,800	1,900	95	6,500	6,600	330
	1,900	2,000	100	6,600	6,700	335
	2,000	2,100	105	6,700	6,800	340
	2,100	2,200	110	6,800	6,900	345
	2,200	2,300	115	6,900	7,000	350
	2,300	2,400	120	7,000	7,700	378
	2,400	2,500	125	7,700	8,400	406
	2,500	2,600	130	8,400	9,100	434
	2,600	2,700	135	9,100	9,800	462
	2,700	2,800	140	9,800	10,500	490
	2,800	2,900	145	10,500	11,200	518
	2,900	3,000	150	11,200	11,900	546
	3,000	3,100	155	11,900	12,600	574
	3,100	3,200	160	12,600	13,300	602
	3,200	3,300	165	13,300	14,000	630
	3,300	3,400	170	14,000	14,700	658
	3,400	3,500	175	14,700	15,400	686
	3,500	3,600	180	15,400	16,100	714
	3,600	3,700	185	16,100	16,800	742
	3,700	3,800	190	16,800	17,500	770
	3,800	3,900	195	17,500	18,200	798
	3,900	4,000	200	18,200	18,900	826
	4,000	4,100	205	18,900	19,600	854
	4,100	4,200	210	19,600	20,300	882
	4,200	4,300	215	20,300	21,000	910
	4,300	4,400	220	21,000	21,700	938
	4,400	4,500	225	21,700	22,400	966
	4,500	4,600	230	22,400	23,100	994
	4,600	4,700	235	23,100	23,800	1,022

Sch. I, Art. 1. The Indian Act has the words "or counter-claims" after "set off" and

the words "except those men- tioned in Section 3" at the end.

SCHEDULE I—(contd.)

Ad valorem Fees.

Value of suits.		Fee leviable.	Value of suits.		Fee leviable.
When the amount exceeds.	When the amount does not exceed.		When the amount exceeds.	When the amount does not exceed.	
Fanams.	Fanams.	Fanams.	Fanams.	Fanams.	Fanams.
23,800	24,500	1,050	1,08,500	1,12,000	4,130
24,500	25,200	1,078	1,12,000	1,15,500	4,235
25,200	25,900	1,106	1,15,500	1,19,000	4,340
25,900	26,600	1,134	1,19,000	1,22,500	4,445
26,600	27,300	1,162	1,22,500	1,26,000	4,550
27,300	28,000	1,190	1,26,000	1,29,500	4,655
28,000	28,700	1,218	1,29,500	1,33,000	4,760
28,700	29,400	1,246	1,33,000	1,36,500	4,865
29,400	30,100	1,274	1,36,500	1,40,000	4,870
30,100	30,800	1,302	1,40,000	1,47,000	5,180
30,800	31,500	1,330	1,47,000	1,54,000	5,390
31,500	32,200	1,358	1,54,000	1,61,000	5,600
32,200	32,900	1,386	1,61,000	1,68,000	5,810
32,900	33,600	1,414	1,68,000	1,75,000	6,020
33,600	34,300	1,442	1,75,000	1,82,000	6,160
34,300	35,000	1,470	1,82,000	1,89,000	6,300
35,000	36,750	1,540	1,89,000	1,96,000	6,440
36,750	38,500	1,610	1,96,000	2,03,000	6,580
38,500	40,250	1,680	2,03,000	2,10,000	6,720
40,250	42,000	1,750	2,10,000	2,24,000	7,000
42,000	43,750	1,820	2,24,000	2,38,000	7,280
43,750	45,500	1,890	2,38,000	2,52,000	7,560
45,500	47,250	1,960	2,52,000	2,66,000	7,840
47,250	49,000	2,030	2,66,000	2,80,000	8,120
49,000	50,750	2,100	2,80,000	2,94,000	8,400
50,750	52,500	2,170	2,94,000	3,08,000	8,680
52,500	54,250	2,240	3,08,000	3,22,000	8,960
54,250	56,000	2,310	3,22,000	3,36,000	9,240
56,000	57,750	2,380	3,36,000	3,50,000	9,520
57,750	59,500	2,450	3,50,000	3,65,000	10,220
59,500	61,250	2,520	3,65,000	4,20,000	10,920
61,250	63,000	2,590	4,20,000	4,55,000	11,620
63,000	64,750	2,660	4,55,000	4,90,000	12,320
64,750	66,500	2,730	4,90,000	5,25,000	13,020
66,500	68,250	2,800	5,25,000	5,60,000	13,720
68,250	70,000	2,870	5,60,000	5,95,000	14,420
70,000	73,500	2,975	5,95,000	6,30,000	15,120
73,500	77,000	3,080	6,30,000	6,65,000	15,820
77,000	80,500	3,185	6,65,000	7,00,000	16,520
80,500	84,000	3,290	7,00,000	7,35,000	17,220
84,000	87,500	3,395	7,35,000	7,70,000	17,920
87,500	91,000	3,500	7,70,000	8,05,000	18,620
91,000	94,500	3,605	8,05,000	8,40,000	19,320
94,500	98,000	3,710	8,40,000	..	20,000
98,000	1,01,500	3,815			(the maximum fee.)
1,01,500	1,05,000	3,920			
1,05,000	1,08,500	4,025			

SCHEDULE I—(contd.)

<i>Number.</i>	<i>Ad valorem fees.</i>	<i>Proper fee.</i>
II. Application for review of judgment, if presented before the ninetieth day from the date of the decree.		One-half of the fee leviable on the plaint or memorandum of appeal.
III. Application for review of judgment, if presented on or after the ninetieth day from the date of the decree.		The fee leviable on the plaint or memorandum of appeal.
IV. Application to file an award made without the intervention of a Court of Justice, if presented before the ninetieth day from the date of the award.		Ten rupees.
V. Application to file an award made without the intervention of a Court of Justice, if presented on or after the ninetieth day from the date of the award.		The fee leviable on the value of the property awarded.
VI. Copy or translation of judgment or order not being, or having the force of, a decree.	When such judgment or order is passed by any Civil Court, other than the High Court, or by the presiding Officer of any Revenue Court or Office, or by any other judicial or executive authority—	
	(a) if the amount or value of the subject-matter is fifty rupees or less ;	Quarter-rupee.

SCHEDULE I—(contd.)

<i>Number.</i>	<i>Ad valorem fees.</i>	<i>Proper fee.</i>
	(b) if such amount or value exceeds fifty rupees.	Half-rupee.
	When such judgment or order is passed by the High Court.	One rupee.
VII. Copy of a decree or order having the force of a decree.	When such decree or order is made by any Civil Court, other than the High Court, or by any Revenue Court—	
	(a) if the amount or value of the subject-matter of the suit wherein such decree or order is made, is fifty rupees, or less than fifty rupees ;	Half-rupee
	(b) if such amount or value exceeds fifty rupees.	One rupee.
	When such decree or order is made by the High Court.	Two rupees.
VIII. Copy of any document liable to stamp-duty under the Travancore Stamp Act, IV of 1080, when left by any party to a suit or proceeding in place of the original withdrawn.	(a) When the stamp-duty chargeable on the original does not exceed eight annas ;	The amount of the duty chargeable on the original.
	(b) in any other case.	Half-rupee.
IX. Copy of any revenue or judicial proceeding or order not otherwise provided for by this Act,		Half-rupee.

SCHEDULE I—(concl.)

<i>Number.</i>	<i>Ad valorem fees.</i>	<i>Proper fee.</i>
or copy of any account, statement, report or the like, taken out of any Civil or Criminal or Revenue Court or Office.		
[X. Probate of a Will or letters of administration with or without Will annexed.	When the amount or value of the property in respect of which the grant of probate or letters is made, exceeds one thousand rupees but does not exceed ten thousand rupees.	Two per centum on such amount or value.
	When such amount or value exceeds ten thousand rupees but does not exceed fifty thousand rupees.	Two and one-half per centum on such amount or value.
	When such amount or value exceeds fifty thousand rupees.	Three per centum on such amount or value.
	: Provided that when after the grant of the certificate under the Succession Certificate Act, IX of 1090, in respect of any property included in an estate, a grant of probate or letters of administration is made in respect of the same estate, the fee payable in respect of the latter grant shall be reduced by the amount of the fee paid in respect of the former grant.]	

Sch. I, Art. X. This was added by Sec. 157, Act II of 1105,

SCHEDULE II.

Fixed Fees.

<i>Number.</i>	<i>Fixed fees.</i>	<i>Proper fee.</i>
I. Application or petition.	<p>(a) when presented to any Officer of the Customs or Excise Department, or to any Magistrate, by any person having dealings with the Government, and when the subject-matter of such application relates exclusively to those dealings;</p> <p>or, when presented to any Officer of Land Revenue by any person holding temporarily settled land under direct engagement with the Government, and when the subject-matter of the application or petition relates exclusively to such engagement;</p> <p>or, when presented to any President of a Town Improvement Committee under any Act for the time being in force for the conservancy or improvement of any place, if the application or petition relates solely to such conservancy or improvement;</p> <p>or, when presented to any Civil Court, or to a Division Peishkar or other Officer of Revenue, in relation to</p>	

SCHEDULE II—(contd.)

<i>Number.</i>	<i>Fixed fees.</i>	<i>Proper fee.</i>
	<p>any suit or case in which the amount or value of the subject-matter is less than fifty rupees ;</p> <p>or, when presented to any Civil, Criminal or Revenue Court or Executive Officer for the purpose of obtaining a copy or translation of any judgment, decree or order passed by such Court or Officer, or of any other document on record in such Court or Office ;</p>	Two chuckrams.
	<p>(b) when containing a complaint or charge of any offence other than an offence for which Police-Officers may, under the Criminal Procedure Code, arrest without warrant, and presented to any Criminal Court ;</p>	
	<p>or, when presented to a Civil, Criminal or Revenue Court or to a Division Peishkar or any Revenue Officer having jurisdiction equal or subordinate to a Division Peishkar, or to any Magistrate in his executive capacity, and not otherwise provided for by this Act ;</p>	Half-rupee.

SCHEDULE II—(contd.)

<i>Number.</i>	<i>Fixed Fees.</i>	<i>Proper fee.</i>
	(c) when presented to Our Government or to any Chief-Officer charged with the executive administration of a Division, and not otherwise provided for by this Act ;	Two rupees.
	(d) when presented to the High Court.	Two rupees.
II. Application for leave to sue as a pauper.		Half-rupee.
III. Application for leave to appeal as a pauper.	(a) when presented to a District Court ; (b) when presented to the High Court.	One rupee. Two rupees.
IV. Bail-bond or other instrument of obligation given in pursuance of an order made by a Civil Court.		Half-rupee.
V. Mukthiarnama or Vakalathnama.	when presented for the conduct of any one case— (a) to any Civil or Criminal Court other than the High Court or to any Revenue Court, or to any Peishkar or other Officer in charge of a Revenue Division, or Magistrate or other Executive Officer, except such as are mentioned in Clause (b) of this number ;	Half-rupee.

SCHEDULE II—(contd.)

Number	Fixed Fees.	Proper fee.
	(b) to the High Court or Our Government.	Two rupees.
VI. Memorandum of appeal, when the appeal is not from an order rejecting a plaint or from a decree or an order having the force of a decree and is presented—	(a) to any Civil Court other than the High Court, or to any Revenue Court or Executive Officer subordinate to Our Government; (b) to the High Court or Our Government.	Half-rupee. Two rupees.
VII. [<i>Repealed by Act VIII of 1100.</i>]		
[VII-A. Caveat.]		Five rupees.]
VIII. Plaint or memorandum of appeal in each of the following suits:—		
i. to remove a Karanavan;	(a) where the <i>ad valorem fee</i> on the value of the property does not exceed forty rupees;	<i>Advalorem fee.</i>
	(b) in all other cases.	Forty rupees.
ii. to remove a Trustee; C.L.		Fifteen rupees.
iii. to alter or set aside a summary decision or order of any of the Civil Courts;		Ten rupees.

Sch. II, Art. VI. In the Indian Act the words "from an order rejecting a plaint or" were omitted by Act V of 1908 from the corresponding Article II.

Plaint or memorandum of Appeal in a suit to obtain possession of wife or for restitution of conjugal rights.

High Court, Zilla, or Sessions Court or Munsiff's Court.

70 Fanams.

Sch. II, Art. VII. This was repealed by Act VIII of 1100, Sec. 139 and Sch. II. The repealed Art, read as follows:—

Sch. II, Art. VII-A, was added by Sec. 159, Act II of 1105.

SCHEDULE II—(contd.)

<i>Number.</i>	<i>Fixed Fees.</i>	<i>Proper fee.</i>
iv. to alter or cancel any entry in a register of the names of proprietors of revenue-paying estates ;		Ten rupees.
v. to set aside an award ;		Ten rupees.
vi. to set aside an adoption ;		Ten rupees.
vii. every other suit where it is not possible to estimate, at a money value, the subject-matter in dispute, and which is not otherwise provided for by this Act.		Ten rupees.
IX. Application under Section 502 of the Code of Civil Procedure.		Ten rupees.
X. Agreement under Section 506 of the same Code.		Ten rupees.

[SCHEDULE III.

(See Section 13-I.)

Form of valuation (to be used with such modification, if any, as may be necessary.)

In the Court of.....
Re Probate of the Will of.....(or Administration of the property and credits of.....), deceased.

I, solemnly affirm.....and
 make oath
 say that I am the executor (or one of the executors or one of the next of kin) of....., deceased, and that

Sch. III. This was added by Sec. 160, Act II of 1105,

I have truly set forth in Annexure A to this affidavit all the property and credits of which the above-named deceased died possessed or was entitled to at the time of his death and which have come or are likely to come, to my hands.

2. I further say that I have also truly set forth in Annexure B all the items I am by law allowed to deduct.

3. I further say that the said assets, exclusive only of such last-mentioned items, but inclusive of all rents, interests, dividends, and increased values since the date of the death of the said deceased, are under the value of...

ANNEXURE A.

Rs. Ch. C.

Valuation of the movable and immovable property of deceased.

Cash in the house and at the banks, household goods, wearing apparel, books, plate, jewels, etc.

(State estimated value according to best of Executor's or Administrator's belief.)

Property in any Government Securities.

(State description and value at the price of the day; also the interest, separately calculating it to the time of making the application.)

Immovable property, consisting of

(State description, giving, in the case of houses, the assessed value, if any, and the number of years' assessment the market-value is estimated at, and in the case of land, the area, the market value, and all rents that have accrued.)

Lease-hold property.

(If the deceased held any leases for years determinable, state the number of years' purchase the profit rents are estimated to be worth and the value of such, inserting separately arrears due at the date of death, and all rents received or due since that date to the time of making the application.)

Rs. Ch. C.

Property in public companies.

(State the particulars and the value calculated at the price of the day; also the interest separately, calculating it to the time of making the application.)

Policy of insurance upon life, money out on mortgage and other securities, such as bonds, mortgages, bills, notes and other securities for money.

(State the amount of the whole; also the interest separately, calculating it to the time of making the application.)

Book debts.

(Other than bad.)

Stock in trade.

(State the estimated value, if any.)

Other property not comprised under the foregoing heads.

(State the estimated value, if any.)

Total.

Deduct amount shown in Annexure B not subject to duty.

Net Total.

ANNEXURE B.

SCHEDULE OF DEBTS, ETC.

Rs. Ch. C.

Amount of debts due and owing from the deceased, payable by law out of the estate.

Amount of funeral expenses.

Amount of mortgage-incumbrances.

Property held in trust not beneficially or with general power to confer a beneficial interest.

Other property not subject to duty.

Total.

PROCLAMATION.

*By His Highness the Maha Raja of Travancore,
issued under date the 22nd Meenom 1087
corresponding with the 3rd April 1912.*

Whereas it is deemed expedient to introduce new half and quarter rupee and fanam silver Sirkar coins, and call in the silver half and quarter rupee and fanam Sirkar coins now in circulation ; We are hereby pleased to command as follows :—

1. The half and quarter rupee and fanam silver Sirkar coins struck in Our Mint and now in circulation shall cease to be current legal tender coins in Our State from and after the fifteenth day of Medom 1087 and they shall not be received in any of the Sirkar Treasuries or by any public servant on account of the Sirkar on and from such day.

2. All persons shall, on presentation of the half and quarter rupee and fanam silver Sirkar coins, issued from Our Mint and now in circulation, to any of the Major Treasuries or Sub-Treasuries of Our State on or before the thirty-first day of Edavom 1087, be paid, in full, the face-value of the same in other current coins. But such coins as are found to be counterfeit, shall be cut and returned to the persons presenting or tendering them.

This Proclamation was published in *T. G. G. dated 9-4-1912*. The Administration Report of the year 1087 explains the reasons for the issue of this Proclamation thus :—

“ 273. Early in the year under report, the Sirkar silver coins, especially the *fanam* coins, failed to circulate freely among the public of Trivandrum, and later on in the other parts of the State. The causes were as follow. The *fanam* coins were first introduced in the year 1036 M. E., the design being a crescent and

a few dots above it on one side and the words “ fanam one ” with the year 1036 on the other side. In the year 1044, *fanam* coins of a different description were minted and brought into circulation, the device for this coin being “ R. V. ” on one side and a crescent with flower all round on the other. Again, in the year 1077, a coin entirely different from the above two kinds, with a shank on one side and a monogram with the letters R. V. specifying the face value of the coin on the other, was issued. Of this

SILVER COINS.

3. Any person failing to present or tender the half and quarter rupee and fanam silver Sirkar coins issued from Our Mint and now in circulation and exchange the same in other coins on or before the thirty first day of Edavom 1087, as prescribed in Section 2, shall not be entitled to realise their face value from the Sirkar after the said date.

4. The new half and quarter rupee and the fanam silver Sirkar coins shall become legal tender coins on and from the fifteenth day of Medom 1087.

5. These *new* coins will have milled edges, and the new half and quarter rupees will have, in addition, the letters "R" & "V" in relief opposite to each other on the milled edges.

6. The half rupee coin will bear, on the obverse, the mark of a shank, encircled with two vine creepers knotted together at the bottom, but not joined at the top. The names "തിരുവിതാംകൂർ" and "അരരൂപം" in Malayalam will appear around the creepers with two symmetrically

latter, some coins bore the words "one fanam," while others bore the words "fanam one." During the last fifty years, though *fanams* of four different kinds were minted and put into circulation, no action was taken to withdraw any of the coins already in existence. The public had no clear idea of the different kinds of the *fanam* coin in existence. Side by side with the *fanam*, the silver half and quarter rupee also had been introduced from the year 1064. The designs on these coins too, as well as their make, were not such as to render imitation difficult. There is no Coinage law in Travancore. The Darbar treasuries dealing with the different kinds of Sirkar silver coins had been apathetic to a degree, and there were no Rules for the cutting and returning

of counterfeit coins till the introduction of the Treasury Manual in 1084 M. E. These circumstances, coupled with the fall in the price of silver, stimulated counterfeiting. The Police, also, were unfortunately inefficient in the matter. The *Murajapam* ceremony, which commenced in the second quarter of the year, served as the immediate cause of the coin trouble. During the ceremony a very large number of fanam pieces had to be given to the Nambudiri Brahmins, who threw them at once into the markets of Trivandrum. As some of the coins in circulation were found, on examination, to be spurious, the public began to hesitate to accept the coins, even the genuine ones. A panic ensued. The crisis was the fifth or sixth of the kind within the last 30 years.

SILVER COINS.

situated star marks dividing the words. The reverse will bear the words "Half Rupee" and the year of minting of the coin, viz., "1087" or any subsequent year, in English encircled by the vine creepers as above and also the words "Rama Varma" and "Travancore" in English, with two star marks between them symmetrically situated. Both on the obverse as well as the reverse, there will be a circle of dots all around the edge.


7. The quarter rupee coin will have, on its obverse, the impression of a shank encircled by two vine creepers, knotted at the bottom, but not joined at the top, with the words "തിരുവിതാംകൂർ കാശ്ശിരൂപാ" in Malayalam around the creepers and a star at foot of the shank but outside the creepers. The reverse will show the words " $\frac{1}{4}$ Rupee" and the year of minting of the coin, viz., "1087" or any subsequent year in English, encircled by the vine creepers as above, and outside the creepers will appear the words "Rama Varma" and "Travancore" in English, divided by two star marks, situated symmetrically. This coin also will have, both on the obverse as well as the reverse, as in the case of the half rupee, a circle of dots all around the edge.

The question had never before received any careful study or investigation after the trouble was over. The result of a policy of applying a remedy when an evil had assumed formidable dimensions and leaving things alone the moment that comparative peace was obtained, has been that what is called a coin trouble has been occurring generally once in five or six years.

"274. On a full consideration of the situation, the Darbar found that the *first need was a large increase in the volume of copper coins*. The people need the copper coins very much more than the silver ones. Also, the copper coins have been, so far, difficult to

counterfeit; at any rate they do not pay counterfeiting. Arrangements were made during the year, for a *large* quantity of copper coins being minted and put into circulation, the issue of the (new) silver coins being limited to absolutely necessary quantities. Secondly, *all* the old silver coins were withdrawn by a Proclamation and the new silver coins were issued to take their place. The new coins (minted in Birmingham) are of a superior make and of a somewhat intricate workmanship, and counterfeiting is a much more difficult business with them than it has been in regard to the old silver coins. Thirdly, clear Rules regarding the Sirkar coins were published

SILVER COINS.

8. The fanam coin will also have, on its obverse, the impression of a shank with a circle round it; and outside both, two vine creepers, knotted at the bottom but not joined at the top. These creepers will be again encircled by dots. The reverse will bear the words "Fanam one" and "പണം ഒന്ന്" divided by two star marks, symmetrically situated and encircled by dots. In the centre is the monogram,  encircled by dots and with the year of coinage, viz., "1087" or any subsequent year, in English, below the monogram and in line with the circular dots.

9. It is hereby further declared that on, from and after the fifteenth Medam 1087, the public may obtain these new coins from Our Sirkar Treasuries and use them as current legal tender coins in their dealings with one another and for payments into the Sirkar Treasuries for moneys due.

for the information and guidance of all Treasury Officers and the public, and clear provision was made for the cutting of counterfeit coins.

"276. As there is no Coinage Regulation for Travancore, as in British India, steps are

being taken to introduce a Regulation, on the lines of the British Indian Coinage Act.—

A. R. 1087.

The Coinage Proclamation proposed was issued on 15-11-1913. See *infra*.

ACT IX OF 1087.

RUBBER THEFTS PREVENTION ACT.

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3. Purchase of rubber by unlicensed person prohibited.
4. Power of Peishkar to issue license to deal in rubber.
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ACT IX OF 1087.

AN ACT TO MAKE SPECIAL PROVISION TO PREVENT
THEFTS OF RUBBER AND TO REPRESS AND
PUNISH THE OFFENCE OF RECEIVING
OR DISPOSING OF STOLEN
RUBBER.

*Passed by His Highness the Maha Raja of Travancore,
on the 12th June 1912 corresponding with the 30th
Edavom 1087, under Section 13 of Act V of 1073.*

Whereas it is expedient to make special provision to
prevent thefts of rubber and to
repress and punish the offence of
receiving or disposing of stolen rub-
ber in Travancore ; It is hereby enacted as follows :—

1. This Act shall be called "The Rubber Thefts Pre-
vention Act of 1087".

(2) It extends to the whole of Travancore and
shall come into force on the 1st
Chingom 1088.

Act IX of 1087. Objects and Reasons.—(1) "1. Rubber is a very valuable commodity and one which can easily be stolen either from the factory or during transit to the coast, or in a raw state from the trees themselves.

2. It has already been proved in Ceylon that there is great necessity for such legislation.

3. Raw rubber as manufactured on the estate is absolutely of no use except for export, and if stolen, cannot be made use of and can only be taken with the object of selling to some coast broker for export and, for this reason, it is highly advisable

that such brokers should be licensed and their dealings open to inspection, so that stolen rubber may be traced."—S. O. & R., T. G. G. dated 7-2-1911.

For legislative proceedings see T. G. G. dated 13-12-1910 ; 7-3-1911 ; 23-1-1912 and 4-6-1912.

The Act was published in T. G. G. dated 18-6-1912.

The original Bill was drafted more or less on the lines of the Madras Coffee Stealing Act VIII of 1878. The Select Committee re-drafted it on the lines of the Rubber Theft Ordinance of Ceylon.

SEC. 2. RUBBER THEFTS PREVENTION.

2. In this Act, unless the contrary intention appears,-
Definitions.

“Rubber plant” includes any of the following plants:

Rubber plant.

- (1) *Hevea Brasiliensis* (Para rubber),
- (2) *Manihot Glaziovii* (Ceara rubber),
- (3) *Castilloa Elastica*,
- (4) *Ficus Elastica* (Rambong),
- (5) any rubber-producing plant which Our Government, by Notification in the Government Gazette, may declare to be a rubber plant for the purposes of this Act :

“Rubber” includes marketable rubber prepared from the latex of any rubber plant, and the latex of any such plant, whether fluid or coagulated, in any stage of the treatment to which it is subjected during the process of conversion into marketable rubber; but “rubber” does not include any manufactured article wholly or partly made of rubber :

Rubber.

“Wet rubber” means the latex of any rubber plant, whether fluid or coagulated, in any stage of preparation before the completion of the drying process :

Wet rubber.

“Licensed dealer” means a person licensed to deal in rubber under this Act :

Licensed dealer.

“Licensed premises” means the place where a licensed dealer is authorised to deal in rubber :

Licensed premises.

“Purchase” includes the taking of rubber in exchange for other goods or on account of any claim or indebtedness.

Purchase.

3. From and after the commencement of this Act, it shall be unlawful for any person to purchase rubber, unless he has been licensed under this Act to deal in rubber, or has received from the Peishkar or other Officer in charge of the Revenue Division a permit authorising him to do

Purchase of rubber by unlicensed person prohibited.

so. Any person who purchases rubber without being so licensed, or without such permit, shall be guilty of an offence against this Act.

4. (1) The Peishkar or other Officer in charge of the Revenue Division may issue, free of charge, licenses under his hand authorising the person to whom the same are granted to deal in rubber.

Power of Peishkar to issue license to deal in rubber.

(2) Every such license may be in the Form marked A in the Schedule or in such other Form as Our Government may from time to time prescribe, and shall state the name and residence of the licensee and the premises at which he is authorised to deal in rubber.

(3) Every such license shall expire, unless it is determined otherwise, on the last day of Karkatakam next following the date when it was issued.

(4) The Peishkar or other Officer in charge of the Revenue Division may, in his discretion, issue permits in writing under his hand authorising the Superintendents or Assistant Superintendents for the time being of the estates therein named to purchase rubber.

Such permits shall remain in force until revoked by the Peishkar or other Officer in charge of the Revenue Division.

5. (1) The Peishkar or other Officer in charge of the Revenue Division may, at his discretion, refuse to grant a license or permit to any applicant or to renew any license which has expired, and may revoke any license or permit already issued.

Power to refuse to issue license, etc.

(2) Any person who is aggrieved by the refusal of the Peishkar or other Officer aforesaid to grant or renew a license, or to grant a permit, or by the revocation of a license or permit, may appeal to Our Dewan, who may confirm or reverse such refusal or revocation as may appear just.

(3) Any person who is found guilty of any offence under this Act shall be liable to have his license cancelled.

SEC. 6. RUBBER THEFTS PREVENTION.

6. Every licensed dealer shall cause the words "Licensed Dealer in Rubber" to be painted in conspicuous letters in the English, Malayalam and Tamil languages upon his licensed premises. Any licensed dealer who fails to comply with the provisions of this Section shall be guilty of an offence, and shall be liable on conviction thereof to a fine not exceeding fifty rupees.

7. (1) Two or more persons carrying on business in partnership shall not be obliged to obtain more than one license in respect of the same premises. A license to two or more persons shall not be determined by the death or retirement from business of any one or more of the partners.

(2) No license shall be assignable or shall authorise any person to deal in rubber by reason of his being executor or administrator of any person to whom such license has been granted.

8. (1) It shall be unlawful—
Offences.

- (a) for any person to sell or to offer for sale or to deliver, or for any licensed dealer to purchase or to take delivery of, any rubber except between sunrise and sunset, or at any place other than licensed premises ; or
- (b) for any licensed dealer to purchase or to take delivery of rubber from any person who is not personally known to him, or from any person who, he knows or has reasonable grounds for believing, is under the age of twelve years, or from any estate labourer ;
or
- (c) for any licensed dealer to purchase or take delivery of wet rubber from any person whatsoever.

(2) Any person who does any act in contravention of this Section shall be guilty of an offence against this Act.

9. (1) Every licensed dealer shall keep on the premises at which he is authorised to deal in rubber, a book which shall be supplied to him by the Tahsildar of the Taluk, on payment of one rupee and shall enter therein, immediately upon the delivery at his licensed premises of any rubber purchased by him, in the Form marked B in the Schedule hereto, or in such other Form as Our Government may prescribe, the following particulars, namely :—

- (a) the day, month and year of such delivery ;
- (b) the weight of rubber delivered ;
- (c) the name and residence of the person from whom the rubber was purchased ;
- (d) the price paid for the rubber ; and
- (e) where the person from whom the rubber is purchased is not a licensed dealer, the description and situation of the lands of which such rubber is or is alleged to be the produce.

(2) Whenever any rubber which has not been purchased is brought into any licensed premises, whether the same is or is not the produce of land in the possession or occupation of the licensed dealer, the licensed dealer shall forthwith enter in the said book, or in such other Form as may be prescribed for the purpose, the following particulars with regard to such rubber, namely :—

- (a) the day, month and year when the rubber was brought into the licensed premises ;
- (b) the weight of such rubber ;
- (c) the manner in which the rubber was acquired, and, if grown on land in the possession or occupation of the licensed dealer, the description and situation of such land.

(3) Whenever the licensed dealer removes any rubber from his licensed premises, whether the same has been acquired by purchase or otherwise, the licensed

SEC. 10. RUBBER THEFTS PREVENTION.

dealer shall forthwith enter in the said book the date when the same was removed, and the name and residence of the person to whom the same was delivered.

10. It shall be lawful for any Magistrate or for any Police-Officer not below the rank of an Inspector, or for any person authorised in writing by the Peishkar or other Officer in charge of the Revenue Division, to inspect licensed premises, to enter any licensed premises at any time between sunrise and sunset, and to call for, inspect, and take extracts from, any book required to be kept by this Act, and if the licensed dealer or any one on his behalf fails to produce any such book, or refuses to allow such extracts to be made, or if any entry which ought to have been made is not in such book, or if any entry in such book is false in any particular, such licensed dealer shall be guilty of an offence, unless he proves to the satisfaction of the Court that such entry was made without his knowledge or consent or through a *bona fide* mistake, and shall be liable to a fine not exceeding one hundred rupees, or to simple imprisonment which may extend to three months, or both.

11. When a license is granted under this Act to two or more persons carrying on business in partnership, every such person shall be liable for the acts and omissions of the other or others of them, unless the person held liable for the acts of his partner proves to the satisfaction of the Court that he is innocent and that he has in no way directly or indirectly contributed to the breach of the provisions of this Act with which his partner is charged.

12. When any licensed dealer is convicted of an offence against this Act, the Magistrate shall forward a copy of the proceedings to the Peishkar or other Officer in charge of the Revenue Division for his information.

Forwarding of proceedings on conviction of licensed dealer to the Peishkar.

13. Every licensed dealer shall keep on his licensed premises scales capable of weighing up to one hundred pounds at the least, and whenever he is called upon to do so by any Officer authorised by Section 10 of this Act to inspect licensed premises, he shall forthwith weigh all the rubber on his premises and shall give every facility and assistance to such Officer to compare the weights of the stock of rubber upon such premises with the weights thereof as entered in the books which the licensed dealer is required by this Act to keep.

Duty of licensed dealer to keep scales on licensed premises.

14. Whenever the weight of rubber found on the premises of a licensed dealer does not agree with the weight which, according to his books, ought to be on such premises, he shall be deemed to be guilty of an offence against this Act: Provided that, if he satisfies the Peishkar or other Officer in charge of the Revenue Division that such discrepancy is due to natural causes, or has arisen through some *bona fide* mistake or owing to some loss, the Peishkar or other Officer aforesaid may direct that no prosecution shall be instituted against the licensed dealer.

Discrepancy between weight of rubber in licensed premises and weight according to books.

15. A licensed dealer shall at any time between sunrise and sunset give admittance to any Officer who is authorised by Section 10 of this Act to inspect licensed premises, and if any such Officer is refused admittance to inspect the licensed premises or the dealer's books, the licensed dealer carrying on business in such premises shall be deemed to be guilty of an offence against this Act: Provided, however, that, if such Officer has reasonable grounds for believing that any offence has been committed upon the licensed premises against this Act, it shall be lawful for him to demand admittance and to inspect the same and the dealer's books though it be after sunset and before sunrise and, unless he is admitted into the premises forthwith, the licensed dealer shall be guilty of an offence against this Act, and it shall be lawful for such Officer to break into the licensed premises.

Where inspecting Officer is refused admittance.

SEC. 16. RUBBER THEFTS PREVENTION ACT.

16. (1) Any person who is found in possession or charge of any rubber or wet rubber which is suspected to have been stolen, may be charged with being in possession of rubber which is reasonably suspected of having been stolen and if such person does not give an account to the satisfaction of the Magistrate as to how he came by such rubber or wet rubber and the Magistrate is satisfied that, having regard to all the circumstances of the case, there are reasonable grounds for suspecting such rubber or wet rubber to have been stolen, such person may be convicted of an offence under this Act.

(2) Where any Police Officer finds any person in possession or charge of rubber or wet rubber which he suspects to have been stolen, such rubber or wet rubber may be seized, and such person may be charged before a Magistrate as aforesaid.

(3) Upon a conviction under this Section, the Magistrate may direct the rubber or wet rubber in respect of which the accused was convicted, if the same has been seized, to be restored to any person who, he is satisfied, is the lawful owner thereof; otherwise, he shall order the same to be forfeited.

17. If, in case instituted upon information or complaint of an offence against the last foregoing Section, a Magistrate acquits the accused, and is of opinion that the information given or complaint made was frivolous or vexatious, he may, in his discretion, by his order of acquittal, direct the informant or complainant to pay to the accused, or to each of the accused where there are more than one, such compensation as the Magistrate thinks fit, provided that such compensation shall not in any case exceed one hundred rupees on the whole:

Provided that, before making any such direction, the Magistrate shall—

(a) record and consider any objection which the informant or complainant may urge against the making or the direction, and

(b) if the Magistrate directs any compensation to be paid, state in writing, in his order of acquittal, his reasons for awarding the compensation.

The sum so awarded shall be recoverable as if it were a fine : Provided that, if it cannot be realised, the imprisonment to be awarded in lieu shall be simple, and for such term, not exceeding thirty days, as the Magistrate directs.

Recovery of the compensation. An informant or complainant who has been ordered under the first para of this Section by a Magistrate to pay compensation to an accused person, may appeal from the order in so far as the order relates to the payment of the compensation, as if such informant or complainant had been convicted on a trial held by such Magistrate.

Where an order for payment of compensation to an accused person is made in a case which is subject to appeal under the last preceding para, the compensation shall not be paid to him before the period allowed for the presentation of the appeal has elapsed, or if an appeal is presented, before the appeal has been decided.

At the time of awarding compensation in any subsequent Civil suit relating to the same matter, the Courts shall take into account any sum paid or recovered as compensation under this Section.

If, on appeal or revision, the Appellate or High Court sets aside the award of compensation, the amount of compensation (if any) paid under this Section to the accused, shall be recovered from him as if it were a fine and repaid to the complainant.

18. Any person who is convicted of an offence against this Act for which no punishment is specially provided by this Act, shall be liable to simple imprisonment which may extend to six months, or to fine not exceeding two hundred rupees, or both.

19. It shall be lawful for Our Government from time to time to make Rules and to frame Forms for giving effect to the provisions of this Act.

Punishment for offences.
Power to frame Rules.

SCH. RUBBER THEFTS PREVENTION ACT.

SCHEDULE.

FORM A.—License.

I hereby grant to.....a license to carry on the business of a dealer in rubber at.....

This license expires on the last day of Audi 11.....

Dated this.....day of.....11.....

(Sd.) Peishkar or other Officer in charge
of the Revenue Division.

FORM B.—FORM PRESCRIBED BY SECTION 9.

Date when rubber is brought into premises.	Name and residence of person from whom purchased.	If not purchased, how acquired.	Description and situation of land in which rubber was grown.	Weight.	Price paid per lb.	How disposed of, whether sold and to whom.	Date of removal from licensed premises.
1	2	3	4	5	6	7	8

TRANSFER OF CASES BY SPECIAL APPELLATE JUDGE.

PROCLAMATION.

*By His Highness the Maha Raja of Travancore
issued under date the 9th Chingom 1088,
corresponding with the 24th August 1912.*

Whereas, by a Proclamation dated 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, by a subsequent Proclamation dated the 25th day of Kanni 1084, corresponding to the 10th day of October 1908, it has been enacted that, during the time that the Christian Judge of the High Court, invested with the powers of the 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 whereas inconvenience is caused by the said Special Appellate Judge having at present no power to transfer cases from the file of one Special Magistrate subordinate to him to that of another such Magistrate, and whereas it is deemed expedient to invest the said Special Appellate Judge with the power to transfer such cases; We are pleased to enact that the said Special Appellate Judge shall have power to transfer, for reasons to be recorded, any case, enquiry, trial or other proceedings, from the file of one Special Magistrate subordinate to him to that of another of such Special Magistrates.

The Proclamation was published in T. G. G. dated 3-9-1912.

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AN ACT TO CONSOLIDATE AND AMEND THE LAW RELATING TO THE SALT REVENUE AND TO PROVIDE FOR THE IMPROVEMENT AND EXPANSION OF SALT MANUFACTURE IN TRAVANCORE.

Passed by His Highness the Maha Raja of Travancore, on the 5th December 1912 corresponding with the 20th Vrischikom 1088, under Section 13 of Act V of 1073.

Whereas it is expedient to consolidate and amend the law relating to the Salt Revenue and to provide for the improvement and expansion of salt manufacture in Travancore ; We are pleased to enact as follows :—

Act III of 1088. Objects and Reasons:— “ Regulation VII of 1063 is the law in force on the subject of salt in Travancore. It contains no provision for the working of the Excise system. Nor does it provide for certain necessary rights and obligations which are so essential for the expansion and improvement of salt manufacture. In fact it relates to the

period when salt manufacture was a close monopoly which, it is seen, was introduced into Travancore as far back as 1813, during the administration of Dewan-Regent Col. Munro,

“At one time of the pre-monopoly period, evidently the entire salt needed for consumption in Travancore was supplied by our own pans which existed

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not only at certain sea-side stations as at present called *Ullums* but on the margin of the backwaters in Trivandrum, Chirayinkil, Karthikapally and Karunagapally Taluks, known as *Padanays*. Through some cause or other the quality and quantity of salt manufactured in these places fell below the standard. Local salt had not only to be supplemented but got supplanted in public taste, by imported salt. After the Interportal Convention passed in 1040, equalising the duty on salt in Travancore and British India, the continued manufacture of inferior salt was unfair to the consumer who had to pay as much for the bad as for the good. This led to the closing of the pans on the banks of the backwaters in Central Travancore. These restrictions on manufacture and sale had of course to be legalized and enforced by penal legislation and the province of home salt in the local market has been on the whole, gradually decreasing.

Although the restoration of the old system of permitting people to freely manufacture salt and of realizing salt-tax like land revenue cannot now be attempted, a stimulus to the improvement and expansion of salt manufacture has been given by the recent introduction of the Excise system. This system has been in force for some time in British India and since the passing of our Salt Regulation in 1063, the law there has been considerably modified to suit that system. The Bill now drafted follows: the lines of

Madras Act IV of 1889. It will be seen that while several of the provisions relate to the safeguarding of the public revenue the duty of improving the quality and quantity of home salt by creating through Legislative sanction a responsibility in the Officers and in the people, and of taking steps to improve the demand, has not been overlooked," S. O. & R., T. G. G. dated 14-6-1910.

Extracts from the speech of the member who moved the Bill are given below. They give a survey of the history and law relating to salt.

" In addition to the present sea-side factories or alloms, salt used to be manufactured in Travancore, on the margin of the backwaters in the Trivandrum, Ambalapuzha, Kartikapally, and Karunagapally Taluks, and the wants of the people thus supplied, in all these factories, the cultivation of salt was at that time free and unrestricted and subject to but one fiscal regulation—namely that the salt produced should be divided between the Government and the ryot in the same manner as the paddy grown on rice lands.

From the report of the Madras Salt Commission, we find that in the Madras Presidency too the salt produce was divided between the Government and the manufacturers according to customary rates which appear to have varied from 18 to 88 per cent. Beyond this liability to payment, the production or manufacture and distribution of

THE SALT ACT.

sale, of salt were, as in Travancore, both free and unrestricted.

Between the years 1805, 1807 the Madras Government introduced the monopoly system throughout the Presidency. The main principle of the monopoly system is, to use the words of the Salt Commission "expressed in its name; the sale of salt except to Government is made illegal. But not only so; Government also reserve to itself the power of opening salt pans and the manufacture of salt except for sale to Government is forbidden." Madras Regulation I of 1805 which is the law on which the monopoly is based, enacted in Sec. 4 that the shares to manufacturers and the hire to labourers were to be paid at the same rates as before unless altered by mutual consent, but converted into money at the average selling price of salt at the pans, calculated on the five years preceding the date of the Regulation. It further provided for advance being made to the manufacturers to help and encourage production.

Before the establishment of the monopoly system in British India, there appears to have been considerable discussion. But from want of available papers, we can only infer the grounds for placing salt manufacture under special regulation and monopolizing its sale. It was probably found that the earth salt prepared by the people was not all sufficiently pure, that taking over the right of sale would enhance public revenue, and that it would facili-

tate collection and ensure effective control, if the manufacture is brought under a licensed system of regulation. However, the selling price of salt under the monopoly in British India became seven times the intrinsic value and revenue rose from 20 lakhs in 1804-05 to 187 lakhs in 1874-75.

But all this affected Travancore. With the extensive land communication between Travancore and the Madras Districts and with the price of a necessary article of food much higher in the latter than in the former the export of salt from Travancore naturally increased. And when in British India, the manufacture and sale of salt except on account of Government, had been abolished, the export amounted to smuggling. But to the people who so manufactured and traded, it was but the harmless continuance of their old practice. It became difficult to get information about smuggling and smugglers and as the Ag. Collector of Ganjam reported to his Government in 1872, 'the whole country makes common cause against the Government in such a case. As for moral turpitude, that enters as little into their calculation as it would to an ordinary Englishman who does not class smuggling among the seven deadly sins *'. Such manufacture was in accordance with their previous (normal) habits.'

Mainly to prevent loss of revenue to the British Indian Government on account of cheap Travancore salt finding its way into their territory, the monopoly system was introduced into

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Travancore. This was in the year 988 M. E. (1813 A. D.) By a Proclamation signed by Col. Munro who was then both Resident and Dewan 'all manufacture by the ryots except on Government account was prohibited, and all salt in the hands of the ryots and merchants and traders at the date of the Notification was required to be given up to the Sirkar within 20 days at a fixed price, on pain of a heavy penalty. The monopoly price was fixed and the necessary arrangements made for the superintendence of salt manufacture and for placing salt within easy reach of the people. Steps were also taken to import salt from abroad.

The next important event in the salt policy of the State was the Interportal Convention of 1040, corresponding to the English year 1865, under which the adoption of the British Indian selling price of salt was agreed to by this State. 'As a result of this Convention', says the Salt Memorandum of Dewan Mr. Rama Aiyengar, 'the salt pans on the banks of the backwaters in Central Travancore had to be closed. The produce of these pans, as has been already observed, was an inferior article; and the disparity in the selling price of this and other kinds was so great that to sell it at the same high price at which, under the Convention the superior country article was sold, would have been a great injustice to the consumer.'

Nothing noteworthy happened for a long period except that one of the factories namely,

Colachel, was closed for some time and afterwards reopened. But during all this period, the possibility of being able to restore home salt to its ancient position of supplier to the entire population seemed very remote.

A turning point in the history of salt manufacture was reached when a new factory was opened on private account and the manufacture of the salt of the requisite quality undertaken by a company in South Travancore. 120 acres of land near the Thamarakulam old factory were applied for and granted by Government and work started in M. E. 1079.

In this factory, I understand an average total quantity of 86,323 maunds of good salt is now being manufactured. Government incur no loss except for a preventive staff. Under the agreement with the manufacturers Government have the right to purchase a stipulated quantity of salt on payment of a certain settled rate of *Kudivaram* (cost price to the producer) and sell it to the public, as in the case of the old factories or, to levy a duty at the time of issue, leaving the sale in the hands of the producer. Although two more factories of this kind have since commenced salt manufacture—the new factory salt amounting to a total of 88,384 maunds in 1085—Government are, in the interests of the producers, retaining the responsibility of distribution in their own hands.

It is by no means agreed that the partiality shown in some

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quarters for Bombay salt in preference even to the best Travancore salt is based on the actual superiority of the preferred article and not on engrafted taste. Where intrinsic inferiority does not exist to relax the demands of self-dependence, there is no excuse for not pushing on home-salt to the fullest extent of its production. And until the partiality created by habit as against our home-produce works itself off, home salt will not have a fair competition with the Bombay article and the work of salt distribution has, therefore, to continue under the control of Government.

This state of affairs cannot of course go on indefinitely. But if it should safely end, the salt manufactured in the old factories must be improved to the level of the new factory salt. In these old factories, all but petty works connected with the actual manufacture are now undertaken by Government at their cost. Government have also undertaken to purchase all the salt so manufactured subject to certain standards of quality, at a fixed rate of *Kudivaram* and to sell it as part of their (Government's) concern. During the pre-monopoly period, the salt manufacturer was responsible for getting a sale for the article he manufactured though he was at the same time sufficiently compensated probably by the greater freedom of initiative enjoyed in manufacture, etc. But the freeing of the salt producer from the responsibility of finding buyers for his produce, which is the

effect of the 'monopoly' system, has apparently tended to demoralize him. He has now begun to care for quantity more than for quality. When questioned why he does not adopt better methods and improve the quality of his salt, he often pleads inability on account of low *Kudivaram*. etc. The Excise Commissioner tells me that experimental manufacture on improved methods carried out by his staff for two years in a few pans of all the old factories leased from the pan-holders for the purpose, produced results strikingly superior to those usually obtained. There is, one should think, no excuse this not being achieved in all the pans. Whether the omission to do so is due to inability or unwillingness on the part of the ryots, has to be enquired into with reference to each case and the necessary remedies applied. For the present, it is proposed to take power to convert these monopoly factories into excise factories, *i.e.*, factories for the manufacture of salt for general sale. Such a conversion will enable Government to leave the manufacturer to sell his salt himself as best as he can and to that extent take away the temptation to continue inferior production and to provide an incentive to turn out better results. Of course, under this system, all the Marahmat works hitherto done for them at Government cost will have to be undertaken by themselves. But in the case of the other new factories, Government will have the right to take into their own hands the sale of the manufactured produce, whenever and

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as long as, they think it necessary to do so, for the legitimate protection and advancement of the home industry. The price to be paid by Government to the manufacturers will certainly be higher than now as a compensation for the cost and labour of attending to the necessary works themselves.

To enable this change of system being introduced into the old monopoly factories under legal sanction and to place the old as well as the new ones under statutory regulation, in regard to the methods of manufacture, etc., and thus improve and expand the salt industry in the country, is the chief object of the proposed enactment. Regulation VII of 1063 takes cognizance, it will be noted, only of factories worked purely on the monopoly system. The realization of the object indicated must, however, be a gradual process.

In the pre-monopoly period, salt preparation of various kinds was the function of particular castes and large numbers of people lived on these industries without encroaching on other fields of labour and without fear of being encroached upon in their own labour by others, thus making the direct interference of Government, either for ensuring the purity of salt or for facilitating the collection of revenue unnecessary. But we are now being forced along by the current of free selection in the matter of occupation. We do not recognise that the gospel of free selection is not quite in place in a society like the Indian where free selection has long

ago done its work and heredity taken its place in the order of progressive evolution, and that this gospel began to be preached and practised only when, from various causes, the opportunities of the people for remunerative labour in their accustomed spheres became lessened. The result, however, has been that the salt manufacturers, in common with other industrial classes, have given up their traditional occupation and other occupational castes have taken to salt manufacture, and I may say in this connection that it is the endeavour of modern Census Statisticians to gauge and record this process at the end of each decennium. Just like the *Upparas* of the Ceded Districts, we have had our own hereditary salt workers called *Allavans* in South Travancore. Once a large and prosperous community, they numbered only 552 at the last population reckoning. But even from their hands, the manufacture of salt is gradually slipping; and where they are still engaged in that industry, the engagement is more as paid labourers than as independent proprietors. All these circumstances notwithstanding, the development of the salt resources of the State with the materials available has been steadily kept in view in all the policies and acts of Government; and with a special Department working hard to attain that consummation, there is no need to be unduly impatient.

Let us now examine the structure of the Bill.

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The first chapter relates to definitions and the second deals with the appointment and control of officers.

Chapter III is the chapter that deals with the manufacture of salt. It is divided into three parts. The first is 'General.' The important provisions of this part are contained in Sections 12 to 16. As stated in my prefatory remarks, power is to be taken by Government to direct that any salt factory now worked only for the sale of salt to Government shall be worked for the general sale of salt, and that any factory or portion of a factory worked for the general sale of salt shall be worked for the sale of salt to Government. Safe-guards are also contained for preventing undue hardship to parties and compensation provided to be given in certain cases where licenses are relinquished or have to be cancelled. Part II relates to the manufacture of salt for sale to Government—the old monopoly system. Part III deals with the manufacture of salt for general sale—the excise system or partly for general sale and partly for sale to Government—the modified excise. The principles underlying the provisions of this Chapter have been already explained. For the reason that the 'term *monopoly* has a sinister association connected with it and is a complete misnomer as applicable to the manufacture of salt on account of Government', the Honorable Mr. Stokes substituted the expression 'manufacture of salt on account of Government' in his Madras Salt Act. In the same way, the term excise was

also given up as referring to salt, as it was becoming exclusively appropriated to the revenue from spirits and intoxicants, and the words manufacture for general sale suggested instead. Accepting these views, I have omitted the terms 'monopoly' and 'excise' from the Bill altogether.

Chapter IV is a fiscal Chapter and regulates the duties and charges. It regulates also the removal and transport of salt.

Chapter V lays down the powers of public officers for the detection and punishment of offences against the Salt-Law. It purports to place the Salt Officers in the same position as the Officers engaged in the administration of the Abkari revenue by Regulation IV of 1073 in the matter of search, arrest, etc.

The concluding chapters on penalties and general provisions do not contain anything worthy of special reference at this stage.

It is, I need hardly submit, the recognised aim of all sound legislation to reduce official control to the minimum compatible with efficiency and in revenue legislation of this kind, to ensure the responsible protection and encouragement of Government for the producing classes on whose continued prosperity depends the continued incoming of revenue to the State. The details of the provisions contained in the Bill will, in this light be closely examined by the Select Committee before they are brought up again for fuller consideration by the Council. I would add

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Travancore Salt Act";
 Short title. Com- and it shall come into force on the
 mencement. 1st Makarom 1088.

Extent, It shall extend to the whole of
 Travancore.

2. From the date on which this Act comes into force,
 Repeal of enactment. Act VII of 1063 shall be repealed :

Provided that all licenses granted, orders and Rules
 made, Notifications published, local
 Saving of powers. limits defined, and powers conferred
 under the said Act hereby repealed,
 shall, so far as they are consistent herewith, be deemed
 to have been respectively granted, made, published,
 defined and conferred under this Act.

3. In this Act, unless there be something repugnant
 Interpretation- in the subject or context,—
 Clause.

(a) "Salt Revenue" means revenue derived or
 derivable from any price, duty, fee,
 "Salt Revenue." tax, fine, penalty, confiscation or
 payment, imposed or ordered under
 the provisions of this Act, or of any other law for the time
 being in force relating to salt :

(b) "Salt" means chloride of sodium, and includes
 swamp salt, spontaneous salt and
 "Salt." salt or saline solutions made or pro-
 duced from any saline substance or from salt-earth :

that this Bill has been drafted
 on the lines of the Madras Act,
 IV of 1889—

L. C. P. dated 12-9-1910.

For legislative proceedings
 see *T. G. G. dated 28-9-1909 ;*
27-9-1910 ; 20-6-1911 and 22-10-
1912.

The Act was published in
T. G. G. dated 10-12-1912.

Sec. 3. (J). The correspond-
 ing definition in the Madras
 Act excludes a ware-house ap-
 pointed or licensed under the
 Sea Customs Act.

(c) "Saline substance" means any substance naturally containing salt :

"Saline substance."

(d) "Salt-earth" means earth containing salt :

"Salt-earth."

(e) "Manufacture" includes excavation, collection, removal, preparation, steeping, evaporation, boiling, or any one or more of those processes ; and also the separation of salt from any saline substance or from salt-petre :

"Manufacture."

(f) "Range" means a local area, from time to time constituted as such by Our Government, by Notification in the Gazette :

"Range."

(g) "Circle" means a local area, from time to time constituted as such by Our Government by Notification in the Gazette :

"Circle."

(h) "Excise Inspector" means an Officer in charge of a Range or salt factory, and includes any Officer who may be specially invested by Our Government with the powers of an Excise Inspector under this Act, by Notification in the Gazette :

"Excise Inspector."

(i) "Circle Officer" means an Officer in charge of a Circle and includes any Officer who may be specially invested by Our Government with the powers of a Circle Officer under this Act :

"Circle Officer."

(j) "Salt Factory" includes any place used or intended to be used for the manufacture of salt, or for the storage or keeping of the same pending payment of duty, and all embankments, channels, reservoirs, lands, buildings and waste places, situated within the limits thereof as defined from time to time by Our Government, by Notification in the Gazette :

"Salt Factory."

(k) "Salt-work" means any defined area within a salt factory which is used for the manufacture of salt and which is separately registered as such in the Sirkar accounts :

"Salt-work."

(l) "Contraband salt" means salt, saline substances or salt-earth manufactured without "Contraband salt." license, or dealt with by any person in contravention of any enactment for the time being in force, or of any order, permit or license issued thereunder, or of any Rule made in pursuance thereof :

but it shall not include salt-earth which has been merely excavated or collected, unless such salt-earth is found within the limits of any local area wherein such salt-earth is declared by a Notification of Our Government to be contraband salt, nor shall it include seawater :

(m) "Licensee" means a person to whom a license to manufacture salt is issued, and includes any person registered as the transferee of such license under the provisions hereinafter contained :

(n) "Maund" means a maund of eighty-two and two-sevenths pounds Avoirdupois weight :

(o) "Place" includes a house, building, shop, tent or vessel :

(p) "Import" means to bring into any part of Travancore from sea or from any foreign territory :

(q) "Export" means to take out of Travancore to sea or to any foreign territory :

(r) "Transport" means to remove from one place to another within Travancore.

CHAPTER II.

THE APPOINTMENT OF OFFICERS.

4. Our Government may, from time to time, by Notification,—

Appointment of Officers for the administration of the Department.

(a) appoint an Officer under the designation of Excise Commissioner or such other designation as they may deem fit, who shall have the supervision of salt manufacture and the control of the administration of the Salt Department and of the collection of the salt revenue ;

(b) appoint Officers subordinate to the Excise Commissioner, under the designation of Assistant Excise Commissioners, Circle Officers and Excise Inspectors or under such other designations and with such powers and duties under this Act, as Our Government may think fit ;

(c) order that all or any of the powers and duties assigned to any Officer under Clauses (a) and (b) of this Section, shall be exercised and performed by any Government Officer ;

(d) delegate to the Excise Commissioner or to any other Officer of the Government, any of the powers of the Government under this Act ;

(e) withdraw from any Officer appointed under Clauses (a) and (b) or from any Officer ordered to exercise powers and perform duties under Clause (c), any of the powers and duties assigned to him, or withdraw from any Officer any of the powers delegated to him under Clause (d).

5. The Excise Commissioner may, from time to time, with the sanction of Our Government, by Notification, delegate any of the powers conferred on him by this Act, subject to such limitations as he may think fit, to any Officer subordinate to him, and may, with such sanction, withdraw all or any of the powers so delegated.

CHAPTER III.

THE MANUFACTURE OF SALT.

PART I.—GENERAL.

6. No person, not being a public servant manufacturing on behalf of Our Government, shall manufacture salt, unless duly licensed as hereinafter provided.

Manufacture without license illegal.

7. The Excise Commissioner may grant licenses for the manufacture of salt. Every license shall relate to specified salt-works, and shall contain such particulars and conditions as Our Government may, from time to time prescribe.

Excise Commissioner may grant, alter or cancel licenses.

The Excise Commissioner may, at any time, call for any license and may amend or alter it, or may tender to the licensee a new license in accordance with any further conditions which may be so prescribed.

If such amended, altered or new license is not accepted by the licensee, the Excise Commissioner may direct that the previous license shall be cancelled.

Every person who is registered as a manufacturer of salt at any salt factory in existence when this Act comes into force, shall be deemed to be duly licensed to manufacture salt hereunder, until a license shall be issued to him.

8. License for the manufacture of salt may be either (i) for the manufacture of salt for sale to the Government, or (ii) for the manufacture of salt for general sale, or (iii) for the manufacture of salt partly for general sale and partly for sale to the Government.

Three descriptions of licenses.

Sec. 8. Clause (iii). There relating to license in the is no corresponding provision Madras Act.

9. Licenses may be transferred or relinquished :

Transfer and relinquishment of licenses. Provided that no transfer or relinquishment shall have any effect against Our Government, unless and until it shall have been accepted or registered under such Rules as Our Government may, from time to time, prescribe.

10. For the purposes of this Act, the licensee shall be

Licensee to be taken to be owner of license and salt-works. and of the salt-works specified therein :

Provided that nothing herein contained shall affect the liability of the licensee towards any person who may have an interest in, or lien upon, such license or salt-works.

11. Our Government may, by Notification, establish

Power to establish and close factories. a salt factory in any land which is the property of the Government, or other land in which the owner thereof shall permit the establishment of a salt factory. Subject to the payment of compensation as hereinafter provided, Our Government may, in like manner, close any salt factory or portion thereof, by directing the cancellation of the licenses relating to salt-works therein comprised.

12. Our Government may direct that any salt factory

Power to change either system of manufacture. or portion of a salt factory worked under any one of the three kinds of licenses described in Section 8 shall be worked under any other kind of such licenses :

Provided that no such change shall be introduced during a manufacturing season.

13. The intention of Our Government to effect such

Notice to be given of intention to change. change shall be declared by a Notification, not later than the first day of Edavom in the year preceding that in which the change is to take effect, and notice of such intention shall further be served on the general body of licensees at the factory affected.

On or after the first day of Thulam next ensuing and before the commencement of manufacture, the Excise Commissioner shall cause all licensees to be summoned to receive new licenses and if any of them fail to attend in person or by authorised agent at the time and place mentioned in the summons and to accept the licenses tendered, the Excise Commissioner may declare the existing licenses cancelled.

14. Salt-works for which licenses have been relinquished under Section 9 or cancelled under Section 7, 11, 13, 23, 25 or 65, shall be at the disposal of Our Government who shall determine whether the salt-works shall be retained within the salt factory or not.

(a) If Our Government direct that the salt-works shall be retained within the factory, the proprietary right of other persons therein, if any, shall thereupon vest in Our Government, who shall pay the value of such proprietary right to the late licensee. In calculating such value, the value of the land as a site for salt manufacture shall not be taken into account. The Government shall, if they admit the existence of such proprietary right, tender to the late licensee such sum as they consider to represent the value thereof, and if the sum tendered is not accepted or such proprietary right is not admitted by the Government, they shall refer the late licensee to a Court of competent jurisdiction. In the case of salt-works for which licenses have been cancelled under Section 7, 11 or 13, the Government shall also pay to the late licensees compensation at the rates fixed in Section 16 :

(b) If Our Government direct that the salt-works shall not be retained within the factory, they shall exclude them from the limits thereof, and no payment for the value of any proprietary right shall be made ; but in the case of salt-works for which

licenses have been cancelled under Section 7, 11 or 13, the Government shall pay the late licensees compensation at the rates fixed in Section 16 :

Provided that no compensation under this Section shall be payable, if it is excluded by express stipulation in the conditions of the license.

15. Pending the disposal of salt-works under Section 14, in case of dispute as to succession to a deceased licensee, and whenever a license is suspended under this Act, the Excise Commissioner may—
 Treatment of works pending disposal in the case of disputes or of suspension of license.

grant a temporary license for manufacture in the works in question ;

or flood them with water ;

or take any other measures he may think fit to prevent injury to manufacture in neighbouring salt-works or the spontaneous generation of salt.

16. The compensation payable under Section 14 to a licensee shall be at the rate of eight chuckrams for every maund of salt on the average quantity annually stored from the salt-works to which the license cancelled relates. Such average shall be calculated (a) in the case of salt-works of more than five years' standing, on their yield during the five years immediately preceding the date of the cancellation of the license, and (b) in the case of salt-works of less than five years' standing, on their yield during the whole period of their working.
 Rates of compensation.

17. The Excise Commissioner may, without payment, authorise the immediate destruction of all salt manufactured by licensees otherwise than according to the conditions of their licenses ; but it shall be lawful for the Excise Commissioner to refrain from ordering such destruction if the salt so manufactured is, in his opinion, of an acceptable quality.
 Power to destroy salt.

Sec. 17. The corresponding not contain the words "but it shall.....acceptable quality."
 Sec. 19 of the Madras Act does

18. The Excise Commissioner may cause guard sheds to be erected at any place in any salt factory without payment of compensation for the use of the land occupied thereby.

Power to erect guard sheds.

PART II.

THE MANUFACTURE OF SALT FOR SALE TO THE GOVERNMENT.

19. The provisions of this Part shall apply only to salt factories or portions of factories worked for the sale of salt to the Government.

To what factories provisions of Part apply.

20. The Excise Commissioner shall determine the quantity of salt to be manufactured in each year by each licensee. The Excise Commissioner shall pay licensees for their share of the salt manufactured according to the conditions of their licenses and delivered into store by them, at such rates as Our Government may, from time to time, prescribe :

Excise Commissioner to determine quantity of salt to be manufactured and to pay for all salt manufactured.

Provided that the share of the licensees who, on the date on which this Act comes into force, take a two-fifths share of the salt manufactured by them, shall not be liable to be reduced.

21. Licensees shall be bound at their own expense to maintain in repair their salt-works and the minor irrigation channels which supply brine thereto, and to deliver into store all the salt manufactured by them or to store such salt, without such delivery, at such places and in such manner as may be appointed by the Excise Commissioner for the factory or for the salt-works of the licensees.

Obligations and duties of licensees.

Sec. 20. The corresponding Sec. 22 of the Madras Act requires payment to the licensees for all salt manufactured. There is also no Proviso to Sec. 22 of the Madras Act. It may be noted that in the Madras Act there is no provision for issue of licenses as contem-

plated in Sec. 8, Clause (iii) of our Act.

Sec. 21. The corresponding Sec. 23 of the Madras Act does not contain the 2nd and 4th paragraphs as also the words "on occasions which he may consider emergent" occurring in the 3rd paragraph.

They shall also be bound to protect, at their own expense, the salt stored by them, in such manner as the Excise Commissioner may consider sufficient.

They shall also be bound, when called upon by the Excise Commissioner, on occasions which he may consider emergent, to provide labour and materials for securing salt in store and for executing repairs to the platforms, main channels, roads and other works of the factory, and shall be paid at the rates usually paid in the neighbourhood for labour and materials of a similar description.

No licensee shall be entitled to claim from the Government compensation for any loss or damage to stored or unstored salt lying at any salt factory, unless it be proved that such loss or damage was caused by the wilful act or neglect of an Officer of the Salt Department employed at the factory at which the salt was lying.

22. If the licensees fail to agree among themselves as to the proportions in which they shall execute, perform and do the several works, duties and things mentioned in the last preceding Section, it shall be lawful for the Excise Commissioner to determine such proportion by order to be affixed in a conspicuous place in the salt factory, and the licensees shall thereupon be bound to execute, perform and do such works, duties and things accordingly, within a time to be named in the said order, and if any licensee shall fail so to do, the Excise Commissioner may take such steps as he may think fit, for the execution, performance and doing of such works, duties and things, and may recover from such licensee the amount of any expenditure which the Excise Commissioner may have incurred owing to such refusal or neglect.

23. In case of a licensee failing to manufacture salt during the two manufacturing seasons last preceding, or committing any default under Section 21 or 22, the Excise Commissioner may

Penalty for want of due diligence or default by licensee.

licensee failing to exercise due diligence in manufacture or committing any default....."

Sec. 23. The corresponding licensee failing to exercise due diligence in manufacture or reads thus:—"In case of a committing any default....."

impose upon the licensee a fine not exceeding one-tenth of the sum payable at the prescribed rates on the quantity of salt determined under Section 20 ; or suspend the license for such period as he may think fit; or
 one month after notice, cancel the license.

PART III.

**THE MANUFACTURE OF SALT FOR GENERAL SALE,
 AND PARTLY FOR GENERAL SALE AND PARTLY
 FOR SALE TO THE GOVERNMENT.**

24. The provisions of this Part shall apply only to salt factories or portions of factories worked for the general sale of salt, or partly for general sale and partly for sale to the Government.

To what factories provisions of Part apply.

25. The Excise Commissioner may, after giving one month's notice, cancel the license for any salt-work at which no salt shall have been manufactured during the two manufacturing seasons last preceding.

Power to cancel license on failure to manufacture.

26. Salt in store at any salt factory or part of a factory which may be closed in the manner hereinbefore provided or the property of any licensee whose license may be cancelled or suspended, shall be removed within six months of the date of such closing or of the cancelment or suspension of such license, for which purpose only shall the license continue in force ; and if the licensee shall fail so to remove the salt on payment of the duty thereon as well as the charges that may be fixed by the Government from time to time, it shall be forfeited to the Government and disposed of as the Excise Commissioner may think fit.

Removal of salt from closed factory.

27. The Excise Commissioner may, by order in writing, require a licensee to protect salt manufactured by him, in such manner as the Excise Commissioner shall consider sufficient, in any place appointed by the Excise Commissioner for storage or keeping of salt for the factory or for

Salt to be protected, re-heaped and secured, and storage works constructed.

the salt-works of the licensee, to re-heap and secure, in such manner as he may direct, any portion remaining out of a heap or store which has been opened, or to construct or repair to the Excise Commissioner's satisfaction any embankment, platform, building or works required or set apart for the purpose of storage, and if the licensee shall fail to comply with such order within ten days of the receipt thereof, the Excise Commissioner may do what is required, or may sell or destroy salt so left unprotected or unstored, and may recover the cost from the licensee.

28. The Excise Commissioner may call upon a licensee to store in such manner as he may direct any sifted or refuse salt manufactured by him which may be lying unstored, or, at the option of the licensee, to destroy the same; and if the licensee shall fail either to store or to destroy such salt, within ten days of the receipt of the order so to do, the Excise Commissioner may cause such salt to be destroyed, and may recover the cost of such destruction from him. The Excise Commissioner shall determine whether any salt is sifted or refuse, for the purposes of this Act.

29. The licensees at each salt factory shall be bound at their own expense to construct and maintain within the limits of the factory in good repair, to the satisfaction of the Excise Commissioner, all roads and all channels, reservoirs, embankments, drying grounds, platforms and other works used or intended to be used for the manufacture and storage of salt, and also all works, wherever situated, for the protection of the factory from inundation, or for the supply of brine.

30. In case the licensees shall fail to execute the works specified in the last preceding Section, or, with the sanction of Our Government, whenever it appears desirable that any such work should be undertaken by the Salt Department, the Excise Commissioner may cause such works to be executed and may recover the cost thereof, in such proportions as may seem fit, from the licensees.

31. Every person applying for a permit to remove salt from a salt factory under this Chapter, shall be legally bound to declare in the application the price at which the salt has been sold or will be sold and the full consideration given or agreed to be given therefor.

Applicants for permit to remove salt legally bound to state price.

32. No licensee shall be entitled to claim from the Government compensation for any loss or damage to stored or unstored salt lying at any salt factory, unless it be proved that such loss or damage was caused by the wilful act or neglect of an Officer of the Salt Department employed at the factory at which the salt was lying.

Liability of Government for loss or damage to salt in a factory.

CHAPTER IV.

REMOVAL OF SALT AND PAYMENT OF DUTY AND CHARGES.

33. Our Government may, from time to time, by Rules consistent with this Act,—

Power of Government

to impose duty on manufacture of salt;

to increase, reduce or remit duty ;

to fix minimum price of salt excavated, &c., by Government.

(a) impose a duty on every maund of salt manufactured in or imported into Travancore ;

(b) increase, reduce or remit any duty so imposed, and re-impose any duty so reduced or remitted ;

(c) fix the minimum price at which salt excavated, manufactured or sold by or on behalf of the Government, shall be sold.

In calculating the amount of duty payable under this Section, fractions of quarter maunds shall be reckoned as quarter maunds.

Sec. 31. The words "or will be sold" do not occur in the Madras Act.

34. Importation into, and exportation from, Our territories, of salt, is forbidden except by such routes as may be prescribed and under such Rules as may be passed by Our Government.

Imports and exports to be by prescribed routes only.

35. Subject to any Rules which may be framed by Our Government under Section 77, no salt shall be removed from any salt factory, otherwise than on account of the Government, or for transport to a place of storage authorised by the Excise Commissioner, and no salt shall be removed, unless for the Government purposes, from such authorised place of storage, except under a permit and on payment of duty at the rate fixed by Our Government under Section 33, and of the following charges:—

- (a) for every maund of salt sold on account of the Government, such sum as may be fixed under the general or special order of Our Government, or determined by auction-sale, not being less than any minimum fixed under Section 33, Clause (c) ;
- (b) for every maund of salt sold by or on account of a licensee, such sum as Our Government may, from time to time, fix as sufficient to cover all or any of the following charges or portions thereof:—
 - (1) the rent or assessment of the land occupied by the factory, and of the land or buildings on or in which the salt was stored ;
 - (2) interest at five per centum per annum on the capital cost of the works constructed at the expense of Our Government within the factory of any of the descriptions or for any of the purposes mentioned in Section 29 ;
 - (3) the cost of any works executed under Section 30 and not recovered thereunder ;

Sec. 35. The words "unless corresponding Sec. 43 of the for Government purposes" are Madras Act. additions not found in the

(4) so much of the annual expenditure incurred by Our Government on the establishments maintained at the factory or place of storage for the purposes of guarding the salt and of realising the revenue thereon, as may exceed five per centum on the duty levied on the salt therein sold in preceding official years and as has not been recovered by the Government.

36. Every holder of a permit for the removal of salt from a salt factory shall be bound to superintend, either in person or by his servant or agent, the weighing out of the same, and the person actually superintending such weighment shall be bound to prevent the removal of any quantity in excess of that for which the permit has been granted, and may test the weights and scales used in the weighment thereof.

37. Our Government may establish preventive stations at which all salt removed from any specified factory shall be detained and examined.

CHAPTER V.

THE POWERS OF PUBLIC OFFICERS FOR THE DETECTION AND PUNISHMENT OF OFFENCES AGAINST THE SALT LAW.

38. Any Magistrate, on information given that contraband salt is manufactured, sold or kept in any place within his jurisdiction, may issue a warrant to search for such salt. 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 by the Magistrate.

39. Whenever any Officer of the Excise Department not below the rank of an Inspector, or Officer in charge of a Police-station, or any other class of Officers of the Government who may, by Notification in the Gazette, be authorised by Our Government in this behalf, has reason to believe that contraband salt

is being manufactured, sold or kept in any place, and that the delay in obtaining a search-warrant will prevent the discovery thereof, such Officer shall first record in writing (so far as may be practicable)—

- (a) the name, residence and calling of the informant (if any);
- (b) the locality and description of the place in which and the name of the person for or by whom the contraband salt is manufactured, sold or kept; and
- (c) the supposed quantity and description of the contraband salt, with the grounds of believing the same to be contraband;

and may then between sun-rise and sun-set, enter and search any such place, and may seize and carry away all contraband salt and all things liable to confiscation under this Act, which he may find, and may destroy any work constructed in such place for the manufacture of such salt or to cause or assist the spontaneous generation of salt;

and may also arrest any person concerned in the manufacture, sale or keeping of such contraband salt or in dealing therewith.

Any person arrested under this Section shall be admitted to bail by the Officer conducting the search, if sufficient bail be tendered for the appearance of such person before the Excise Inspector.

40. Whenever the head of a Pakuthi (Revenue village) has credible information that Search by head of village. contraband salt is manufactured, sold, or kept in his village, and considers that the delay in obtaining a search-warrant will prevent the discovery thereof, he may, between sun-rise and sun-set, search the place in which such salt is believed to be manufactured, sold or kept, and shall seize and carry away all such salt and all things liable to confiscation under this Act, which he may find;

Sec. 40. The expression "and considers the delay..... discovery thereof" is an addition not found in the corresponding Sec. 48 of the Madras Act.

and he shall forthwith forward them, with a report mentioning the circumstances under which, and the person in whose possession, they were found, to the nearest Excise Inspector or Officer in charge of a Police-station.

41. Any Officer of the Excise, Police or Land Revenue Department may arrest without

When offenders may be arrested, and anything liable to confiscation seized, without warrant.

warrant in any public thoroughfare or open place other than a dwelling place, any person found committing an offence under this Act, and in any such thoroughfare or open place

may seize and detain anything which he has reason to believe to be liable to confiscation under this Act, and may search any person, vessel, vehicle, animal, package or covering upon whom or in or upon which he may have reasonable cause to suspect any such thing to be.

42. Any person who may be accused or reasonably suspected of committing an offence

Person refusing to give name and residence or giving false ones may be arrested.

under this Act and who, on demand by any Officer of the Excise, Police or Land Revenue Department, or of any other person duly empowered,

refuses to give his name and residence, or who gives a name or residence which such Officer or person has reason to believe to be false, may be arrested by such Officer or person in order that his name and residence may be ascertained.

43. All searches under this Chapter shall be made in accordance with the provisions of the

Procedure in case of search.

Code of Criminal Procedure, so far as the same are consistent herewith, and where made by the head of a

Pakuthi or village, shall be reported, within twenty-four hours, to the nearest Magistrate having jurisdiction.

44. Whenever any search or arrest or seizure is made under Section 39, 41 or 42, the

Report of search or seizure.

Officer making it, shall, within twenty-four hours, make a full report of the particulars of such arrest or

Sec. 44. The corresponding Sec. 52 of the Madras Act provides only for a report to the immediate superior in office.

seizure to his immediate official superior, as well as to the nearest Magistrate having jurisdiction.

45. Whenever any person is arrested under the provisions of this Chapter and has not been admitted to bail under Section 39, the person arresting him shall forthwith forward him to the Excise Inspector of the Range in which the arrest was made, or, if such Excise Inspector be not 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.

Arrested person how to be dealt with.

46. On any such person being brought to a Police-station as aforesaid, the Officer in charge thereof shall admit him to bail to appear, when summoned, before the Excise Inspector of the Range within the limits of which the offence with which he is charged is suspected to have been committed, and in default of bail, shall forward him in custody to such Excise Inspector.

Procedure by Police-station Officer.

47. Whenever any person charged with having committed an offence under this Act is brought before an Excise Inspector or appears before him on bail, such Excise Inspector shall, after such enquiry as he may deem fit, either admit him to bail to appear before the Magistrate having jurisdiction, or, in default of bail, forward him in custody to such Magistrate, or release him on his executing a bond to appear, if and when so required, before such superior Officer as the Government may by general or special order appoint in this behalf, and make a full report to such superior Officer of the circumstances under which such release was made.

Procedure by Excise Inspector.

Sec. 47. The corresponding Sec. 55 of the Madras Act reads thus :—“Whenever any person charged.....inquiry as he may deem fit either release him or admit him to bail.....custody to such Magistrate.”

Every such superior Officer, on receipt of such report, shall, after such further enquiry as he considers necessary, either release the accused, or cause his appearance before the Magistrate having jurisdiction in the manner provided above.

Procedure by superior Officer.

48. 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 Officer before whom he was bailed to attend :

Bond of sureties and accused.

Provided that the Officer admitting any such person to bail may dispense with the requirement of a surety or sureties to the bond executed by such person.

49. Whenever, by reason of default of appearance of a person bailed to appear before an Excise Inspector or such superior Officer as is mentioned in Section 47, such Excise Inspector or superior Officer is of opinion that proceedings should be had to compel payment, of the penalty mentioned in the bond, he shall forward it 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 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.

Procedure on breach of bond for appearance.

50. Any Excise Inspector may, after recording his reasons in writing, summon any person to appear before him, whom he has reason to suspect of having committed an offence under this Act. On such person appearing before such Excise Inspector, he shall be dealt with under Section 47.

Excise Inspector may summon suspected persons.

If the person summoned fails to appear before the Excise Inspector, and it appears to such Officer, after such enquiry as he thinks fit that there is sufficient evidence to justify the belief that such person has committed the offence he is charged with, the Excise Inspector may forward a report to the Magistrate in the manner provided in Section 56.

51. Any Officer of the Excise Department, duly empowered in this behalf by Our Government, may summon any person to appear before himself to give evidence in any investigation relating to salt revenue or to produce any document relevant thereto which may be in his possession or under his control :

Excise Officers may summon witnesses.

Provided that no person shall be summoned to appear at a greater distance from his usual place of residence than Our Government may, from time to time, by Notification, direct.

52. Summonses shall be in writing, shall require the persons summoned to appear at a stated time and place, and shall be signed by the Officer issuing them. Summonses under Section 51 shall state whether the person summoned is required to give evidence or produce a document or both.

Terms of summons.

53. Persons summoned under Section 51 shall attend as required and shall answer truly all questions relating to such investigation 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

Examination of witnesses summoned by Excise Officers.

Sec. 51. The expression "or to an offence under this Act" occur after the words "salt revenue" in the corresponding Sec. 59 of the Madras Act.

Sec. 53. The corresponding Sec. 61 of the Madras Act runs as follows :—"Persons

summoned under Section 59 shall attend as required and shall answer all questions relating to such investigation put to them by such Officer. Such answers shall be reduced into writing and shall be signed by such Officer."

into writing and shall be signed by such Officer. The 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.

54. Such Officer may proceed to the residence of any person who from sickness or other infirmity may be unable to appear before him, or whom, by reason of rank or sex, it may not be proper to summon and may there examine him, instead of summoning him to appear, and the provisions of Section 53 shall apply in such case.

Examination of witnesses whose attendance is dispensed with.

55. 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 merely to produce documents.

56. Whenever an Excise Inspector forwards in custody any person accused of an offence under this Act to the Magistrate having jurisdiction, or admits any such person to bail to appear before such Magistrate such Excise Inspector shall also forward to such Magistrate a report setting forth the name of the accused person, 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 or samples which it may be necessary to produce before him. Upon the receipt of such report or a report under Section 50, the Magistrate shall proceed in like manner as if report has been made to him under Clause (b) or (c), Section 170 of the Code of Criminal Procedure.

Report of Excise Inspector to Magistrate.

57. Such Excise Inspector shall exercise all the powers conferred by the Code of Criminal Procedure on an Officer in charge of a Police-station, in respect of causing the appearance before such Magistrate of such persons as he may consider necessary to be examined by the Magistrate.

Power of Excise Inspector to cause attendance of witnesses.

58. No person accused or suspected of having committed an offence under this Act shall be detained in custody 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, exceed twenty-four hours, exclusive of the time necessary for the journey of such person to the place where the Excise Inspector may be, and from thence to the Magistrate having jurisdiction.

59. All Officers in charge of Police-stations shall take charge of and keep in safe custody, pending the orders of the Magistrate or of any Excise Inspector, all things seized under this Act, which may be delivered to them; and shall allow any Excise Officer who may accompany such things to the Police-station or who may be deputed for the purpose by his superior Officer, to affix his seal to such things or 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.

60. All Officers of the Excise, Police and Land Revenue Departments shall, upon notice given, or request made, be legally bound to assist each other in carrying out the provisions of this Act.

61. All Officers of the Police and Land Revenue Departments shall be bound to give immediate information to an Excise Officer, and every Excise Officer shall be bound to give immediate information either to his immediate official superior or to an Excise Inspector, of all breaches of any of the provisions of this Act which may come to their 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 are likely to be committed.

62. All proprietors, tenants, under-tenants and cultivators or other persons who own or hold land on which there shall be any manufacture of contraband salt shall, in the absence of reasonable excuse, be bound to give notice of the same to a Magistrate or to an officer of the Excise, Police or Land Revenue Department, immediately the same shall come to their knowledge.

Land-holders and others to report manufacture of contraband salt.

63. At the conclusion of any enquiry into or trial of an offence under this Act, the Court may order the confiscation of anything liable to confiscation under this Act in connection with such offence.

Provisions regarding confiscation of things liable thereto.

Whenever confiscation is so ordered, the Court may give the owner of such thing an option to pay, in lieu of confiscation, such sum of money as the Court may think fit. In any other case, when anything liable to confiscation under this Act has been seized, the Excise Commissioner may, subject to such Rules as Our Government may prescribe, order the confiscation thereof.

64. Our Government may by Rule provide in regard to things liable to be seized under this Act,—

Disposal of things seized.

- (a) that the owner or person having the charge of any animal seized and detained, shall provide from day to day for its keep while so detained, and that, if he omits to do so, such animal may be sold by public auction and the expenses (if any) incurred on account of it, defrayed from the proceeds of the sale ;
- (b) that when anything is seized and an order for its release is subsequently passed and the owner does not, within a period to be fixed by such Rule, appear to claim such thing and tender the duties, penalties and charges (if any) due in respect thereof, it may be sold by public auction, and such duties, penalties and charges defrayed from the proceeds of the sale ; and

- (c) that the surplus proceeds of a sale under clause (a) or clause (b) of the Section shall, if not claimed by the owner of the thing seized within a period to be fixed by such Rule, be forfeited to the Government.

65. The Excise Commissioner may cancel any license, if the licensee shall have been convicted of any offence under this Act or may suspend or cancel any license in case of breach of the conditions thereof.

Power to cancel and suspend licenses.

CHAPTER VI.

PENALTIES.

66. Any person who—
- Penalties for removal of salt without or in excess of permits, etc.
- (a) removes any salt without or in excess of the permits rendered necessary by this Act; or
- (b) except for agricultural or building purposes, excavates, collects or possesses salt-earth in any local area where it is contraband salt; or
- (c) manufactures contraband salt in any other way than by excavating or collecting salt-earth; or
- (d) purchases, obtains, possesses, sells or weighs contraband salt other than salt-earth, knowing or having reason to believe it to be contraband; or
- (e) attempts to commit or, within the meaning of the Travancore penal Code, abets the commission of, any of the above acts;

shall, on conviction, be punishable for every such offence with imprisonment for a term not exceeding three months, or with fine not exceeding two hundred and fifty rupees, or with both.

67. Any person who is guilty of any act or intentional omission in contravention of Section 36 of this Act, or of any Rule framed by Our Government under Clauses (c), (d) and (f) of Section 77, or of any permit granted under this Act shall, on conviction, be punishable with fine which may extend to two hundred rupees.

Penalty for act or omission in contravention of Section 36, or of Clauses (c), (d) and (f) of Section 77 or of any permit.

68. Any Officer of the Excise, Police or Land Revenue Department who enters, for the purposes of search, any house, building, vessel or enclosed place, without reasonable cause to believe that contraband salt is manufactured, sold or kept therein, or who vexatiously and unnecessarily seizes any article on the pretence of searching for contraband salt, or who vexatiously and unnecessarily detains, searches and arrests any person, or stops or detains any vehicles or vessels in transit, or who in any other way vexatiously exceeds his lawful powers, shall, on conviction, be punishable with fine which may extend to two hundred and fifty rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty for vexatious abuse of power by Officer of Excise or other Department.

69. Any Excise or other Officer exercising powers under this Act, or any other person, who vexatiously and unnecessarily delays forwarding to the Excise Inspector or to the Officer in charge of the nearest Police-station, as required by Section 45 of this Act, any person arrested or any article seized under this Act, shall be punished with fine which may extend to one hundred rupees.

Penalty for vexatious delay by Officer of Excise or other Department.

70. Any Excise 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 the Excise Commissioner, or unless he shall have given to his superior

Penalty for Excise Officer refusing to do duty or using violence to person in custody.

Officer two months' previous notice in writing of his intention to do so, or

who shall offer any unwarrantable violence to any person in his custody,

shall, on conviction, be punishable with fine which may extend to six months' pay, or with imprisonment which may extend to three months, or with both.

71. All contraband salt ;

all salt, saline substances or salt-earth, in regard to which any offence relating to salt may be proved to have been committed ;

all vessels, vehicles, materials, implements, utensils, animals, packages and coverings employed in the manufacture, purchase, sale, keeping, concealment or conveyance thereof, or in otherwise dealing therewith ;

shall be liable to confiscation.

What things liable to confiscation.

CHAPTER VII.

GENERAL PROVISIONS.

72. All Rules made and Notifications issued under this Act shall be made and issued by publication in the Government Gazette : Provided that all such Rules and Notifications whereby any act or omission is made punishable, shall be published in three successive issues of the Government Gazette. All such Rules and Notifications shall thereupon have the force of law and be read as part of this Act, and may in like manner be varied, suspended or annulled.

73. All Notifications and orders conferring powers, imposing duties or making appointments under this Act, may respectively refer to persons by name or by office or to classes of officials generally by their official titles.

Mode of conferring powers.

74. Whenever under the provisions of this Act, it may be necessary to serve any person with a summons or a notice, or to tender a license, such service or tender shall be made in accordance with the provisions of the Code of Criminal Procedure regarding the service of summons, so far as they may be applicable to the circumstances of the case :

Service of summons, &c.

Provided that a registered letter addressed to the usual residence of any person may be substituted for any other mode of serving a summons or notice upon that person :

And provided also that, when a notice has to be served upon the general body of the licensees of a salt factory, it shall be sufficient to affix the notice to a prominent part of the factory office and to keep it so affixed for not less than seventy-two hours.

75. All contraband salt found in any house, building or enclosed place shall be presumed, until the contrary is proved, to be in the possession of the occupier of such house, building or place.

76. All sums recoverable under this Act or in any way due to the Government on account of the salt revenue, may be deducted by the Excise Commissioner from any money owing to the person from whom such sums may be recoverable or due, which may be in the hands of the Excise Commissioner or under his disposal or control, or may be recovered by the Excise Commissioner by attachment and sale of salt belonging to such person and remaining within the limits of a factory or a place of storage authorised by the Excise Commissioner. If not so recovered, such sums may be recovered by the Tahsildar, on the requisition of the Excise Commissioner, as if they were arrears of land revenue

Sec. 76. The expression "or a place of storage authorised by the Excise Commissioner" does not occur in the corresponding Sec. 84 of the Madras Act.

77. Our Government may, from time to time, make
 Power to make Rules. Rules consistent with this Act for re-
 Rules. gulating the following matters, name-
 ly:—

- (a) the grant of licenses and permits and the particulars and conditions to be contained therein ;
- (b) the registry and acceptance of transfers and relinquishments of licenses ;
- (c) the manufacture, storage, sale and removal of salt in and from salt factories and the import or export of salt by sea or land ;
- (d) the time for the payment of duty and other charges and the assessment of such charges ;
- (e) the grant of batta to witnesses and of compensation for loss of time to persons released under Section 47, on the ground that they have been improperly arrested, and to persons charged before a Magistrate with offences under this Act and acquitted ;
- (f) the routes by which salt shall be taken to a preventive station ;
- (g) the disposal of things seized or confiscated ; and
- (h) generally, the carrying out of the provisions herein contained.

78. Appeals shall lie from all proceedings and orders
 Appeals against Act, to their respective immediate
 orders. superiors, provided that such appeals
 are preferred within thirty days from the date of the receipt, by the person aggrieved, of the order or proceedings appealed against.

Appeals shall also lie from all proceedings and orders of the Excise Commissioner to Our Dewan, provided that such appeals are preferred within sixty days from the date of the receipt, by the person aggrieved, of proceedings or order appealed against.

Sec. 78. The corresponding runs thus:—"An appeal.....
 Sec. 86 of the Madras Act immediate superiors."

79. No action shall lie against Our Government or against any Officer in respect of any order passed or act *bona fide* done or ordered to be done under this Act.

Limitation.

No suit or prosecution shall be instituted for anything done or ordered to be done under this Act, after the expiration of six months from the accrual of the cause of action or from the date of the act or order complained of.

80. Excise Officers superior in rank to an Excise Inspector may exercise the same powers, throughout the local area to which they are appointed, as may be exercised by such Inspector within the limits of his jurisdiction.

Power of superior Officers of the Excise Department.

ACT IV OF 1988.

TOLLS RECOVERY ACT.

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10. Acts of lessee or his agent.

The figures on the right refer to the corresponding Sections of the Indian Tolls Act VIII of 1851 as subsequently amended. Sec. 8 of this Act corresponds to Sec. 2 of Act XV of 1864.

1. This Act may be called "The Tolls Recovery Act" and it shall extend to the whole of Travancore, and it shall come into force on the 1st Makarom 1088.

Short title, extent and commencement.

2. The following procedure shall be observed for the recovery of tolls levied upon any road or bridge which has been, or shall hereafter be, made or repaired at the expense of Our Government at such rates as Our Government may fix from time to time.

Procedure to be followed for recovery of tolls.

file a suit for the recovery. That apart, the person who evaded payment of the toll was not liable to be prosecuted under the Tolls Recovery Regulation, as there was no penalty provided for the non-payment of the toll. This defect is proposed to be cured by the present Bill. The Bill follows Section 89 of the Municipal Regulation wherein it is laid down that, if any person shall, with any carriage, cart or animal, go off or pass from any street on which a toll-bar, gate or gate-keeper's station has been constructed under the provisions of Section 88 through or over any land adjoining thereto such land not being owned or occupied by such person and not being a public street, with intent to evade the payment of any toll leviable under the provisions hereinbefore contained, such person shall be liable to a fine not exceeding fifty rupees and shall also pay the amount of the toll and cost of the prosecution. Thus driving with an intent to evade payment of fees is liable to be punished by a Court of law. That provision is proposed to be embodied in the

Tolls Recovery Regulation. The only object of the Bill is that, in cases of wilful evasion of payment of tolls, the person should be held criminally liable. The Bill does not provide for a summary recovery of the dues."—*L. C. P. dated 19-7-1922.*
T. G. G. dated 4-7-1922.

For Report of the Select Committee see *T. G. G. dated 26-9-1922.*

For legislative proceedings see *L. C. P. Vol. I, Pp. 16, 17 ; L. C. P. Vol. II, Pp. 53-67 and 529-530.*

The Act was published in *T. G. G. dated 19-6-1923.*

See also the Vehicle Taxation Act the Preamble to which reads as follows:—"Whereas it is expedient to abolish the levy of all tolls, existing at the time of the commencement of this Act; And whereas it is expedient to provide for the levy of a tax on vehicle; And whereas it is also expedient to regulate the levy of taxes and tolls on vehicles by local bodies."

3. Our Government may place the collection of such tolls under the management of such persons as may appear to them proper; and all persons employed in the management and collection of such tolls shall be liable to the same responsibilities as would belong to them if employed in the collection of land revenue.

Power to appoint collectors.

Collectors' responsibilities.

4. In case of non-payment of any toll on demand, the Officer appointed to collect the same may seize any of the carriages or animals on which it is chargeable, or any part of their burden of sufficient value to defray the toll; and, if any toll remains undischarged for twenty-four hours, with the cost arising from such seizure, the case shall be brought before the nearest Magistrate, who may sell the property seized for discharge of the toll and expenses occasioned by such non-payment, seizure and sale, and cause any balance that may remain to be returned, on demand, to the owner of the property; and the said Magistrate, on receipt of the property, shall publish a notice affixed in a conspicuous part of the Court-house, that at noon of the tenth day, exclusive of Sunday or any other public holiday, he will sell the property by auction:

Procedure in case of non-payment of tolls.

Provided that, if, at any time before the sale has been actually closed, the person whose property has been seized, shall tender the amount of all the expenses incurred and of double the toll payable by him, the said Magistrate shall forthwith release the property seized.

Release of seized property on tender of dues.

Sec. 4. Under the Indian Act the case is to be taken "before the Officer appointed to superintend the collection of the said toll" instead of "before the nearest Magistrate." The last Clause in the Indian Act reads thus:—"and the said Officer on receipt

of the property shall forthwith issue a notice that at noon the next day exclusive of Sunday or any close holiday he will sell the property by auction." The *Proviso* in the Indian Act requires the tender of the amount to be at any time before the sale has actually begun.

5. All Police-Officers shall be bound to assist the toll-collectors, when required, in the execution of this Act.

Police-Officers bound to assist toll-collectors.

[5-A. If any person shall, with any carriage or animal, proceed beyond or pass any toll-gate or station at which the collection of tolls is authorised, with intent to evade the payment of any toll, such person shall be liable to a fine not exceeding fifty rupees and shall also pay the amount of the toll :

Penalty for evading payment of tolls.

Provided that the establishment of such toll-gate or station has been previously notified in Our Government Gazette.]

6. Every person, other than the persons appointed to collect the tolls under this Act, who shall levy or demand any toll on any public road or bridge, or for passing through any bazaar situated thereon, and also every person who shall unlawfully and extortionately demand or take any other or higher toll than the lawful toll, or under colour of this Act, seize or sell any property, knowing such seizure or sale to be unlawful, or in any manner unlawfully extort money or any valuable thing from any person under colour of this Act, shall be liable, on conviction before a Magistrate, to imprisonment for any term not exceeding six months, or to fine not exceeding two hundred rupees any part of which fine may be awarded by the Magistrate to the person aggrieved ; but this remedy shall not be deemed to bar or affect his right to have redress by suit in the Civil Court.

Penalty on unauthorised person demanding tolls and for illegal demand.

7. A Table of the tolls authorised to be taken at any toll-gate or station shall be put up in a conspicuous place near such gate or station, legibly written or printed in English, Malayalam and Tamil words and figures to which shall be annexed,

Table to be put up at the gate or station.

Sec. 5. The corresponding Section of the Indian Act has the words "and for that purpose shall have the same power which they have in the exercise of their common police duties."

Sec. 5-A. This Sec. was introduced by Act III of 1098.

written or printed in like manner, a statement of the penalties for refusing to pay the tolls and for taking any unlawful toll.

8. The Officer entrusted with the management of the collection of tolls under this Act may, with the previous sanction of Our Government, compound for any period not exceeding one year, with any person, for a certain sum to be paid in advance by such person, for any vehicle or animal kept by him, in lieu of the rates of toll on such vehicle or animal.

Collectors of tolls may compound for tolls.

9. It shall be lawful for Our Government to lease the collection of tolls upon any public road or bridge by public auction or private contract, from year to year, on such terms and conditions as Our Government may deem desirable: Provided that the lessee shall give security for the due fulfilment of such terms and conditions and that all sums payable under the terms and conditions of the lease, shall be deemed public revenue and be recoverable as such under the law for the time being in force.

Power of Government to lease the collection of tolls.

10. When the tolls on any public road or bridge have been duly leased, the lessee and every person employed by the lessee as his agent for collecting the tolls shall be deemed to be persons appointed to collect tolls under this Act, and shall exercise all the powers and be subject to all the responsibilities attaching to persons appointed to collect tolls under this Act.

Acts of lessee or his agent.

ACT V OF 1088.

THE SEA CUSTOMS ACT.

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ACT V OF 1088.

**AN ACT TO CONSOLIDATE THE LAW RELATING
TO THE LEVY OF SEA CUSTOMS DUTIES
AND THE MANAGEMENT OF SEA-PORTS.**

*Passed by His Highness the Maha Raja of Travancore
on the 16th April 1913 corresponding with the
4th Medom 1088.*

Whereas it is expedient to consolidate the law relating to the levy of Sea Customs duties and the Management of Sea-ports ; It is enacted as follows:—

CHAPTER I.**PRELIMINARY.**

1. This Act may be called "The Travancore Sea Customs Act of 1088."

Short title.

Year.	No.	Short title.	Effect of subsequent Legislation.
1088	V	Sea Customs Act.	Amended by Act IV of 1093; Act I of 1109; Act V of 1111 and Act XXII of 1117 Secs. 22 and 23.

Act V of 1088. This Act and the amending Acts were passed direct by His Highness the Maharaja. Act V of 1088 and the amending Acts IV of 1093, I of 1109, V of 1111 and XXII of 1117 were published in T. G. G. dated 22-4-1913; 13-8-1918; 7-11-1933 14-7-1936 and 12-5-1942 respectively.

It extends to the whole of Travancore ; and it shall come into force on the 1st day of Chingam 1089.

Local extent and commencement.

2. All appointments, Rules, declarations, exemptions and delegations made, powers conferred, Forms and conditions prescribed, values, fees, rates and period fixed, and Notifications, instructions, directions, prohibitions, passes and licenses issued, before the passing of this Act, shall, if the same are in force at the time that this Act comes into force, be deemed to have been respectively made, conferred, prescribed, fixed and issued under this Act, in so far as they are consistent herewith.

Saving of appointments, &c.

3. Nothing herein contained shall affect the provisions of the Interportal Trade Convention for the time being in force between Our Government and the Paramount Power.

Interportal Trade Convention not affected by Act.

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

Interpretation.

(a) "Controlling Officer of Customs" denotes the person authorised to exercise, subject to Our Government, the chief control in matters relating to Sea Customs ;

"Controlling Officer of Customs."

(b) "Chief Customs Officer" denotes the chief executive Officer of Sea Customs for any Port to which this Act applies ;

"Chief Customs Officer."

(c) "Customs Inspector" includes every Officer of Sea Customs, for the time being in separate charge of a Customs house, or duly authorised to perform all the duties, or any special duties, of an Officer so in charge ;

"Customs Inspector."

Sec. 4. The Indian Act does not contain definitions corresponding to Clauses (k) to (r).

- (d) "Customs-port" shall mean any place in Travancore, declared, under Section 10, to be a Port for the shipment and landing of goods ;
- "Customs-port."
- (e) "Port Officer" means every Officer for the time being in separate charge of a Customs-port, or any person duly authorised to perform all or any of the duties of an Officer so in charge ;
- "Port Officer."
- (f) "Foreign Port" means any Port beyond the limits of Travancore ;
- "Foreign port."
- (g) "Vessel" includes anything made for the conveyance by water of human beings or property ;
- "Vessel."
- (h) "Coasting vessel" denotes any vessel proceeding from one Customs-port to another Customs-port, whether touching at any intermediate foreign Port or not, or proceeding from one Customs-port to a Port in British India or *vice versa*, or proceeding from or to a Customs-port to or from a place declared to be a Port under Section 11 ;
- "Coasting vessel."
- (i) "Master," when used in relation to any vessel, means any person, except a Pilot or Harbour-Master having command or charge of such vessel ;
- "Master."
- (j) "Ware-housing Port " means any Customs-port declared to be ware-housing Port under Section 13 ;
- "Ware-housing Port."
- (k) "Ware-house " denotes any place appointed or licensed under Section 14 or 15 ;
- "Ware-house."
- (l) "Derelict " means a thing voluntarily abandoned or utterly forsaken by its proper owner ;
- "Derelict,"
- (m) "Jetsam" means goods thrown overboard, in case of extreme peril, in order to lighten and preserve a vessel, and which remain under water ;
- "Jetsam."

(n) "Flotsam" means goods lost by shipwreck and floating on the sea ;
 "Flotsam."

(o) "Wreck" signifies the ruins of a destroyed vessel ;
 "Wreck."

(p) "Freight" means the sum agreed or paid for the hire or use of a vessel, in whole or in part ;
 "Freight."

(q) "Primage" means a charge in addition to the freight ;
 "Primage."

(r) "General average" means a contribution made by all parties concerned in a sea adventure, towards a loss, by the voluntary sacrifice of the property of some of the parties in interest, for the benefit of all.

5. When any person is expressly or impliedly authorised by the owner of any goods to be his agent in respect of such goods, for all or any of the purposes of this Act, and such authorisation is approved by the Chief Customs Officer or by the Customs Inspector, such person shall, for such purposes, be deemed to be the owner of such goods.

6. Anything which a Master is required or empowered to do under this Act may, with the express or implied consent of such Master and the approval of the Chief Customs Officer or of the Customs Inspector, be done by a ship's agent.

CHAPTER II.

APPOINTMENTS AND POWERS OF OFFICERS, &c.

7. Our Government may appoint such persons as they think fit to be Officers of Sea Customs and to exercise all or any of the powers conferred, and to perform all or any of the duties imposed, by this Act, on such Officers. Every person so appointed may be suspended or dismissed by Our Government.

8. Our Government may delegate to any Officer any of the powers vested in them by Section 7 of this Act. Every person appointed in the exercise of such delegated powers may be suspended or dismissed by the Officer who appointed him.

Delegation of powers under Section 7.

9. Our Government may make Rules, consistent with this Act,
Power to make Rules.

- (a) prescribing and limiting the powers and duties of Officers of Sea Customs ;
- (b) authorising and regulating the delegation of their duties by such Officers ; and
- (c) generally to carry out the provisions of this Act. Such Rules shall be published in the Gazette.

CHAPTER III.

DECLARATION OF PORTS, WHARVES, CUSTOMS-HOUSES, WARE-HOUSES, &c.

10. Our Government may, by Notification in the Gazette,—
Power to appoint Ports, Wharves, Customs-houses, Ware-houses, &c.

- (a) declare the places which alone shall be Ports for the shipment and landing of goods ;
- (b) declare the limits of such Ports ;
- (c) declare proper places therein to be Wharves for the landing and shipping of goods, or of particular classes of goods ;
- (d) declare the limits of any such Wharf ;
- (e) alter the name of any such Port or Wharf ; and
- (f) declare what shall, for the purposes of this Act, be deemed to be a Customs-house, and the limits thereof.

Sec. 8. The corresponding Sec. 7 of the Indian Act has been omitted.

11. Our Government may, by Notification in the Gazette, declare places to be Ports for the carrying on of coasting trade with Customs-ports, or with any specified Customs-port, and for no other purpose.

Power to declare places to be Ports for coasting trade.

12. Our Government may direct, by Notification in the Gazette, that all goods or any specified class of goods, imported from or exported to any foreign Port, to or from a Customs-port, shall, with such limitations and on such conditions (if any) as Our Government may think fit to prescribe, be treated, for any of the purposes of this Act, as goods imported from or exported to a Customs-port as the case may be.

Power to declare that foreign Ports shall be regarded as Customs-ports for certain purposes.

13. Our Government may declare, by Notification in the Gazette, that any Customs-port shall be a ware-housing port for the purposes of this Act.

Power to declare ware-housing ports.

14. At any ware-housing port, the Controlling Officer of Customs may appoint public ware-houses, wherein dutiable goods may be bonded or deposited without payment of duty on the first importation thereof, and may cancel such appointment.

Power to appoint public ware-houses.

15. At any ware-housing port, the Controlling Officer of Customs or the Chief Customs Officer may license private ware-houses wherein dutiable articles may be deposited as aforesaid.

Power to license private ware-houses.

Every application for a license for a private ware-house shall be in writing, shall be drawn up in such Form as may be prescribed by the Controlling Officer of Customs, and shall be signed by the applicant.

Form of application for license.

Every license granted under this Section may be cancelled on conviction of the licensee of any offence under this Act relating to ware-houses, unless it is otherwise provided in the license, or on the expiration of one

Revocation of license.

month's notice in writing given to the licensee by the authority which granted the license.

16. Our Government may appoint, in or near any Customs-port, stations or limits at or within which vessels arriving at, or departing from, such Port shall bring-
 Stations for Customs Officers to board and land. to for the boarding or landing of Officers of Customs, and may direct at what particular place in any such Port, vessels not brought into Port by pilots shall anchor or moor.

CHAPTER IV.

PROHIBITIONS AND RESTRICTIONS OF IMPORTATION AND EXPORTATION.

17. No goods specified in the following Clauses shall be brought, whether by land, or by back-water, or by sea, into Travancore :—
 Prohibitions.

- (a) any book printed in infringement of any law in force in Travancore on the subject of copyright, when the proprietor of such copyright or his agent has given to the Controlling Officer of Customs a notice in writing that such copyright subsists and a statement of the date on which it will expire ;
- (b) counterfeit coin, or coin which purports to be the King's coin of British India but which is not of the established standard in weight or fineness ;
- (c) any obscene book, pamphlet, paper, drawing, painting, representation, figure or article ;
- (d) goods having applied thereto a counterfeit trade-mark within the meaning of the Travancore Penal Code or a false trade-description [within the meaning of the Travancore Merchandise Marks Act, 1117] ;

Sec. 17 Clause (a). The corresponding Clause of the Indian Act has been repealed by Act III of 1914.

Sec. 17. Clause (d). The bracketed portion was inserted

and the Explanation omitted by Sec. 22, Act XXII of 1117 bringing it into conformity with the corresponding Clause of the Indian Act.

Explanation.— [Omitted by Section 22, Act XXII of 1117.]

- (e) goods made or produced beyond the limits of [Travancore] and having applied thereto any name or trade-mark being or purporting to be the name or the trade-mark of any person who is a manufacturer, dealer or trader in [Travancore], unless—
- (1) the name or trade-mark is, as to every application thereof, accompanied by a definite indication of the goods having been made or produced in a place beyond the limits of [Travancore], and
 - (2) the country in which that place is situated is in that indication indicated in letters as large and conspicuous as any letter in the name or trade-mark, and [in the English language];
- (f) piece-goods, such as are ordinarily sold by length or by the piece, which—
- (1) have not, conspicuously stamped in English numerals on each piece, the length thereof in standard yards, or in standard yards and a fraction of such a yard, according to the real length of the piece, and

The Explanation omitted read as follows:—

Explanation:—“False trade-description” means a trade-description which is untrue in a material respect as regards the goods to which it is applied; and it includes every alteration of a trade-description, whether by way of addition, effacement or otherwise, where that alteration makes the description untrue in a material respect; and the fact that a trade-description is a trade-mark or part of a trade-mark shall not prevent such trade-description being a false trade-description under this Act.”

Sec. 17. Clause (e). In the first and third pairs of brackets the word “Travancore” was substituted for the words “the United Kingdom or of India”, in the second pair of brackets the word “Travancore” was substituted for the words “the United Kingdom or in India” and the words in the last pair of brackets were substituted for the words “in the same language and character as to name or trade mark.” by Sec. 22, Act XXII of 1117.

Sec. 17. Clause (f). Sub-clause (2) was inserted by Sec. 22, Act XXII of 1117. In the original Sub-clause (2) the

- [(2) have not been conspicuously marked on each piece with the name of the manufacturer, exporter or wholesale purchaser in India of the piece, and]
- [(3)] have been manufactured beyond the limits of India, or have been manufactured within those limits but out of Travancore, in premises which if they were in Travancore would be a factory as defined in the [Travancore Factories Act, VIII of 1114.]
- [(g) goods which are required by a Notification under Section 11 of the Travancore Merchandise Marks Act, 1117, to have applied to them an indication of the country or place in which they were made or produced, unless such goods show such indication applied in the manner specified in the Notification ;
- (h) cotton yarn such as is ordinarily imported, in bundles, if—
- (i) the bundle containing such yarn has not been conspicuously marked with the name of the manufacturer, exporter or wholesale purchaser in India of the goods, or
 - (ii) such bundle has not been conspicuously marked with an indication of the weight and the count of the yarn contained in it, in accordance with the Rules made under Section 19 of the Travancore Merchandise Marks Act, 1117, and
 - (iii) the yarn has been manufactured beyond the limits of India, or

bracketed words were substituted for the words "factory law for the time being of Travancore" and the Sub-clause was numbered (3) by the same amending Sec.

Sec. 17. Clauses (g) to (i). These Clauses were added by Sec. 22, Act XXII of 1117.

In the Indian Act two more Clauses viz., (ff) and (g) have been added by Acts XII of 1939 and V of 1913. They relate to goods having designs in which copyright under the Patents and Designs Act exist and matches made with white phosphorus.

- (iv) having been manufactured within those limits, has been manufactured beyond the limits of Travancore in premises which if they were in Travancore would be a factory as defined in the Travancore Factories Act, VIII of 1114 ;
- (i) cotton sewing or darning thread, if—
- (i) the units in which the thread is supplied have not been conspicuously marked with the name of the manufacturer, exporter or wholesale purchaser in India of the goods, or
- (ii) if each unit has not been conspicuously marked with an indication of the weight of thread contained in it and the grist number in accordance with the Rules made under Section 19 of the Travancore Merchandise Marks Act, 1117, and
- (iii) the thread has been manufactured beyond the limits of India, or
- (iv) having been manufactured within those limits, has been manufactured beyond the limits of Travancore in premises which if they were in Travancore would be a factory as defined in the Travancore Factories Act, VIII of 1114.]

18. Our Government may, by Notification in the Gazette, prohibit or restrict the bringing or taking by sea, by back-water or by land, of goods of any specified description, into or out of Travancore, or into or out of any specified part of Travancore.

Power to prohibit or restrict importation or exportation of goods.

19. (1) Before detaining any such goods as are or may be specified in or under Section 17 or 18, as the case may be, or taking any further proceedings with a view to the confiscation thereof under this Act, the Chief Customs

Detention and confiscation of goods whose importation is prohibited.

Sec. 19. Clause (3). The same language and character" bracketed words were substituted for the words "and in the by Sec. 23, Act XXII of 1117.

Officer, or the Customs Inspector, or other Officer appointed by Our Government in this behalf, may require the Rules under this Section, whether as to information, security, conditions or other matters, to be complied with, and may satisfy himself in accordance with those Rules that the goods are such as are prohibited to be imported.

(2) Our Government may make Rules, either general or special, respecting the detention and confiscation of goods the importation of which is prohibited and the conditions, if any, to be fulfilled before such detention and confiscation, and may, by such Rules, determine the information, notice and security to be given and the evidence requisite for any of the purposes of this Section and the mode of verification of such evidence.

(3) Where there is on any goods a name which is identical with, or a colorable imitation of, the name of a place in the United Kingdom or in India, that name, unless accompanied, in equally large and conspicuous letters [in the English language,] by the name of the country in which such place is situate, shall be treated for the purpose of Sections 17 and 18 as if it were the name of a place in the United Kingdom or in India.

(4) Such Rules may apply to all goods the importation of which is prohibited by Section 17 or under Section 18; or different Rules may be made respecting different classes of such goods or of offences in relation to such goods.

(5) The Rules may provide for the informant reimbursing any public Officer and Our Government, all expenses and damages incurred in respect of any detention made on his information, and of any proceeding consequent on such detention.

(6) All Rules under this Section shall be published in the Gazette.

CHAPTER V.

LEVY OF AND EXEMPTION FROM CUSTOMS DUTIES.

20. [(1)] Except as hereinafter provided, Customs-duties shall be levied, at such rates, Goods dutiable. [and from such dates, whether previous or otherwise,] as may be prescribed by Our Government by Notification in the Gazette, on—

- (a) goods imported or exported by sea, into or from any Customs-port, from or to any foreign Port ;
- (b) tobacco, opium, ganja, salt or salted fish, and spirit imported by sea from any Customs-port into any other Customs-port ;
- (c) goods brought from any foreign Port to any Customs-port , and, without payment of duty, there transhipped for, or thence carried to and imported at, any other Customs-port ; and
- (d) goods brought in bond from one Customs-port to another :

Provided that no such duties shall be levied on goods belonging to Our Government.
 Proviso.

[(2) In cases where the Notification referred to in Sub-section (1) authorises the levy of Customs-duty with retrospective effect, any sums due on account of new duties leviabie thereunder or of any deficiency between the duties which have been paid and the duties which are leviabie thereunder shall be deemed to be duties short-levied within the meaning of Section 40 of the Act.]

21. Except as otherwise expressly provided by any law for the time being in force, Goods partially composed of dutiable articles. goods whereof any article liable to duty under this Act forms a part or ingredient, shall be chargeable with the full duty which would be payable on such goods if

Sec. 20. Sub-section (2) was added by Act IV of 1093. This Sub-section and the *Proviso* to Sub-section (1) are additions not found in the corresponding Sec. 20 of the Indian Act.

they were entirely composed of such article ; if composed of more than one article liable to duty, then with the full duty which would be payable on such goods if they were entirely composed of the article charged with the highest rate of duty.

22. Our Government may, by Notification in the Gazette, fix, for the purpose of levying duties, tariff-values of any goods exported or imported by sea on which Customs-duties are imposed, and alter any such values.

23. Our Government may,—
 (a) by Notification in the Gazette, exempt any goods imported into, or exported from, Travancore, or into or from any specified Port therein, from the whole or any part of the Customs-duties leviable on such goods ;

(b) also, by special order in each case, exempt from the payment of duty, under circumstances of an exceptional nature to be stated in such order, any goods on which Customs-duties are leviable.

24. The Chief Customs Officer or the Customs Inspector may, subject to any general Rules relating to the landing and shipping of passengers' baggage and the passing of the same through the Customs house, which may be made under Section 70, pass, free of duty, any baggage in actual use, and for this purpose may determine, subject to any such Rules, whether any goods shall be treated as baggage in actual use, or as goods subject to duty.

25. (1) If goods, which had been produced or manufactured in Travancore, be imported into any Customs-port from any foreign Port, such goods shall be liable to all the duties, conditions and restrictions (if any)

Sec. 25. Sub-section (2) is for import by the *Proviso* in the Indian Act is 3 years. The time allowed

to which goods of the like kind and value not so produced or manufactured are liable on the importation thereof: Provided that, if the importation takes place within one year after the previous exportation of such goods, and it is proved to the satisfaction of the Controlling Officer of Customs that the property in such goods has continued in the person by whom or on whose account they had been exported, the goods may, at the discretion of the Controlling Officer of Customs, be admitted without payment of import duty.

(2) If goods, which had been produced or manufactured beyond the limits of Travancore, are exported from any Customs-port, such goods shall be liable to all the duties, conditions and restrictions (if any) to which goods of the like kind and value produced or manufactured in Travancore are liable on the exportation thereof: Provided that, if the exportation takes place within one year after the previous importation of such goods, and it is proved to the satisfaction of the Controlling Officer of Customs that the property in such goods has continued in the person by whom or on whose account they had been imported, the goods may, at the discretion of the Controlling Officer of Customs, be allowed to be exported without payment of duty.

26. Any goods, produced or manufactured in Travancore, which have been exported therefrom and on the exportation of which any drawback of excise has been received, shall, on being imported into any Customs-port, be subjected, unless Our Government, in any particular case, otherwise direct by special order, to payment of excise duty at the rate to which goods of the like kind and quality are liable at such Port.

27. All goods derelict, jetsam and wreck, brought or coming into any place in Travancore, shall be subject to the same duties, if any, to which goods of the like kind are for the time being subject on importation at any Customs-port, and shall in other

Sec. 27. The Indian Act includes 'flotsam' also,

respects be dealt with as if they were imported from a foreign Port, unless it is shown to the satisfaction of the Controlling Officer of Customs that such goods are the produce or manufacture of any place from which they are entitled to be admitted duty free.

28. Provisions or stores produced or manufactured in Travancore, required for use on board of any vessel proceeding to any foreign Port, may be shipped free of duty, whether of customs or excise, in such quantities as the Chief Customs Officer may determine with reference to the tonnage of the vessel, the numbers of the crew and passengers, the intermediate Ports it is to call at, or the length of the voyage on which the vessel is about to depart.

Country provisions and stores may be shipped free of duty.

29. On the importation into, or exportation from, any Customs-port of any goods, whether real value, &c, of goods in bill-of-entry, or shipping bill, such goods shall, in his bill-of-entry or shipping-bill, as the case may be, state the real value, quantity and description of such goods to the best of his knowledge and belief, and shall also subscribe a declaration of the truth of such statement at the foot of such bill.

Owner to declare real value, &c, of goods in bill-of-entry, or shipping bill.

30. In case of doubt, the Chief Customs Officer or the Customs Inspector may require the owner of any such goods, or any other person in possession of any invoice, broker's note, policy of insurance or other document, whereby the real value, quantity or description of any such goods can be ascertained, to produce the same, and to furnish any information relating to such value, quantity or description, which it is in his power to furnish. And thereupon, such person shall produce such document and furnish such information :

Power to require production of invoice, etc.

Provided that, if the owner makes and subscribes a declaration before the Chief Customs Officer or the Customs Inspector to the effect that he is unable, for want of full information, to state the real value or contents of any

case, package or parcel of goods, then the Chief Customs Officer or the Customs Inspector shall permit him, previous to the entry thereof,—

(1) to open such case, package or parcel, and examine the contents in the presence of an Officer of Customs, or

(2) to deposit such case, package or parcel in a public ware-house appointed under Section 14 without ware-housing the same, pending the production of such information.

31. For the purpose of this Act, the real value shall “Real value” defined. be deemed to be—

(a) the wholesale cash price, less trade discount, for which goods of the like kind and quality are sold, or are capable of being sold, at the time and place of importation or exportation, as the case may be, without any abatement or deduction whatever, except (in the case of goods imported) of the amount of the duties payable on the importation thereof ; or

(b) where such price is not ascertainable, the cost at which goods of the like kind and quality could be delivered at such place, without any abatement or deduction except as aforesaid.

32. Goods chargeable with duty upon the value thereof, but for which a specific value is Examination of *ad valorem* goods. not fixed for the purpose of levying the duty thereon, shall, without unnecessary delay, be examined by an Officer of Customs.

If it appears that the real value of such goods is correctly stated in the bill-of-entry or shipping-bill, the goods shall be assessed in accordance therewith.

33. If it appears that any goods are properly chargeable with a higher rate or amount of duty, than that to which they would be subject according to the value thereof as stated in the bill-of-entry or shipping-bill, the Officer of Customs may detain such goods.

Procedure when such goods are undervalued by owner.

In every such case, the Officer of Customs shall forthwith give notice in writing to the owner of the goods of their detention and of the value thereof as estimated by him; and the Controlling Officer of Customs shall, within such reasonable period as may, with the consent of the parties, be arranged, determine either to deliver such goods on payment of the duty charged according to the entry of such owner, or to retain the same for the use of Our Government.

If the goods are retained for the use of Our Government, the Controlling Officer of Customs shall cause the full amount stated in the bill as their real value to be paid to the owner in full satisfaction for such goods, in the same manner as if they had been transferred by ordinary sale, and shall after due notice and without unnecessary delay, cause them to be put up to public auction in wholesale lots for cash on delivery.

If the Controlling Officer of Customs deems the highest offer made at such sale to be inadequate, he may either adjourn the sale to some other day to be notified, or buy in the goods, or otherwise dispose of them for the benefit of Our Government.

If the proceeds arising from such sale exceed the sum paid to the owner together with (in the case of goods imported) the duty to which the goods are liable and all charges incurred by Our Government in connection with them, a portion, not exceeding one-half of the over-plus, shall, at the discretion of the Controlling Officer of Customs, be payable to the Officer who detected the under-valuation of the goods.

Nothing in this Section shall prevent the Controlling Officer of Customs, when he has reason to believe that any such under-valuation was solely the result of accident or error, from permitting the owner of the goods, on his application for that purpose, to amend such entry, on payment of such increased rate of duties on the excess of the amended over the original valuation, or on such other terms, as the Controlling Officer of Customs may determine.

Nothing in this Section shall prevent the Chief Customs Officer from dealing with under-valuations under Section 149 (36) if he deems fit to do so.

34. If, on the first examination of any goods under Section 32, the owner thereof states in writing that such goods are, in consequence of damage sustained before delivery of the bill-of-entry, of value less than that stated in such bill, the Chief Customs Officer or the Customs Inspector, on being satisfied of the fact, may allow abatement of duty accordingly.

Abatement allowed on damaged goods.

The reduced duty to be levied on such goods may be ascertained by either of the following methods, at the option of the owner :—

Reduced duty how determined.

- (a) the real value of such goods may be fixed on appraisement by the Chief Customs Officer or the Customs Inspector, and the duty may be assessed on the value so fixed ; or
- (b) the goods may, after due notice, be sold by public auction at such time (within thirty days from the date of delivery of the bill-of-entry) and at such place, as the Controlling Officer of Customs may appoint ; and the duty may be assessed on the gross amount realised by such sale.

35. When any goods the value of which has been fixed for the purpose of levying the duty thereon, have, before delivery of the bill-of-entry, deteriorated to the extent of more than one-tenth of their value, the duty on such goods shall, if the owner thereof so desires, be assessed *ad valorem*.

Deterioration of tariff-valued goods.

The real value of such goods shall be ascertained as provided in Section 34 and the duty shall be assessed thereon.

36. No abatement of duty on account of damage shall be allowed on wines, spirit or beer or on other articles on which duties are levied on quantity and not on value.

No abatement when duty is levied on quantity.

37. Except as provided in Section 89, no amendment of a bill-of-entry or shipping-bill relating to goods assessed for duty on the declared value, quantity or description thereof, shall be allowed after such goods have been removed from the Customs-house.

Restriction on amendment of bill-of-entry, shipping-bill or manifest.

38. The rate of duty and the tariff-valuation (if any) applicable to any goods imported, shall be the rate and valuation in force on the date on which the bill-of-entry thereof is delivered to the Officer of Customs under Section 81 :

Alteration of import duty or tariff-valuation.

Provided that, if such goods are ware-housed under this Act, the rate and valuation, if any, applicable thereto shall be the rate and valuation in force on the date on which application is made to clear such goods from the ware-house for home-consumption.

Explanation.—A bill-of-entry shall, for the purposes of this Section, be deemed to be delivered when it is first presented to the proper Officer of Customs.

39. The rate of duty and the tariff-valuation (if any) applicable to any goods exported, shall be the rate and valuation in force when a shipping bill of such goods is delivered under Section 131.

Alteration of export duty or tariff-valuation.

40. When Customs duties or charges have been short-levied through inadvertence, error, collusion or misconstruction on the part of any Officer of Customs, or through mis-statement as to real value, quantity, or description on the part of the owner,

Payment of duties short-levied or erroneously refunded.

Sec. 36. In the corresponding Sec. 35 of the Indian Act the expression "damage" was substituted by the expression "any deterioration" by Act VIII of 1927.

or when any such duty or charge, after having been levied has been, owing to any such cause, erroneously refunded,

the person chargeable with the duty or charge so short-levied, or to whom such refund has erroneously been made shall pay the deficiency or repay the amount paid to him in excess, on demand being made within six months from the date of the first assessment or making of the refund ; if the said deficiency or excess is not paid or repaid, the same may be recovered as an arrear of land revenue, and the Chief Customs Officer or the Customs Inspector may refuse to pass any goods belonging to such person until the said deficiency or excess is paid or repaid or realised.

41. Customs duties or charges which have been paid, and of which repayment wholly or in part is claimed in consequence of the same having been paid through inadvertence, error or misconstruction, shall be returned, with the sanction of Our Government, if such claim is made within three months from the date of such payment, but not if made after the expiry of the said period of three months.

No refund of charges erroneously levied or paid unless claimed within three months.

CHAPTER VI.

DRAWBACKS OR REFUNDS.

A. Of the Import-duty.

42. When any goods, capable of being easily identified, which have been imported by land, by backwater or by sea into Travancore, and upon which duties of sea or land customs have been paid on importation, are again exported by sea from a Customs-port to any foreign Port, or as provisions or stores for use on board a ship proceeding to a foreign Port, seven-eighths of such duties shall, except as otherwise hereinafter provided, be repaid as drawback :

Drawback allowable on re-export.

Provided that, in every such case, the goods shall be identified to the satisfaction of the Chief Customs Officer or the Customs Inspector at such Customs-port, and that the export is made within one year from the date of original importation.

Conditions for grant of drawback.

43. When any goods, having been charged with import-duty at one Customs-port and thence exported to another, are re-exported by sea as aforesaid, drawback shall be allowed on such goods as if they had been so re-exported from the former Port :

Drawback on goods exported to Customs-port and thence to foreign port.

Provided that, in every such case, the goods are identified to the satisfaction of the Chief Customs Officer or the Customs Inspector at the Port of final exportation and that such final exportation is made within one year from the date on which the goods were first imported into Travancore.

Proviso.

[43-A. (1) Notwithstanding anything herein before contained, the repayment of duty as drawback in respect of goods which have been taken into use between importation and re-exportation shall be subject to the provisions of the Rules made under sub-section (2).

Drawback in goods taken into use between importation and re-exportation.

(2) Our Government may, subject to the condition of previous publication, from time to time, by Notification in Our Government Gazette, make Rules, in respect of goods which have been taken into use between importation and re-exportation :—

- (a) modifying the amount of duty which shall be repaid as drawback on any such goods or class of such goods, or
- (b) prohibiting the re-payment of duty as drawback on any such goods or class of such goods, or

Sec. 43-A, This Sec. was added by Sec. 2, Act V of 1111 and corresponds to Sec. 43-A. of the Indian Act.

- (c) varying the conditions for the grant of drawback on any such goods or class of such goods by restricting the period after importation within which the goods must be re-exported.

B.—Of the Export-duty.

44. When any goods, capable of being easily identified which have been exported, from Travancore and upon which duties of sea and land customs have been paid on exportation, are again imported by sea into any Customs-port, seven-eighths of such duties shall, except as otherwise hereinafter provided, be repaid as drawback: Provided that, in every such case, the goods shall be identified to the satisfaction of the Chief Customs Officer or the Customs Inspector at such Customs-port, and that the import is made within one year from the date of original exportation.

C.—General.

45. Our Government may, by Notification in the Gazette,—

Power to declare what goods are identifiable and to prohibit drawback in case of specified foreign Port.

(a) declare what goods shall, for the purposes of this Chapter, be deemed to be capable of being easily identified; and

(b) prohibit the payment of drawback upon the re-exportation or re-importation of goods to or from any specified foreign Port.

46. Notwithstanding anything hereinbefore contained, no drawback shall be allowed—

When no drawback allowed.

(a) upon goods not included in the export-manifest or import-manifest, as the case may be, unless Our Government by general or special order otherwise direct, or

(b) where the goods exported or imported are of less value than the amount of drawback claimed, or

(c) where the claim is for drawback amounting in respect of any single shipment, to less than rupees five, or

(d) on tobacco, salt, salted fish, opium or ganja.

47. (1) No drawback shall be allowed unless the claim to receive such drawback is made and established at the time of re-export or re-import as the case may be.

Time to claim drawback.

(2) No refund of import duty shall be made until the vessel carrying the goods has put out to sea, or unless refund is demanded within three months from the date of entry for shipment.

When payment made.

(3) No refund of export duty shall be made until the goods have been actually re-imported or unless refund is demanded within three months from the date of re-importation.

CHAPTER VII.

ARRIVAL AND DEPARTURE OF VESSELS.

Arrival and Entry of Vessels inwards.

48. Our Government may, by Notification in the Gazette, fix a place in any river, backwater or Port, beyond which no vessel arriving shall pass until a manifest has been delivered to the pilot, Officer of Customs, or other person duly authorised to receive the same.

Power to fix places beyond which inward bound vessels are not to proceed until manifest delivered.

If, in any river, backwater or Port, wherein a place has been fixed under this Section, the Master of any vessel arriving remains outside or below the place so fixed, such Master shall, nevertheless, within twenty-four hours after the vessel anchors, deliver a manifest to the pilot, Officer of Customs, or other person duly authorised to receive the same.

Delivery of manifest when vessels anchor outside the place fixed.

49. If any vessel arrives at any Customs-port in which a place has not been so fixed, the Master of such vessel shall, within twenty-four hours after such vessel has anchored within the limits of the Port, deliver a manifest to the pilot, Officer of Customs, or other person duly authorised to receive the same.

50. Every manifest shall be signed by the Master, shall specify all goods imported in such vessel, showing separately all goods (if any) intended to be landed, transhipped or taken on to another port, and all ship's stores intended for consumption in Port or on the voyage, and shall contain such further particulars and be made out in such Form as the Controlling Officer of Customs may direct.

The Chief Customs Officer or the Customs Inspector shall permit the Master to amend any obvious error in the manifest, or to supply any omission which, in such Officer's opinion, is the result of accident or inadvertence, by furnishing an amended or supplementary manifest, and may levy thereon such fee as Our Government may direct.

Except as herein provided, no import manifest shall be amended.

51. The Officer of Customs receiving a manifest under Section 48 or 49 shall countersign the same and enter thereon such particulars as the Controlling Officer of Customs may direct in this behalf.

52. No vessel arriving in any Customs-port shall be allowed to break bulk until a manifest has been delivered as hereinbefore provided; nor until a copy of such manifest, together with an application for entry of such vessel inwards, has been presented by the Master to the Chief Customs Officer or the Customs Inspector, and an order has been given thereon for such entry.

53. The Master shall, if required so to do by the Chief Customs Officer or the Customs Inspector, at the time of presenting such application, deliver to such Officer the bill-of-lading or a copy thereof for every part of the cargo laden, on board, and any port-clearance, cocket or other paper granted in respect of such vessel, at the place from which she is stated to have come, and shall answer all such questions relating to the vessel, cargo, crew and voyage as are put to him by such Officer.

The Chief Customs Officer or the Customs Inspector may, if any requisition or question made or put by him under this Section is not complied with or answered, refuse to grant such application.

54. Notwithstanding anything contained in Section 52, the Chief Customs Officer or the Customs Inspector may grant, prior to receipt of the manifest and to the entry inwards of the vessel, a special pass permitting bulk to be broken.

The granting of such pass shall be subject to such Rules as may be made by Our Government and published in the Gazette.

55. Notwithstanding anything contained in Section 48, 49, 52 or 53, the Chief Customs Officer or the Customs Inspector may accept from the ship's agent in lieu of the Master, delivery of the manifest or of any other document required by those Sections to be delivered by the Master.

*Entry outwards, Port clearance and
Departure of Vessels.*

56. No vessel shall take on board any part of her export cargo, until a written application for entry of such vessel outwards, subscribed by the Master of such vessel, has been made to the Chief Customs Officer or the Customs Inspector, and an order has been given thereon by such Officer for such entry.

Every application made under this Section shall specify the name, tonnage and national character of the vessel, the name of the Master and the name of every place for which cargo is to be shipped.

57. No vessel, whether laden or in ballast, shall depart from any Customs-port until a port-clearance has been granted by the Chief Customs Officer, or the Customs Inspector, or other Officer duly authorised to grant the same.

No vessel to depart without port-clearance.

And no pilot shall take charge of any vessel proceeding to sea unless the Master of such vessel produces a port-clearance.

58. Every application for port-clearance shall be made by the Master at least twenty-four hours before the intended departure of the vessel.

Application for port-clearance.

The Master shall, at the time of applying for port-clearance,—

- (a) deliver to the Chief Customs Officer or the Customs Inspector a manifest in duplicate, in such form as may be prescribed by the Controlling Officer of Customs, signed by such Master, specifying all goods to be exported in the vessel, and showing separately all goods and stores entered in the import manifest and not landed or consumed on board or transhipped ;
- (b) deliver to the Chief Customs Officer or the Customs Inspector such shipping bills or other documents as such Officer acting under the general instruction of the Controlling Officer of Customs, requires ; and
- (c) answer to the Officer such questions touching the departure and destination of the vessel as are demanded of him.

The provisions of Section 50, relating to the amendment of import-manifests, shall, *mutatis mutandis*, apply also to export-manifests delivered under this Section.

59. The Chief Customs Officer or the Customs Inspector may refuse port-clearance to any vessel until—

- (a) the provisions of Section 58 are complied with;
- (b) all port-dues and other charges and penalties due by such vessel, or by the owner or Master thereof, and all duties payable in respect of any goods shipped therein, have been duly paid, or their payment has been secured by such guarantee or by a deposit at such rate as such Officer directs ;
- (c) the ship's agent (if any) delivers to such Officer a declaration in writing to the effect that he will be liable for any penalty imposed under Section 149 (16) and furnishes security for the discharge of the same ;
- (d) the ship's agent (if any) delivers to such Officer a declaration in writing to the effect that such agent is answerable for the discharge of all claims for damage or short delivery which may be established by the owner of any goods comprised in the import cargo in respect of such goods.

A ship's agent delivering a declaration under Clause (c) of this Section shall be liable to all penalties which may be imposed on the Master under Section 149 (16) and a ship's agent delivering a declaration under Clause (d) of this Section shall be bound to discharge all claims referred to in such declaration.

60. When the Chief Customs Officer or the Customs Inspector is satisfied that the provisions of Section 58, and, if necessary, of Clauses (b), (c) and (d) of Section 59, have been complied with, he shall grant a port-clearance to the Master, and shall return at the same time to such Master one copy of the manifest duly countersigned by such Officer.

61. Notwithstanding anything contained in Sections 59 and 60, the Chief Customs Officer or the Customs Inspector may (subject to such Rules as Our Government may prescribe and publish in the Gazette) grant a port-clearance to the Master when the ship's agent furnishes such security as such Officer deems sufficient, for duly delivering within five days from the date of such grant the manifest and other documents specified in Section 58.

CHAPTER VIII.

GENERAL PROVISIONS AFFECTING VESSELS IN PORT.

62. The Chief Customs Officer or the Customs Inspector of any Port may, at any time, depute, at his discretion, one or more Officers of Customs to board any vessel in or arriving at such Port. Every Officer of Customs so sent shall remain on board of such vessel by day and night unless or until the Chief Customs Officer or the Customs Inspector otherwise directs.

63. Whenever an Officer of Customs is so deputed on board of any vessel, the Master of such vessel shall be bound to receive on board such Officer and one servant of such Officer and to provide such Officer and servant with suitable shelter and accommodation, and likewise with a due allowance of fresh water, and with the means of cooking on board.

64. Every Officer of Customs so deputed shall have free access to every part of the vessel, and may fasten down any hatchway or entrance to the hold, and mark any goods before landing, and lock up, seal, mark or otherwise secure any goods on board such vessel.

If any box, place or closed receptacle in any such vessel be locked, and the key be withheld, such Officer shall report the same to the Chief Customs Officer or the

Customs Inspector, who may thereupon issue to the Officer on board, or to any other Officer under his authority, a written order to search.

On production of such order, the Officer bearing the same may require that any such box, place or closed receptacle be opened in his presence; and if it be not opened upon his requisition, he may break open the same.

65. Unless with the written permission of the Chief Customs Officer or the Customs Inspector, or unless in accordance with a general permission granted under Section 69, no goods, other than passengers' baggage, or ballast urgently required to be shipped for the vessel's safety, shall be shipped, or water-borne to be shipped, or discharged from any vessel, in any Customs-port, except in the presence of an Officer of Customs.

Goods not to be shipped, discharged or water-borne except in presence of Officer.

66. When an Officer of Customs is deputed under Section 62 to remain on board a vessel, the tonnage of which does not exceed six hundred tons, a period of twenty working days, reckoned from the date on which he boards such vessel, or such longer period as the Chief Customs Officer or the Customs Inspector directs, shall be allowed for the discharge of import-cargo and the shipment of export-cargo on board of such vessel.

Period allowed for discharge and shipment of cargo.

One additional day shall, in like manner, be allowed for every fifty tons in excess of six hundred.

No charge shall be made for the services of a single Officer of Customs for such allowed number of working days, or for the services of several such Officers (if available) for respective periods not exceeding in the aggregate such allowed number of working days.

Sec. 66. Under Sec. 71 of the Indian Act the period specifically allowed is thirty working days instead of twenty.

If the period occupied in the discharge and shipment of cargo be in excess of twenty working days, together with the additional period (if any) allowed under this Section, the vessel shall be charged with the expense of the Officer of Customs, at a rate not exceeding rupees five per diem (Sundays and holidays excepted) for such excess period.

In calculating any period allowed, or any charge made, under this Section, the period (if any) during which a vessel, after the completion of the discharge of import-cargo and before commencing the shipment of export-cargo, is laid up by the withdrawal of the Officer of Customs, upon application from the Master, shall be deducted.

67. Except with the written permission of the Chief Customs Officer or the Customs Inspector, no goods, other than passengers' baggage, shall, in any Customs-port, be discharged from any vessel, or be shipped or water-borne to be shipped—

(a) on any Sunday, or on any holiday, or any day on which the discharge or shipping of cargo, as the case may be, is prohibited by Our Government,

(b) on any day, except between such hours as Our Government may fix by Notification in the Gazette.

68. No goods shall, in any Customs-port, be landed in any place other than a wharf notified under Section 10 or other place appointed for the landing of the particular goods by the Port Officer; and before any goods are discharged from a vessel into boats for the purpose of being landed, the Master of the vessel, or the owner of the goods if they are to be landed by the latter, shall notify to the Port

Sec. 68. The words "and the corresponding Sec. 73 of before any goods leave the the Indian Act. vessel's side" are not found in

Officer the place where he wishes to land the goods ; and if this place is not a duly notified wharf, the consent of the Port Officer must be obtained to the landing before the boats leave the vessel's side.

Unless with the written permission of the Port Officer, or unless under a general permission granted under Section 69, no goods shall, in any Customs-port, be shipped or water-borne to be shipped from any place other than a wharf notified under Section 10 or other place duly appointed for that purpose by the Port Officer.

69. Notwithstanding anything contained in Section 65 or Section 68, Our Government may, by Notification in the Gazette, give general permission for goods to be shipped or water-borne to be shipped in any Customs-port, from all or any places not duly appointed as wharves, and without the presence or authority of an Officer of Customs.

Power to exempt from Sections 65 and 68.

70. Our Government may make Rules for the landing and shipping of passengers' baggage and the passing of the same through the Customs-house.

Power to make Rules regarding baggage.

When any baggage or parcels is or are made over to an Officer of Customs for the purpose of being landed, a fee of such amount as Our Government may prescribe, shall be chargeable thereon, as compensation for the expense and trouble incurred in landing and depositing the same in the Customs-house.

Landing fees.

71. When any goods are water-borne for the purpose of being landed from any vessel and ware-housed or cleared for home-consumption, or for the purpose of being shipped for exportation on board of any vessel, there shall be sent, with each boat-load or other separate despatch, a boat-note specifying the number of packages so sent and the marks and numbers or other description thereof.

Boat-note.

Each boat-note for goods to be landed shall be signed by an Officer of the vessel, and likewise by the Officer of

Customs on board, if any such Officer be on board, and shall be delivered on arrival to any Officer of Customs authorised to receive the same.

Each boat-note for goods to be shipped shall be signed by the proper Officer of Customs, and if an Officer of Customs is on board of the vessel on which such goods are to be shipped, shall be delivered to such Officer. If no such Officer be on board, every such boat-note shall be delivered to the Master of the vessel, or to an Officer of the vessel appointed by him to receive it.

The Officer of Customs who receives any boat-note of goods landed, and the Officer of Customs, Master, or other Officer, as the case may be, who receives any boat-note of goods shipped, shall sign the same and note thereon such particulars as the Controlling Officer of Customs may direct.

Our Government may, by Notification in the Gazette, suspend the operation of this Section in any Customs-port or part thereof.

72. All goods water-borne for the purpose of being landed or shipped, shall be landed or shipped without any unnecessary delay.

Goods water-borne to be landed or shipped.

73. Except in cases of imminent danger, no goods discharged into or loaded in any boat for the purpose of being landed or shipped, shall be transhipped into any other boat without the permission of an Officer of Customs.

Such goods not to be transhipped without permission.

74. Our Government may declare, with regard to any Customs-port, by Notification in the Gazette, that, after a date therein specified, no boat, not duly licensed and registered, shall be allowed to ply for the landing and shipping of merchandise, or for embarking or landing passengers, within the limits of such Port.

Power to prohibit plying of unlicensed cargo boats.

In any Port with regard to which such Notification has been issued, the Chief Customs Officer or the Customs Inspector, or other Officer appointed in this behalf, may, subject to such Rules and on payment of such fees as Our Government may prescribe by Notification in the Gazette, issue licenses for, and register boats. Such Officer may also, subject to Rules so prescribed, cancel any license so issued.

75. The Chief Customs Officer or the Customs Inspector may whenever he thinks fit, require that goods stowed in bulk, and brought by sea or intended for exportation, shall be weighed or measured on board-ship before landing or after shipment and may levy duty according to the result of such weighing or measurement.

CHAPTER IX.

OF DISCHARGE OF CARGO AND ENTRY INWARDS OF GOODS.

76. When an order for entry inwards of any vessel which has arrived in any Customs-port, or a special pass permitting such vessel to break bulk, has been given, the discharge of the cargo of such vessel may be proceeded with.

77. Except as otherwise provided in this Act, no goods shall be allowed to leave any such vessel, unless they are entered in the original manifest of such vessel, or in an amended or supplementary manifest received under Section 50.

78. If the owner of any goods (except such as have been shown in the import-manifest as not to be landed) does not land such goods or any portion thereof within such period as is specified in the bill-of-lading of such goods, or if

Sec. 78. In paragraph 1 of Indian Act has the words this Section for the words "within such number of working days not exceeding fifteen." In paragraph 4 the words "within such time not exceeding fifteen days" the

no period is so specified, within such time (not exceeding fifteen days after the entry of the vessel importing the same) as Our Government may appoint by Notification in the Gazette, or,

if the cargo of any vessel, with the exception of only a small quantity of goods, has been discharged previously to the expiration of the period so specified or appointed, as the case may be—

the Master of such vessel, or on his application, the proper Officer of Customs, may carry such goods or such portion thereof, as the case may be, to the Customs house, there to remain for entry.

The Chief Customs Officer or the Customs Inspector shall thereupon take charge of, and grant receipts for such goods and deliver them to the owner after satisfying himself that all customs dues have been paid ; but if notice in writing has been given by the Master that the goods are to remain subject to a lien for freight, primage, general average or other charges of a stated amount, such Officer shall hold such goods until he receives notice in writing that the said charges have been paid.

79. At any time after the arrival of any vessel, the Chief Customs Officer or the Customs Inspector may, with the consent of the Master of such vessel, cause any small package or parcel of goods to be carried to the Customs-house, there to remain for entry in charge of the Officers of Customs, during the remainder of the time allowed under this Act for the landing of such package or parcel :

If any package or parcel so carried to the Customs-house remain unclaimed on the expiration of the time allowed for its landing, or at the time of the clearance outwards of the vessel from which it was landed, the Master may apply, as provided in Section 78, and the Officer in charge of the Customs-house shall thereupon hold such package or parcel as provided in that Section.

“deliver them to the owner after satisfying himself that all customs dues have been paid but” do not occur in the Indian Act.

80. Notwithstanding anything contained in Sections 78 and 79, the Chief Customs Officer or the Customs Inspector, in any Customs-port to which Our Government may, by Notification in the Gazette, declare this Section to be applicable, may permit the Master of any vessel, immediately on receipt of an order under Section 52 or special pass under Section 54, to discharge the cargo of such vessel or any portion thereof into the custody of the ship's agents if willing to receive the same, for the purpose of landing the same forthwith at the Customs-house or any specified landing place or wharf and depositing it in such place as may be indicated by such Officer.

Any ship's agent so receiving such cargo or portion thereof, shall be bound to discharge all claims for damage or short delivery which may be established in respect of the same by the owner thereof, and shall be entitled to recover from such owner his charges for service rendered, but not for commission or the like, where any agent for the landing of such cargo or portion has been previously appointed by the owner and such appointment is unrevoked, provided that the charges for landing the goods and conveying the same to the place indicated shall not be in excess of such rates as may be sanctioned by Our Government for the particular Port.

The Chief Customs Officer or the Customs Inspector shall take charge of goods discharged under this Section, and otherwise proceed in relation thereto, as provided in Sections 78 and 83.

81. The owner of any goods imported shall, on the landing thereof from the importing ship, make entry of such goods for home-consumption or warehousing, by deliveriny to the Chief Customs Officer or the Customs Inspector, a bill-of-entry thereof, together with such number of copies of the same, in such Form and containing such particulars, as the Controlling Officer of Customs may prescribe.

Sec. 80. The words at the end of the first paragraph "and depositing it.....such officer" and the proviso to the second paragraph are not found in the Indian Act.

The particulars of such entry shall correspond with the particulars given of the same goods in the manifest of the ship.

82. On the delivery of such bill, the duty (if any) leviable on such goods shall be assessed, and the owner of such goods may then proceed to clear the same for home-consumption, or ware-house them, subject to the provisions hereinafter contained.

Assessment of dutiable goods.

83. If any goods are not entered and cleared for home-consumption or ware-housed, within two months from the date of entry of the vessel, such goods may, after due notice to the owner, if his address can be ascertained, be sold by public auction, and the proceeds thereof shall be applied, first, to the payment of freight, primage and general average, if the goods are held by the Chief Customs Officer or the Customs Inspector subject to such charges, under notice given under Section 78, 79 or 80 ; next, to the payment of the duties which would be leviable on such goods if they were then cleared for home-consumption, and next, to the payment of the other charges (if any) payable to such Officer in respect of the same.

Procedure in case of goods not cleared or ware-housed.

The surplus, if any, shall be paid to the owner of the goods, provided that he applies for the same within one year from date of sale.

If any goods of which the Chief Customs Officer or the Customs Inspector has taken charge under Section 78, 79 or 80 be of a perishable nature, such Officer may, at any time, direct the sale thereof, and shall apply the proceeds in like manner :

Power to direct sale of perishable goods.

Provided that, where any goods liable to be sold under this Section are arms, ammunition or military stores, they may be sold or otherwise disposed of, at such place and in such manner as Our Government may direct :

Provided also that, nothing in this Section shall authorise the removal for home-consumption of any dutiable goods without payment of the duties due thereon.

CHAPTER X.

CLEARANCE OF GOODS FOR HOME-CONSUMPTION.

84. When the owner of any goods entered for home-consumption, and (if such goods are liable to duty) assessed under Section 82, has paid the import duty (if any) assessed on such goods, and any charges payable under this Act in respect of the same, the Chief Customs Officer or the Customs Inspector may make an order clearing the same; and such order shall be sufficient authority for the removal of the goods by the owner.

CHAPTER XI.

WARE-HOUSING.

Of the Admission of Goods into a Ware-house.

85. When any dutiable goods have been entered for ware-housing and assessed under Section 82, the owner of such goods may apply for leave to deposit the same in any ware-house appointed or licensed under this Act.

86. Every such application shall be in writing, signed by the applicant, and shall be in such Form as may be prescribed by the Controlling Officer of Customs.

87. When any such application has been made in respect of any goods, the owner of the goods to which it relates shall execute a bond, binding himself, in a penalty of twice the amount of the duty assessed under Section 82 on such goods,—

- (a) to observe all Rules prescribed by this Act in respect of such goods;
- (b) to pay, on demand, all duties, rent and charges claimable on account of such goods

Sec. 87 (b). The Indian Act requires only six per cent. interest.

under this Act, together with interest on the same from the date of demand, at such rate, not exceeding twelve per cent. per annum, as may be fixed by Our Government; and

- (c) to discharge all penalties incurred for violation of the provisions of this Act in respect of such goods.

Every such bond shall be in such Form as may be prescribed by the Controlling Officer of Customs and shall relate to the cargo or portion of the cargo of one vessel only.

88. When the provisions of Sections 86 and 87 have been complied with in respect of any goods, such goods shall be forwarded in charge of an Officer of Customs to the ware-house in which they are to be deposited.

A pass shall be sent with the goods, specifying the names of the importing vessel and of the bonder, the marks, numbers and contents of each package, and the ware-house or place in the ware-house wherein they are to be deposited.

89. On receipt of the goods, the pass shall be examined by the ware-house-keeper, who shall return it in due course to the Chief Customs Officer or the Customs Inspector.

No package, butt, cask or hogshead, shall be admitted into any ware-house, unless it bears the marks and numbers specified in, and otherwise corresponds with, the pass for its admission.

If the goods are found to correspond with the pass, the ware-house-keeper shall certify to that effect on the pass and the ware-housing of such goods shall be deemed to have been completed.

If the goods do not so correspond, the fact shall be reported by the ware-house-keeper for the orders of the Chief Customs Officer or the Customs Inspector, and the

Goods shall either be returned to the Customs-house in charge of an Officer of Customs, or kept in deposit pending such orders, as the ware-house-keeper deems most convenient.

If the quantity or value of any goods has been erroneously stated in the bill-of-entry, the error may be rectified at any time before the ware-housing of the goods is completed, but not subsequently.

90. Except as provided in Section 95, all goods shall be ware-housed in the packages, butts, casks or hogsheads in which they have been imported.

Goods how ware-housed.

91. Whenever any goods are lodged in a public ware-house or a licensed private ware-house, the ware-house-keeper shall deliver a warrant, signed by him as such, to the person lodging the goods.

Warrant to be given when goods are ware-housed.

Such warrant shall be in such Form as may be prescribed therefor by the Controlling Officer of Customs, and it shall be transferable by endorsement; the endorsee shall be entitled to receive the goods specified in such warrant on the same terms as those on which the person who originally lodged the goods would have been entitled to receive the same.

Form of warrant.

Rules relating to Goods in a Ware-house.

92. The Chief Customs Officer, or the Customs Inspector, or any Officer deputed by either for the purpose, shall have access to any private ware-house licensed under this Act.

Access of Customs Officers to private ware-house.

93. The Chief Customs Officer or the Customs Inspector may, at any time, by order in writing, direct that any goods or packages lodged in any ware-house shall be opened, weighed or otherwise examined, and, after any goods have been so opened or examined, may cause the same to be sealed or marked in such manner as he thinks fit.

Power to cause package or goods to be opened and examined.

When any goods have been so sealed and marked after examination, they shall not again be opened without the permission of the Chief Customs Officer or the Customs Inspector, and when any such goods have been opened with such permission, the packages shall, if such Officer thinks fit, be again sealed or marked as before.

94. Any owner of goods lodged in a ware-house shall at any time within the authorised hours of business, have access to his goods in presence of an Officer of Customs and an Officer of Customs shall, upon application for the purpose being made in writing to the Chief Customs Officer or the Customs Inspector, be deputed to accompany such owner.

Access of owner to ware-housed goods.

95. With the sanction of the Chief Customs Officer or the Customs Inspector, and after such notice given, and under such Rules and conditions as Our Government may prescribe, any owner of goods may, after ware-housing the same,—

Owner's power to deal with ware-housed goods.

(a) sort, separate, pack and re-pack the goods, and make such alterations therein as may be necessary for the preservation, sale, shipment or disposal thereof, such goods to be re-packed in packages in which they were imported or in such other packages as the Chief Customs Officer or the Customs Inspector may permit ;

(b) take such samples of goods as may be allowed by the Chief Customs Officer or the Customs Inspector with or without entry for home-consumption, and with or without payment of duty, except such as may eventually become payable on a deficiency of the original quantity.

Sec. 94. The corresponding Sec. 99 of the Indian Act contains a second paragraph providing for payment by the owner of a sum to meet

the expenses incurred by the Officer specially employed to accompany the owner if the customs collector so requires.

After any such goods have been so separated and re-packed in proper or approved packages, the Chief Customs Officer or the Customs Inspector may, at the request of the owner of such goods, cause or permit any refuse, damaged or surplus goods remaining after such separation or re-packing, or at the like request, any goods which may not be worth the duty, to be destroyed, and may remit the duty payable thereon.

96. If goods be lodged in a public ware-house, the owner shall pay monthly, on receiving a written demand for the same from the Chief Customs Officer or the Customs Inspector, rent and ware-house dues at such rates as the Controlling Officer of Customs may fix. A Table of the rates of rent and ware-house dues so fixed shall be placed in a conspicuous part of such ware-house.

If any written demand for rent or ware-house dues presented under this Section is not discharged within seven days from the date of presentation, the Chief Customs Officer or the Customs Inspector may, in the discharge of such demand (any transfer or assignment of the goods notwithstanding) cause to be sold by public auction, such sufficient portion of the goods as he may select.

Out of the proceeds of such sale, the Chief Customs Officer or the Customs Inspector shall first satisfy the demand for the discharge of which the sale was ordered, and shall then pay over the surplus, if any, to the owner of the goods :

Provided that the owner applies for such payment within one year from the date of sale.

97. No ware-housed goods shall be taken out of any ware-house except on clearance for home-consumption, or for shipment, or for removal to another ware-house, or as otherwise provided by this Act.

Sec. 96. The time allowed for payment of dues under the Indian Act is ten days and the *Proviso* there reads thus:—
 “Provided that the application for such surplus be made within one year from the date of sale of the goods or that sufficient cause be shown for not making it within such period.”

98. Any goods ware-housed may be left in the ware-house in which they are deposited, or in any ware-house to which they may, in manner hereinafter provided, be removed, till the expiry of one year, or such longer period as Our Government may by Notification in the Gazette prescribe, after the date of the bond executed in relation to such goods under Section 87. The owner of any goods remaining in a ware-house on the expiry of such period shall clear the same for home-consumption or for shipment, in manner hereinafter provided :

Period for which goods may remain ware-housed under bond.

Goods in private ware-house on cancellation of license.

Provided that, when the license for any private ware-house is cancelled, and the Chief Customs Officer or the Customs Inspector gives notice of such cancellation to the owner of any goods deposited in such ware-house, such owner shall, in manner hereinafter provided, and within seven days from the date on which such notice is given, remove such goods to another ware-house, or clear them for home-consumption or for shipment.

Of the removal of Goods from one Ware-house to another.

99. Any owner of goods ware-housed under this Act may, at any time within one year (or such longer period as Our Government may prescribe) from the date of the bond executed in respect of such goods under Section 87, and with the permission of the Chief Customs Officer or the Customs Inspector, and on such conditions and after giving such security (if any) as such Officer directs, remove goods from one ware-house to another ware-house in the same Port.

When any owner desires so to remove any goods, he shall apply for permission to do so in such Form as the Controlling Officer of Customs may prescribe.

Secs. 98 and 99. The period under the corresponding Sections 103 and 104 of the Indian Act is three years and no power is reserved for extending the period.

100. Any owner of goods ware-housed at any warehousing Port may from time to time, within the said period of one year or such longer period as has been sanctioned by Our Government, remove the same by sea or by inland carriage, in order to be re-ware-housed at any other warehousing Port.

Owner to remove goods from one Port to another.

When any owner desires so to remove any goods for such purpose, he shall apply to the Controlling Officer of Customs, stating the particulars of the goods to be removed, and the name of the Port to which it is intended that they shall be removed, together with such other particulars, and in such manner and Form, as such Controlling Officer of Customs may prescribe.

Procedure.

101. When permission is granted for the removal of any goods from one warehousing Port to another under Section 100, an account, containing the particulars thereof, shall be transmitted by the proper Officer of the Port of removal to the proper Officer of the Port of destination; and the person requiring the removal shall, before such removal, enter into a bond, with one sufficient surety, in a sum equal to twice the duty chargeable on such goods, for the due arrival and re-ware-housing thereof at the Port of destination, within such time as the Controlling Officer of Customs directs.

Transmission of accounts of goods to Officers at Port of destination. Bond for due arrival and re-ware-housing.

Such bond may be taken by the proper Officer, either at the Port of removal or at the Port of destination, as best suits the convenience of the owner.

If such bond is taken at the Port of destination, a certificate thereof, signed by the proper Officer of such Port, shall, at the time of the removal of such goods, be produced to the proper Officer at the Port of removal; and such bond shall not be discharged unless such goods are produced to the proper Officer, and duly re-ware-housed at the Port of destination, within the time allowed for such removal, or are otherwise accounted for to the

satisfaction of such Officer ; nor until the full duty due upon any deficiency of such goods, not so accounted for, has been paid.

102. The Controlling Officer of Customs may permit any person desirous of removing ware-housed goods to enter into a general bond, with such sureties, in such amount and under such conditions, as such Controlling Officer of Customs approves, for the removal, from time to time, of any goods from one ware-house to another, either in the same or in a different Port, and for the due arrival and re-ware-housing of such goods at the Port of destination, within such time as such Officer directs.

103. Upon the arrival of ware-housed goods at the Port of destination, they shall be entered and ware-housed in like manner as goods are entered and ware-housed on the first importation thereof and under the laws and Rules, in so far as such laws and Rules are applicable, which regulate the entry and ware-housing of such last mentioned goods.

104. Every bond executed under Section 87 in respect of any goods shall, unless the Chief Customs Officer or the Customs Inspector in any case deems a fresh bond to be necessary, continue in force notwithstanding the subsequent removal of such goods to another ware-house or ware-housing Port.

Clearance for Home-consumption or Shipment.

105. Any owner of goods ware-housed may, at any time within the period mentioned in Section 98, clear such goods for home-consumption, by paying, (a) the duty assessed on such goods, or where the duty on such goods is altered, such altered duty, and (b) all rent, penalties, interest and other charges, if any, payable in respect of such goods.

106. Any owner of goods ware-housed may, at any time within the period mentioned in Section 98, clear such goods for shipment to a foreign Port on payment of all rent, penalties, interest and other charges payable as aforesaid, and without payment of import duty on the same :

Clearance of same for shipment to foreign Port.

Provided that Our Government may prohibit the shipment for exportation to any specified foreign Port, of ware-housed goods in respect of which payment of drawback or transshipment has been prohibited under Section 45 or 128 respectively.

107. Provisions and stores ware-housed at the time of importation may, within the said period, be shipped without payment of duty, for use on board of any vessel proceeding to a foreign Port.

Clearance of same for shipment as provisions, &c., on vessels proceeding to foreign Port.

108. Applications to clear goods from any ware-house for home-consumption or for shipment, shall be made in such Form as the Controlling Officer of Customs may prescribe.

Form of application for clearance of goods.

Such applications shall ordinarily be made to the Chief Customs Officer or the Customs Inspector at least twenty-four hours before it is intended so to clear the goods.

Application when to be made.

109. If any goods, upon which duties are leviable *ad valorem* or on a tariff valuation, receive damage through unavoidable accident, after they have been entered for ware-housing and assessed under Section 82, and before they are cleared for home-consumption, they shall, if the owner so desires, be re-assessed for duty according to their actual value, and a new bond for the same may, at the option of the owner, be executed for the unexpired term of ware-housing.

Re-assessment of ware-housed goods, when damaged.

110. If, after any goods entered for ware-housing have been assessed under Section 82, any alteration is made in the duty leviable upon such goods, or in the tariff valuation (if any) applicable thereto, such goods shall be re-assessed in accordance with such alteration.

Re-assessment on alteration of duty or tariff valuation.

111. If it appear, at the time of clearing any wine, spirit or beer from any ware-house for home-consumption, that there exists a deficiency not otherwise accounted for to the satisfaction of the Chief Customs Officer or the Customs Inspector, an allowance on account of ullage and wastage shall be made in adjusting the duties thereon, as follows (namely) :—

Allowance in case of wine, spirit or beer.

upon wine, spirit and beer in cask to an extent not exceeding the rates specified below, or such other rates as may be prescribed in this behalf by Our Government and notified in the Gazette :—

For any time not exceeding six months, two and a half per cent.

„ exceeding six months and not exceeding twelve months, five per cent.

For any longer time which may be sanctioned by Our Government under Sections 98 and 99, a further allowance may be made at the rate of two and a half per cent. for every extra six months, provided that the total allowance shall not exceed twelve per cent.

112. When any wine, spirit or beer lodged in a ware-house is found to be deficient at the time of the delivery therefrom, and such deficiency is proved to be due solely to ullage or wastage, the Controlling Officer of Customs may direct, in respect of any such article, that allowance shall be made in any special case for a rate of ullage or wastage exceeding that contemplated in Section 111.

Further special allowance.

Sec. 111. The corresponding Sec. 116 of the Indian Act makes allowance for salt also.

Of the Forfeiture and Discharge of the Bond.

113. If any ware-housed goods are removed from the ware-house in contravention of Section 97, or

When goods are improperly removed from ware-house or allowed to remain beyond time fixed.

if any such goods have not been removed from the ware-house at the expiration of the time during which such goods are permitted by Section

98 to remain in such ware-house ; or

if any goods in respect of which a bond has been executed under Section 87, and

Or lost or destroyed.

which have not been cleared for home-consumption or for shipment,

or removed under this Act, or are lost or destroyed otherwise than as provided in Section 95, or as mentioned in Section 117, or are not accounted for to the satisfaction of the Chief Customs Officer or the Customs Inspector, or

if any such goods have been taken under Section 95 as samples without payment of duty,

such Officer may thereupon demand, and the owner

The Customs Officer may demand duty, &c.

of such goods shall forthwith pay, the full amount of duty chargeable on account of such goods, together with all rent, penalties, interest and other charges payable to such Officer

on account of the same.

114. If any owner fails to pay any sum so demanded, the Chief Customs Officer or the

Procedure on failure to pay duty, &c.

Customs Inspector may forthwith either proceed upon the bond executed under Section 87, or cause such

portion as he thinks fit of the goods (if any) in the ware-house, on account of which the amount is due, to be detained with a view to the recovery of the demand ;

and if the demand is not discharged within seven days from the date of such detention (due notice thereof

Sec. 114. The period allowed under the corresponding Sec. 119 of the Indian Act is ten days instead of 7 days. Also the third paragraph of that

Sec. has at its end the words "or that sufficient cause be shown for not making the application within such period."

being given to the owner), the goods so detained may be sold by public auction duly advertised in the Gazette.

The net proceeds of any sale so made of goods so detained, shall be written off upon the bond in discharge thereof, to the amount received, and if any surplus be obtained from such sale beyond the amount of the demand, such surplus shall be paid to the owner of the goods: Provided that application for the same is made within one year from the date of sale.

No transfer or assignment of the goods shall prevent the Chief Customs Officer or the Customs Inspector from proceeding against such goods in the manner above provided, for any amount due thereon.

115. When any ware-housed goods are taken out of any ware-house, the Chief Customs Officer or the Customs Inspector shall cause the fact to be noted on the back of the bond.

Every note so made shall specify the quantity and description of such goods, the purpose for which they have been removed, the date of removal, the name of the person removing them, the number and date of the shipping-bill under which they have been taken away if removed for exportation by sea, or of the bill-of-entry if removed for home-consumption, and the amount of duty paid (if any).

116. A register shall be kept of all bonds entered into for Customs duties on ware-housed goods, and entry shall be made in such register of all particulars required by Section 115 to be specified.

When such register shows that the whole of the goods covered by any bond have been cleared for home-consumption or for shipment, or otherwise duly accounted for, and when all amounts due on account of such goods have been paid, the Chief Customs Officer or the Customs Inspector shall cancel such bond as discharged in full, and shall on demand deliver it, so cancelled, to the person who has executed it or who is entitled to receive it.

Miscellaneous.

117. If any goods, in respect of which a bond has been executed under Section 87 and which have not been cleared for home-consumption, are lost or destroyed by unavoidable accident or delay, Our Government may, in their discretion, remit the duties due thereon :

Power to remit duties on ware-housed goods lost or destroyed.

Provided that, if any such goods be so lost or destroyed in a private ware-house, notice thereof should be given to the Chief Customs Officer or the Customs Inspector, within forty-eight hours after the discovery of such loss or destruction.

118. The ware-house-keeper in respect of goods lodged in a public ware-house, and the licensee in respect of goods lodged in a private ware-house, shall be responsible for their due reception therein and delivery therefrom, and for their safe custody while deposited therein, according to the quantity, weight or gauge reported by the Officer of Customs who has assessed the goods and entered in the accounts, allowance being made, if necessary, for ullage and wastage as provided in Sections 111 and 112.

Responsibility of ware-house-keeper.

Provided that no owner of goods shall be entitled to claim from the Chief Customs Officer, or from the Customs Inspector, or from any keeper of a public ware-house, compensation for any loss or damage occurring to such goods while they are being passed into or out of such ware-house, or while they remain therein, unless it be proved that such loss or damage was occasioned by the wilful act or culpable neglect of the ware-house-keeper or of any Officer of Customs.

Compensation for loss or injury.

119. Every public ware-house shall be under the lock and key of a ware-house-keeper appointed for that purpose.

Public ware-house to be locked.

120. The Controlling Officer of Customs may determine in what division of any public ware-house, and in what manner and on what terms, any goods may be deposited, and what sort of goods may be deposited in any such ware-house.

Power to decide where goods may be deposited in public ware-houses.

121. The expenses of carriage, packing and stowage of goods, on their reception into or removal from a public ware-house, shall, if paid by the Chief Customs Officer, or the Customs Inspector, or by the ware-house-keeper, be chargeable on the goods, and be defrayed by, and recoverable from, the owner, in the manner provided in Section 114.

Expenses of carriage, packing etc., to be borne by owners.

CHAPTER XII.

TRANSHIPMENT.

122. The Chief Customs Officer or the Customs Inspector may, on application by the owner of any goods imported into a Port, and specially and distinctly manifested at the time of importation as for transhipment to some other Customs or foreign Port, grant leave to tranship the same without payment of the duty, if any, leviable at the Port of transhipment :

Power to permit transhipment.

Provided that, where the goods so transhipped are dutiable and are to be removed to some other Customs-port, the applicant shall enter into a bond, with such security as may be required of him, in a sum equal to twice the duty chargeable on such goods, for the due arrival and entry thereof at the Port of destination within such time as such Officer directs.

123. An Officer of Customs shall, in every case, be deputed, free of charge to superintend the removal of transhipped goods from vessel to vessel.

Superintendence of transhipment.

124. Transhipment shall be performed subject to such Rules as may be made by Our Government and published in the Gazette.

Rules as to transhipment.

125. All goods transhipped under Section 122 for removal to a Customs-port, shall, on their arrival at such Port, be entered in like manner as goods are entered on the first importation thereof, and under the laws and Rules, in so far as such laws and Rules can be made applicable, which regulate the entry of such last mentioned goods.

126. If two or more vessels, belonging wholly or in part to the same owner, be at any Customs-port at the same time, any provisions and stores in use or ordinarily shipped for use on board may, with the permission of the Chief Customs Officer or the Customs Inspector, be transhipped from one such vessel to any other such vessel without payment of import duty.

127. A transhipment fee on any goods, or class of goods, transhipped under this Act, may be levied, at such rates, and under such Rules, as Our Government may, by Notification in the Gazette, prescribe for each Port.

128. Our Government may, by Notification in the Gazette, prohibit, at any specified Port, or at all Ports, the transhipment of any specified class of goods generally, or when destined for any specified Ports; or prescribe any special mode of transhipping any specified class of goods.

129. Except as provided in this Act, no goods shall be transhipped at any Port or place in Travancore.

CHAPTER XIII.

EXPORTATION OR SHIPMENT AND RE-LANDING.

130. Except with the written permission of the Chief Customs Officer or the Customs Inspector, no goods, other than passengers' baggage or ballast urgently required for a vessel's safety, shall be shipped, or water-borne to be

shipped, in any vessel in a Customs-port until an order has been obtained under Section 56 for entry outwards of such vessel.

When such order has been obtained, the export cargo of such vessel may be shipped, subject to the provisions next hereinafter contained.

131. Unless Our Government shall, in the case of any Customs-port or wharf, or of any class of goods, otherwise direct by Notification in the Gazette, no goods, except passengers' baggage, shall be shipped or water-borne to be shipped for exportation, until—

Clearance for shipment.

- (a) the owner has delivered to the proper Officer of Customs a shipping-bill of such goods, in duplicate, in such Form and containing such particulars, in addition to those specified in Section 30, as the Controlling Officer of Customs may prescribe ;
- (b) such owner has paid the duties (if any) payable on such goods ; and
- (c) such bill has been passed by the Chief Customs Officer or the Customs Inspector.

132. Before any ware-housed goods, or goods subject to Excise duties, or goods entitled to drawback of Customs duties on exportation, or goods exportable only under particular Rules or restrictions, are permitted to be exported, the owner shall, if required so to do, give security by bond in such sum, not exceeding twice the duty leviable on such goods, as the Chief Customs Officer or the Customs Inspector may direct, with one sufficient surety, that such goods shall be duly shipped, exported and landed at the place for which they are entered outwards or otherwise accounted for to the satisfaction of such Officer.

Bond required in certain cases before exportation.

Sec. 131. The words corresponding to "unless..... Gazette" have been repealed and a *Proviso* added in the Indian Act by Act XII of 1914.

133. When goods are cleared for shipment on a shipping-bill presented after port-clearance has been granted, additional charge on goods declared for shipment after port-clearance granted. Additional duty may, subject to any Rules framed by Our Government in this behalf and published in the Gazette, be levied beyond any duty to which such goods are ordinarily liable, not exceeding—

(a) in the case of goods liable to duties on fixed tariff valuations, one per cent. on the tariff value ;

(b) in the case of all other goods, one per cent. on the market value.

134. If any goods mentioned in a shipping-bill or manifest be not shipped, or be shipped and afterwards re-landed, the owner shall, before the expiration of five clear working days after the vessel on which such goods were intended to be shipped, or from which they were re-landed, has left the Port, give information of such short-shipment or re-landing, to the Chief Customs Officer or the Customs Inspector.

The Controlling Officer of Customs may order the refund of any duty levied upon goods not shipped, or upon goods shipped and afterwards re-landed, to the person on whose behalf such duty was paid, provided that no such refund shall be ordered unless information has been given as above required.

135. If, after having cleared from any Customs-port, any vessel, without having discharged her cargo, returns to such Port, or puts into any other Customs-port, any owner of goods in such vessel, if he desires to land or tranship the same or any portion thereof for re-export, may, with the consent of the Master, apply to the Chief Customs Officer or the Customs Inspector in that behalf.

Such Officer, if he grants the application, shall thereupon send an Officer of Customs to watch the vessel and to take charge of such goods during such re-landing or transhipment.

Such goods shall not be allowed to be transhipped or re-exported free of duty by reason of the previous settlement of duty at the time of first export, unless they are lodged, and remain until the time of re-export under the custody of an Officer of Customs, in a place appointed by the Chief Customs Officer or the Customs Inspector, or are transhipped under such custody.

All expenses attending such custody shall be borne by the owner.

136. In either of the cases mentioned in Section 135, the Master of the vessel may enter such vessel inwards, and any owner of goods therein may, with the consent of the Master, land the same under the Rules herein contained for the importation of goods.

Vessels returning to Port may enter and land goods under import Rules.

In every such case, any export duty levied shall be refunded to, and any amount paid in drawback shall be recovered from, such owner.

137. The Chief Customs Officer or the Customs Inspector may, on application by the Master of any vessel which is obliged before completing her voyage, to put into any Customs-port for repairs, permit him to land the cargo, or any portion thereof, and to place it in the custody of an Officer of Customs during such repairs, and to re-ship and export the same free of duty. All expenses attending such custody shall be borne by the Master.

Landing of cargo during repairs.

CHAPTER XIV.

COASTING-TRADE.

138. Except as hereinafter provided, nothing in Chapters VII, IX, X and Sections 130, 133 and 135 to 137 inclusive, of this Act, shall apply to coasting vessels or to goods imported or exported in such vessels.

Chapters VII, IX, X and part of XIII inapplicable to coasting-trade.

139. Our Government may make Rules, consistent with the provisions of this Chapter,—
- Power to regulate coasting-trade. (a) extending any provision of the Chapters and Sections mentioned in Section 138, with or without modification, to any coasting vessels, or to any goods imported or exported in such vessels ;
- (b) exempting any such vessels or goods from any of the other provisions of this Act, except those contained in this Chapter ;
- (c) prescribing the conditions on which goods, or any specified class of goods, (i) may be carried in a coasting vessel, whether shipped at a foreign Port, or at a Customs-port, or at a place declared under Section 11 to be a Port, or (ii) may be shipped in a coasting vessel before all dutiable goods and goods brought in such vessel from a foreign Port have been unladen ;
- (d) prohibiting the conveyance of any specified class of goods, generally, or to or between specified Ports, in a coasting vessel.

140. Before any coasting vessel departs from the Port of lading, or when there are more Ports of lading than one, the first Port of lading, the Master shall fill in, sign and deliver to the Chief Customs Officer or the Customs Inspector, a manifest in duplicate, containing a true specification of all goods to be carried in such vessel, in such Form and accompanied by such shipping-bills or other documents as may be prescribed by the Controlling Officer of Customs.

If the Chief Customs Officer or the Customs Inspector sees no objection to the departure of the vessel, he shall retain the duplicate and return the original manifest, dated and signed by him, together with its accompaniments ; and such manifest shall be the port-clearance of the vessel, unless, under the general orders of the controlling Officer of Customs, a separate port-clearance is prescribed.

141. Within twenty-four hours after the arrival of any coasting vessel at any Customs-port whether intermediate or final, and before any goods are there discharged, the manifest, together with the other documents referred to in Section 140, shall be delivered to the Chief Customs Officer or the Customs Inspector, who shall note on the manifest the date of delivery.

If the vessel has touched at any foreign Port between such Port of arrival and her last preceding Customs-port of departure, the Master shall append to the manifest a declaration to that effect, and shall also indicate on the manifest the portions (if any) of the cargo therein described which have been discharged, and sub-join thereto a true specification of all goods shipped at such Port.

If the Customs-port of arrival be an intermediate Port, and a portion only of the cargo is to be discharged thereat, the Master shall likewise so deliver an extract from the manifest signed by him, relating to such portion, and the Chief Customs Officer or the Customs Inspector shall, after verifyng such extract, return to him the original manifest and all documents accompanying it except those relating to such portion.

If, in any case, the cargo actually on board any coasting vessel on her arrival at any Customs-port does not, owing to short-shipment, re-landing or other cause, correspond with the specification thereof in the manifest returned to the Master under the second Clause of Section 140, such Master shall, before delivery of such manifest under this Section, note thereon the particulars of the difference.

The Chief Customs Officer or the Customs Inspector, when satisfied with the manifest and other documents, shall grant an order to break bulk.

142. Before any coasting vessel departs from any Customs-port at which she has touched during her voyage, the Master shall re-deliver the original manifest to the Chief Customs Officer or the Customs Inspector, after indicating thereon the portions (if any) of the cargo therein described which have

been discharged and sub-joining thereto a true specification of all goods shipped at such Port. He shall also deliver a duplicate, signed by him, of the specification so sub-joined.

If the Chief Customs Officer or the Customs Inspector sees no objection to the departure of the vessel, he shall proceed as prescribed in the second Clause of Section 140.

143. The Chief Customs Officer or the Customs Inspector may, for sufficient reasons refuse port-clearance to any coasting vessel declared to be bound to, or about to touch at, any Customs-port, unless the owner or Master gives a bond, with such security as such Officer deems sufficient, for the production to such Officer of a certificate from the proper Officer of the Port to which such vessel is said to be bound, of her arrival at such Port within a reasonable time to be prescribed in each case by such Officer.

Power to require bond before port-clearance is granted.

144. When permission has been granted by the Chief Customs Officer or the Customs Inspector for the discharge of cargo from any coasting vessel,—

- (a) if the vessel has not touched at any intermediate foreign Port in the course of her voyage, and has not on board any dutiable goods, the cargo may be forthwith landed and removed by the owner, without entry thereof at the Customs-house and clearance for home-consumption, but subject to such general check and control as Our Government may, by Rules published in the Gazette, prescribe ;
- (b) if the vessel has so touched at any such Port, or has on board any such goods, such vessel shall be subject to all the provisions of Chapter VII of this Act relating to vessels arriving and relating to such goods, and until such goods have been duly discharged, all other goods on-board shall be subject to the provisions of Chapter IX of this Act relating to goods imported.

145. If any of the goods on board of any coasting vessel be subject to any excise duty they shall not be unladen without the permission of the proper Officer of Excise.

Goods on coasting vessel, if excisable, not to be unladen without permission.

146. Notwithstanding anything hereinbefore contained the Controlling Officer of Customs may authorise the Chief Customs Officer or the Customs Inspector to grant a general pass, on any conditions which such controlling Officer thinks expedient, for the lading and clearance, and for the entry and unloading, of any coasting steam-vessel, at any Ports of despatch or destination, or at any intermediate Ports at which she touches for the purpose of receiving goods or passengers.

Grant and revocation of general pass.

Such pass shall be valid throughout Travancore, or for such Ports only as may be specified therein.

Any such general pass may be revoked by order of the Controlling Officer of Customs by whom the grant thereof was authorised, by notice in writing under the hand of such Controlling Officer, delivered to the Master, or to the owner of such steam-vessel, or to any of the crew on board.

147. Our Government may direct that the Master of any coasting vessel, which is square-rigged or propelled by steam, shall keep, or cause to be kept, a cargo-book, stating the name of the Master, the vessel, the Port to which she belongs, and the Port to which on each voyage she is bound.

Rules respecting cargo-books to be kept by Masters of coasting vessels.

At every Port of lading, such Master shall enter, or cause to be entered, in such book, the name of such Port, and an account of all goods there taken on board of such vessel, with a description of the packages, and the quantities and descriptions of the goods contained therein or stowed loose, and the names of the respective shippers and consignees, in so far as such particulars are known to him.

At every Port of discharge of any such goods, such Master shall enter, or cause to be entered, in such book, the respective days on which such goods or any of them are delivered out of such vessel.

The respective times of departure from every Port of landing and of arrival at every Port of discharge, shall in like manner be duly entered.

Every such Master shall, on demand, produce his cargo-book for the inspection of any Officer of Customs, and such Officer shall be at liberty to make any note or remark therein.

Our Government may, in the case of any vessel the Master whereof has been directed to keep a cargo-book under this Section, dispense with the manifest required under Sections 140, 141 and 142.

148. Any duly empowered Officer of Customs may go on board of any coasting vessel in any Port or place in Travancore and examine coasting vessels. may, at any period of a voyage, search any such vessel and examine all goods on board, and all goods then lading or unloading, and demand the production of any document which ought to be on board of any such vessel.

The Officer of Customs may further require that any such document belonging to any coasting vessel then in Port shall be brought to him for inspection.

CHAPTER XV.

OFFENCES AND PENALTIES.

149. The offences mentioned in the second column of the following Schedule shall be punishable, to the extent mentioned in the fourth column of the same with reference to such offences respectively.

Punishment for offences.

No.	Offence.	Section of the Act to which offence has reference.	Penalty.
1	Contravening any Rule made under this Act.	General.	Penalty not exceeding rupees five hundred.
2	<p>If any goods be landed or shipped, or if an attempt be made to land or ship any goods; or</p> <p>if any goods be brought into any bay, river, creek or arm of the sea, for the purpose of being landed or shipped, at any Port or place which, at the date of such landing, shipment, attempt or bringing, is not a Port for the landing and shipment of goods.</p>	10	Such goods shall be liable to confiscation.
3	<p>If any person, ship or land goods, or aid in the shipment or landing of goods, or knowingly keep or conceal, or knowingly permit or procure to be kept or concealed, any goods shipped or landed, or intended to be shipped or landed, contrary to the provisions of this Act; or</p> <p>if any person be found to have been on board of any vessel liable to confiscation on account of the commission of an offence under No. 4 of this Schedule while such vessel is within any bay, river, creek or arm of the sea, which is not a Port for the shipment and landing of goods.</p>	<p>General.</p> <p>10</p>	Such person shall be liable to a penalty not exceeding rupees one thousand.

No.	Offence.	Section of this Act to which offence has reference.	Penalty.
4	<p>If any vessel which has been within the limits of any Port in Travancore with cargo on board, be afterwards found in any Port, bay, river, creek or arm of the sea in Travancore, light or in ballast, and if the Master be unable to give a due account of the Customs-port where such vessel lawfully discharged her cargo.</p>	10	<p>Such vessel shall be liable to confiscation.</p>
5	<p>If any goods are put, without the authority of the proper Officer of Customs, on board of any tug-steamer or pilot vessel from any sea-going vessel inward bound ; or</p> <p>if any goods are put, without such authority, out of any tug-steamer or pilot-vessel for the purpose of being put on board of any such vessel outward bound ; or</p> <p>if any goods on which drawback has been granted or put, without such authority, on board of any tug-steamer or pilot-vessel for the purpose of being re-landed.</p>	10	<p>Such goods shall be liable to confiscation, and the Master of every such tug-steamer or pilot-vessel shall be liable to a penalty not exceeding rupees one thousand.</p>

No.	Offence.	Section of this Act to which offence has reference.	Penalty.
6	If any vessel arriving at, or departing from, any Customs-port, fails, when so required under Section 16, to bring-to at any such station as has been appointed by Our Government for the boarding or landing of an Officer of Customs.	16	The Master of such vessel shall be liable to a penalty not exceeding rupees one thousand.
7	If any vessel arriving at any Customs-port after having come to its proper place of mooring or un-lading, removes from such place except with the authority of the Port-Officer, or where no such Officer has been appointed, of the Chief Customs Officer, or the Customs Inspector, or other lawful authority, to some other place of mooring, or un-lading, or if any vessel not brought into Port by a pilot be not anchored or moored in accordance with any direction of Our Government under Section 16.	16	The Master of such vessel shall be liable to a penalty not exceeding rupees five hundred, and the vessel, if not entered, shall not be allowed to enter until the penalty is paid.
8	If any goods, the importation or exportation of which is for the time being prohibited or restricted by or under Chapter IV of this Act, be imported into or exported from Travancore, contrary to such prohibition or restriction; or	17 and 18	Such goods shall be liable to confiscation, and any person concerned in any such offence shall be liable to a penalty not exceeding three times the value of the goods

No.	Offence.	Section of this Act to which offence has reference.	Penalty.
9	<p>if any attempt be made so to import or export any such goods ; or</p> <p>if any such goods be found in any package produced to any Officer of Customs as containing no such goods ; or</p> <p>if any such goods or any dutiable goods be found either before or after landing or shipment to have been concealed in any manner on board of any vessel within the limits of any port in Travancore ; or</p> <p>if any goods, the exportation of which is prohibited or restricted as aforesaid, be brought to any wharf in order to be put on board of any vessel for exportation contrary to such prohibition or restriction.</p> <p>If, upon an application to pass any goods through the Customs house, any person not being the owner of such goods, and not having proper and sufficient authority from the owner, subscribes or attests any document relating to any goods on behalf of such owner.</p>	<p>General.</p>	<p>or not exceeding rupees one thousand.</p> <p>Such person shall be liable to a penalty not exceeding rupees one thousand.</p>

No.	Offence.	Section of this Act to which offence has reference.	Penalty.
10	If any goods, on the entry of which for re-export drawback has been paid, are not duly exported, or are unshipped or re-landed at any Customs-port (not having been duly re-landed or discharged under the provisions of this Act.)	42 and 43	Such goods together with any vessel used in so unshipping or re-landing them, shall be liable to confiscation; and the Master of the vessel from which such goods are so unshipped or re-landed and any person by whom or by whose orders or means such goods are so unshipped or re-landed or who aids or is concerned in such unshipping or re-landing shall be liable to a penalty not exceeding three times the value of such goods or not exceeding rupees one thousand.
11	If any goods be entered for drawback, which are of less value than the amount of the drawback claimed.	46	Such goods shall be liable to confiscation.
12	If, in any river or port wherein a place has been fixed under Section 43 by Our Government, any vessel arriving passes beyond such place before delivery of a manifest to the pilot, Officer of Customs or other person duly authorised to receive the same.	48	The Master of such vessel shall be liable to a penalty not exceeding rupees one thousand.

No.	Offence.	Section of this Act to which offence has reference.	Penalty.
13	If the Master of any vessel arriving, which remains outside or below any place so fixed, wilfully omits for the period of twenty-four hours after anchoring, to deliver a manifest as required by this Act.	48	Such Master shall be liable to a penalty not exceeding rupees one thousand.
14	If, after any vessel arriving has entered any Customs-port in which a place has not been fixed under Section 48, the Master of such vessel wilfully omits for the period of twenty-four hours after anchoring, to deliver a manifest as required by this Act.	49	Such Master shall be liable to a penalty not exceeding rupees one thousand.
15	If any manifest delivered under Section 48, 49, 55, 58 or 61 is not signed by the person delivering the same and is not in the form or does not contain the particulars required by Section 50 or 58, as the case may be, in so far as such particulars are applicable to the ship, cargo, and voyage, if any manifest so delivered does not contain a specification, true to the best of such person's knowledge, of all goods imported or to be exported in such vessel.	50 and 58	The person delivering such manifest shall be liable to a penalty not exceeding rupees one thousand.

No.	Offence.	Section of this Act to which offence has reference.	Penalty.
16	<p>If any goods entered in the import manifest of a vessel are not found on board of the vessel ; or</p> <p>If the quantity so found is short, and if such deficiency is not accounted for to the satisfaction of the Officer in charge of the Customs house.</p>	50 and 59	<p>The Master of such vessel shall be liable to a penalty not exceeding twice the amount of duty chargeable on the missing or deficient goods, if they be dutiable and the duty leviable thereon can be ascertained, or otherwise to a penalty not exceeding rupees five hundred for every missing or deficient package or separate article.</p>
17	<p>If any person required by this Act to receive a manifest from any Master of a vessel, refuses so to do, or fails to countersign the same, or to enter thereon the particulars referred to in Section 51.</p>	48, 49 and 51	<p>Such person shall be liable to a penalty not exceeding rupees five hundred.</p>
18	<p>If bulk be broken in any vessel previous to the grant, by the Chief Customs Officer or the Customs Inspector, of an order for entry inwards or a special pass permitting bulk to be broken.</p>	52 and 54	<p>The Master of such vessel shall be liable to a penalty not exceeding rupees one thousand.</p>

No.	Offence.	Section of this Act to which offence has reference.	Penalty.
19	<p>If any bill-of-lading or copy required under Section 53 is false and the Master is unable to satisfy the Chief Customs Officer or the Customs Inspector that he was not aware of the fact; or</p> <p>if any such bill or copy has been altered with fraudulent intent; or</p> <p>if the goods mentioned in any such bill or copy have not been <i>bona fide</i> shipped as shown therein; or</p> <p>if any such bill-of-lading, or any bill-of-lading of which a copy is delivered, has not been made previously to the departure of the vessel from the place where the goods referred to in such bill-of-lading were shipped; or</p> <p>if any part of the cargo has been staved, destroyed or thrown overboard, or if any package has been opened, and such part of the cargo or such package be not accounted for to the satisfaction of the Chief Customs Officer or the Customs Inspector.</p>	53	The Master of the vessel shall be liable to a penalty not exceeding rupees one thousand.

No.	Offence.	Section of this Act to which offence has reference.	Penalty.
20	If any Master of a vessel attempts to depart without a port-clearance.	57	Such Master shall be liable to a penalty not exceeding rupees five hundred.
21	If any vessel actually departs without a port-clearance.	57	The Master of such vessel shall be liable to a penalty not exceeding rupees one thousand.
22	If any pilot takes charge of any vessel proceeding to sea, notwithstanding that the Master of such vessel does not produce a port-clearance.	57	Such pilot, on conviction before a Magistrate, shall be liable to a fine not exceeding rupees one thousand.
23	If any Master of a vessel refuses to receive on board an Officer of Customs deputed under Section 62.	63	Such Master shall be liable to a penalty not exceeding rupees five hundred for each day during which such Officer is not received on board; and the vessel, if not entered, shall not be allowed to enter until such penalty is paid.
24	If any Master of a vessel refuses to receive on board one servant of such Officer, or to provide such Officer and servant with suitable shelter and accommodation, and with a due allowance of fresh water, and with the means of cooking on board.	63	Such Master shall, in each such case, be liable to a penalty not exceeding rupees five hundred.

No.	Offence.	Section of this Act to which offence has reference.	Penalty.
25	<p>If any Master of a vessel refuses to allow such vessel, or any box, place or closed receptacle in such vessel to be searched when so required by an Officer of Customs bearing a written order to search ; or</p> <p>if an Officer of Customs places any lock, mark or seal upon any goods in a vessel and such lock, mark or seal is wilfully opened, altered or broken, before, due delivery of such goods ; or</p> <p>if any such goods are secretly conveyed away ; or</p> <p>if any hatchway or entrance to the hold of a vessel, after having been fastened down by an Officer of Customs, is opened without his permission.</p>	64	The Master of such vessel shall be liable, upon conviction before a Magistrate, to a fine not exceeding rupees one thousand.
26	If the Master of any vessel laid up by the withdrawal of the officer of customs shall, before application is made by him for an Officer of Customs to superintend the receipt of cargo, cause or suffer to be put on board of such vessel any goods whatever, in contravention of Section 65.	65	Such Master shall be liable to a penalty not exceeding rupees one thousand and the goods, if protected by a pass, shall be liable to be re-landed for examination at the expense of the vessel and, if not protected by a pass, shall be liable to confiscation.

No.	Offence.	Section of this Act to which offence has reference.	Penalty.
27	<p>If any Master of a vessel, in any case other than that provided for by No. 26, causes or suffers any goods to be discharged, shipped or water-borne, contrary to any of the provisions of Section 65, 67 or 70.</p>	65, 67 and 70	<p>Such Master shall be liable to a penalty not exceeding rupees one thousand; and all goods so discharged, shipped or water-borne shall be liable to confiscation.</p>
28	<p>If, when a boat-note is required by Section 71, any goods water-borne for the purpose of being landed from any vessel, and ware-housed or passed for importation, or for the purpose of being shipped for exportation, be found without such note; or</p> <p>if any goods are found on board any boat in excess of or different from such boat-note, whether such goods are intended to be landed from, or to be shipped on board of, any vessel.</p>	71	<p>Such goods shall be liable to confiscation, and the person by whose authority the goods are being landed or shipped, and the person in charge of the boat, shall each be liable to a penalty not exceeding twice the amount of duty (if any) leviable on the said goods.</p>
29	<p>If any person refuses to receive, or fails to sign or to note the prescribed particulars upon any boat-note as required by Section 71, or if any Master or Officer of a vessel receiving the same fails to deliver it when required so to do by any Officer of Customs authorised to make such requisition.</p>	71	<p>Such person, Master or Officer shall be liable to a penalty not exceeding rupees five hundred.</p>

No.	Offence.	Section of this Act to which offence has reference.	Penalty.
30	<p>If any goods are, without permission, shipped, or water-borne to be shipped, or are landed except from or at a duly notified wharf or other place appointed for the purpose by the Port Officer ; or</p> <p>if any goods, water-borne for the purpose of being landed or shipped, are not landed or shipped, without unnecessary delay ; or</p> <p>if the boat containing such goods be found out of the proper track between the vessel and the wharf or other proper place of landing or shipping, and such deviation be not accounted for to the satisfaction of the Chief Customs Officer or the Customs Inspector ; or</p> <p>if any goods are transhipped contrary to the provisions of Section 73.</p>	<p>68</p> <p>72</p> <p>73</p>	<p>Such goods shall be liable to confiscation, and the person by whose authority the goods are shipped, landed, water-borne, or transhipped, and the person in charge of the vessel employed in conveying them, shall each be liable to a penalty not exceeding twice the amount of the duty (if any) leviable on such goods.</p>
31	<p>If, after the issue of a Notification under Section 74 with regard to any Port, any goods are found within the limits of such Port on board of any boat not duly licensed and registered.</p>	<p>74</p>	<p>Such goods, unless they are covered by a special permit from the Chief Customs Officer or the Customs Inspector, shall be liable to confiscation, and the owner, or the person in charge of the boat, shall be liable to a penalty not exceeding rupees one hundred.</p>

No.	Offence.	Section of this Act to which offence has reference	Penalty.
32	If any Master of a vessel discharges, or suffers to be discharged, any goods not duly entered in the manifest of such vessel.	50 and 77	Such Master shall be liable to a penalty not exceeding rupees one thousand.
33	If any goods are found concealed in any place, box or closed receptacle in any vessel, and are not duly accounted for to the satisfaction of the Officer in charge of the Customs-house.	General	Such goods shall be liable to confiscation
34	If any goods are found on board in excess of those entered in the manifest, or not corresponding with the specification therein contained.	50 and 77	Such goods shall be liable to confiscation, or to be charged with such increased rates of duty as the Chief Customs Officer or the Customs Inspector may direct.
35	If, after any goods have been landed and before they have been passed through the Customs-house, the owner removes or attempts to remove them.	81 and 91	Such goods shall be liable to confiscation; or if the goods cannot be recovered, the owner shall be liable in addition to full duty, to a penalty not exceeding twice the amount of such duty if the goods be dutiable and the duty leviable thereon can be ascertained; or

Sec. 149 (35). In the corresponding Sec. 167 (36) of the Indian Act the words "with the intention of defrauding the revenue" occur at the end.

No.	Offence.	Section of this Act to which offence has reference.	Penalty.
36	<p>If it be found, when any goods are entered at, or brought to be passed through, a Customs-house, either for importation or exportation, that—</p> <p>(a) the packages in which they are contained differ widely from the description given in the bill-of-entry or application for passing them ; or</p> <p>(b) the contents thereof have been wrongly described in such bill or application as regards the denominations, character or conditions, according to which such goods are chargeable with duty or are being imported or exported ; or</p> <p>(c) the contents of such packages have been misstated in regard to sort, quality, quantity or value; or</p> <p>(d) goods not stated in the bill of entry or application have been concealed in, or mixed with, the</p>	81 and 131	<p>otherwise to a penalty not exceeding rupees one thousand, for every missing or deficient package or separate article.</p> <p>Such packages, together with the whole of the goods contained therein, shall be liable to confiscation, and every person concerned in any such offence shall be liable to a penalty not exceeding rupees one thousand.</p>

No.	Offence.	Section of this Act to which offence has reference.	Penalty.
37	<p>articles specified therein, or have apparently, been packed so as to deceive the Officers of Customs, and such circumstance is not accounted for to the satisfaction of the Chief Customs Officer or the Customs Inspector</p> <p>If, when goods are passed by tale or by package any omission or misdescription thereof tending to injure the revenue be discovered.</p>	81 and 89	<p>The person guilty of such omission or mis-description shall be liable to a penalty not exceeding ten times the amount of duty which might have been lost to Government by such omission or mis-description, unless it be proved to the satisfaction of the Officer in charge of the Customs-house that the variance was accidental.</p>
38	<p>If, without entry duly made, any goods are taken or passed out of any Customs-house or wharf.</p>	81	<p>The person so taking or passing such goods shall, in every such case, be liable to a penalty not exceeding rupees five hundred, and such goods shall be liable to confiscation.</p>

No.	Offence.	Section of this Act to which offence has reference.	Penalty.
39	If any prohibited or dutiable goods are found, either before or after landing concealed in any passenger's baggage.	General	Such passenger shall be liable to a penalty not exceeding rupees five hundred, and such goods shall be liable to confiscation.
40	If any goods entered to be ware-housed are carried into the ware-house, unless with the authority, or under the care, of the proper Officers of Customs, and in such manner, by such persons, within such times and by such roads or ways, as such Officers direct.	88	Such goods shall be liable to confiscation, and any person so carrying them shall be liable to a penalty not exceeding rupees one thousand.
41	If any goods entered to be ware-housed are not duly ware-housed in pursuance of such entry, or are withheld or removed from any proper place of examination before they have been examined and certified by the proper Officer.	89	Such goods shall be deemed not to have been duly ware-housed and shall be liable to confiscation.
42	If any ware-housed goods be not ware-housed in accordance with Sections 89 and 90.	89 and 90	Such goods shall be liable to confiscation.
43	If the licensee of any private ware-house, licensed under this Act, does not open the same when required so to do by any Officer entitled to have access thereto, or upon demand made by any such Officer, refuses such access to any such, Officer.	92	Such licensee shall be liable to a penalty not exceeding rupees one thousand, and he shall further be liable to have his license forthwith cancelled.

No.	Offence	Section of this Act to which offence has reference.	Penalty.
44	If the keeper of any public ware-house, or the licensee of any private ware-house, neglects to show the goods ware-housed therein so that easy access may be had to every package and parcel thereof.	Chapter XI.	Such keeper or licensee shall, for every such neglect, be liable to a penalty not exceeding rupees fifty.
45	If the owner of any ware-housed goods, or any person in the employ of such owner, clandestinely opens any ware-house, or, except in the presence of the proper Officer of Customs, gains access to his goods.	94	Such owner or person shall, in every such case, be liable to a penalty not exceeding rupees one thousand.
46	If any ware-housed goods are opened in contravention of the provisions of Section 93 ; or If any alteration be made in such goods or in the packing thereof, except as provided in Section 95.	93 and 95	Such goods shall be liable to confiscation.
47	If any goods lodged in a private ware-house are found, at the time of delivery therefrom, to be deficient, and such deficiency is not due solely to ullage or wastage as allowed under Sections 111 and 112.	118	The licensee of such ware-house shall, unless the deficiency be accounted for to the satisfaction of the Chief Customs Officer or the Customs Inspector, be liable to a penalty equal to five times the duty chargeable on the goods so deficient.

No.	Offence.	Section of this Act to which offence has reference.	Penalty.
48	If the keeper of any public ware-house, or the licensee of any private ware-house, fails, on the requisition of any Officer of Customs, to produce any goods which have been deposited in such ware-house, and which have not been duly cleared and delivered therefrom, and is unable to account for such failure to the satisfaction of the Chief Customs Officer or the Customs Inspector,	118	Such keeper or licensee shall, for every such failure, be liable to pay the duties due on such goods, and also a penalty not exceeding rupees fifty in respect of every package or parcel so missing or deficient.
49	If any goods, after being duly ware-housed, are fraudulently concealed in, or removed from, the ware-house, or abstracted from any package, or transferred from one package to another, or otherwise, for the purpose of illegal removal or concealment.	Chapter XI.	Such goods shall be liable to confiscation and any person concerned in any such offence shall be liable to a penalty not exceeding rupees one thousand.
50	If any goods lodged in a private ware-house are found to exceed the registered quantity.	Chapter XI.	Such excess, unless accounted for to the satisfaction of the Officer in charge of the Customs-house, shall be charged with five times the ordinary duty thereon.
51	If any goods be removed from the ware-house in which they were originally deposited, except in the presence or with the	Chapter XI.	Such goods shall be liable to confiscation, and any

No.	Offence.	Section of this Act to which offence has reference.	Penalty.
	sanction of the proper Officer, or under proper authority for their delivery.		person so removing them shall be liable to a penalty not exceeding rupees one thousand.
52	If any person illegally takes any goods out of any ware-house without payment of duty, or aids, assists or is concerned therein.	Chapter XI.	Such person shall be liable to a penalty not exceeding rupees one thousand.
53	If any person contravenes any Rule regarding the process of transhipment made by Our Government, or any prohibition or order relating to transhipment notified by Our Government, or tranships goods not allowed to be transhipped.	124 & 128	Such person shall be liable to a penalty not exceeding rupees one thousand; and any goods in respect of which such offence has been committed shall be liable to confiscation.
54	If any goods be taken on board of any vessel at any Customs-port in contravention of Section 150.	130	The Master of such vessel shall be liable to a penalty not exceeding rupees one thousand.
55	If any goods, not specified in a duly passed shipping-bill, are taken on board of any vessel, contrary to the provisions of Section 131.	131	The Master of such vessel shall be liable to a penalty not exceeding rupees fifty for every package of such goods.

No.	Offence.	Section of this Act to which offence has reference.	Penalty.
56	If any goods specified in the manifest of any vessel or in any shipping-bill are not duly shipped before the departure of such vessel, or are re-landed, and notice of such short shipment or re-landing be not given as required by Section 134.	134	The owner of such goods shall be liable to a penalty not exceeding rupees one hundred and such goods shall be liable to confiscation.
57	If any goods duly shipped on board of any vessel, be landed, except under Section 135, 136 or 137, at any place other than that for which they have been cleared.	135	The Master of such vessel shall, unless the landing be accounted for to the satisfaction of the Chief Customs Officer or the Customs Inspector, be liable to a penalty not exceeding three times the value of such goods so landed.
58	If any goods on account of which draw-back has been paid be not found on board of any vessel referred to in Section 136.	136	The Master of such vessel shall be liable to a penalty not exceeding the entire value of such goods, unless the fact be accounted for to the satisfaction of the Chief Customs Officer or the Customs Inspector.
59	If, in contravention of any Rules made under Section 139, any goods are taken into, or put out of, or carried in, any coasting vessel; or if any such Rules be otherwise infringed.	139	The Master of such vessel shall be liable to a penalty not exceeding rupees one thousand.

No.	Offence.	Section of this Act to which offence has reference.	Penalty.
60	<p>If, contrary to any such Rules, any coasting vessel touches at any foreign Port, or deviates from her voyage, unless forced by unavoidable circumstances; or</p> <p>if the Master of any such vessel, which has touched at a foreign Port, fails to declare the same in writing to the Chief Customs Officer or the Customs Inspector, at the Customs-port at which such vessel afterwards first arrives.</p>	141	<p>The Master of such vessel shall be liable to a penalty not exceeding rupees one thousand; and, if any goods liable to export-duty have been landed from, or any goods liable to import duty have been shipped in, such vessel at such foreign Port, such Master shall further be liable to a penalty not exceeding three times the duty which would have been leviable on such goods if they had been exported from, or imported at, a Customs-port, to or from a foreign Port, as the case may be.</p>
61	<p>If, in the case of any coasting vessel, any of the provisions of Section 140, 141 or 142 are not complied with.</p>	140, 141 and 142	<p>The Master of such vessel shall, in each such case, be liable to a penalty not exceeding rupees five hundred.</p>
62	<p>If the person executing any bond given under Section 143 fails to produce the certificate mentioned in the same Section, or to show sufficient reason for its non-production.</p>	143	<p>Such person shall be liable to a penalty equal to double the amount of Customs duty which would have been chargeable on the export-cargo of the vessel had she been declared to be bound to a foreign Port.</p>

No.	Offence.	Section of this Act to which offence has reference.	Penalty.
63	If the Master of any coasting vessel violates any of the conditions under which a general pass for such vessel has been granted.	146	Such Master shall be liable to a penalty not exceeding rupees one thousand.
64	If any Master of a coasting vessel contravenes any of the provisions of Section 147.	147	Such Master shall be liable to a penalty not exceeding rupees five hundred.
65	If, upon examination, any package entered in the cargo-book required by Section 147, as containing dutiable goods, is found not to contain such goods; or if any package is found to contain dutiable goods not entered, or not entered as such, in such book.	147	Such package, with its contents, shall be liable to confiscation.
66	If the Master of any coasting vessel, required under Section 147 to keep a cargo-book, fails correctly to keep or to cause to be kept, such book, or to produce the same on demand; or if, at any time, there be found on board of any such vessel, any goods not entered in such book as laden, or any goods noted as delivered; or if any goods entered as laden and noted as delivered be not on board.	147	Such Master shall be liable to a penalty not exceeding rupees five hundred.

No.	Offence.	Section of this Act to which offence has reference.	Penalty.
67	<p>If, contrary to the provisions of this or any other law for the time being in force relating to the Customs, any goods are laden on board of any vessel in any Customs-port and carried coastwise; or</p> <p>if any goods which have been brought coastwise are so unladen in any such Port: or</p> <p>if any goods are found on board of any coasting vessel without being entered in the manifest or cargo-book or both (as the case may be) of such vessel.</p>	Chapter XIV	Such goods shall be liable to confiscation, and the Master of such vessel shall be liable to a penalty not exceeding rupees five hundred.
68	If the Master of any coasting vessel refuses to bring any document to the Chief Customs Officer or the Customs Inspector, when so required under Section 148.	148	Such Master shall be liable to a penalty not exceeding rupees two hundred.
69	If any person makes, or signs, or uses, any declaration or document used in the transaction of any business relating to the Customs, knowing such declaration or document to be false in any particular; or counterfeits, falsifies, or fraudulently alters, or destroys any such document, or any seal, signature, initials or other mark	General.	Such person shall on conviction of any such offence before a Magistrate, be liable to a fine not exceeding rupees one thousand.

No.	Offence.	Section of this Act to which offence has reference.	Penalty.
	<p>made or impressed by any Officer of Customs in the transaction of any business relating to the Customs; or</p> <p>being required under this Act to produce any document, refuses or neglects to produce such document, or being required under this Act to answer any question put to him by an Officer of Customs, does not truly answer such question.</p>		
70	<p>If any person on board of any vessel or boat in any Customs-port, or who has landed from any such vessel or boat, upon being asked by any Officer of Customs whether he has dutiable or prohibited goods about his person or in his possession, declares that he has not, and if any such goods are, after such denial, found about his person or in his possession,</p>	General.	<p>Such goods shall be liable to confiscation, and such person shall be liable to a penalty not exceeding three times the value of such goods.</p>
71	<p>If any Officer of Customs requires any person to be searched for dutiable or prohibited goods, or to be detained, without having reasonable ground to believe that he has such goods about his person or has been guilty of an offence relating to the Customs.</p>	151	<p>Such Officer shall on conviction before a Magistrate, be liable to a fine not exceeding rupees five hundred.</p>

No.	Offence.	Sections of this Act to which offence has reference.	Penalty.
72	If any Officer of Customs, or other person duly employed for the prevention of smuggling, is guilty of a wilful breach of the provisions of this Act.	General	Such Officer or person shall, on conviction before a Magistrate, be liable to simple imprisonment for any term not exceeding two years, or to fine, or to both.
73	If any Officer of Customs, or other person duly employed for the prevention of smuggling, practises, or attempts to practise, any fraud, for the purpose of injuring the Customs revenue, or abets or connives at, any such fraud, or any attempt to practise any such fraud.	General.	Such Officer or person shall, on conviction before a Magistrate, be liable to simple imprisonment for any term not exceeding two years, or to fine, or to both.
74	If any Police Officer whose duty it is, under Section 162, to send a written notice to the nearest Customs-house, neglects so to do-	162	Such officer shall, on conviction before a Magistrate, be liable to a penalty not exceeding rupees one hundred.
75	If any person intentionally obstructs any Officer of Customs or other person duly employed for the prevention of smuggling, in the exercise of any powers given under this Act to such Officer or person.	General.	Such person shall on conviction before a Magistrate, be liable to imprisonment for any term not exceeding six months, or to a fine not exceeding rupees one thousand, or to both.

Sec. 149 (74). The offence described in the corresponding Sec. 167 (77) of the Indian Act is:—"If any Police Officera written notice or cause goods to be conveyed to a customs house, neglects so to do."

No.	Offence.	Section of this Act to which offence has reference.	Penalty.
76	<p>If any Officer of Customs, except in the discharge in good faith of his duty as such Officer, discloses any particulars learned by him in his official capacity in respect of any goods, or shows any samples delivered to him in such capacity, or</p> <p>if any Officer of Customs, except as permitted by this Act, parts with the possession of any samples delivered to him in his official capacity.</p>	General.	He shall be liable to a penalty not exceeding rupees one thousand.
77	If any person without the approval of the Chief Customs Officer or the Customs Inspector, under Section 185, acts as an agent for the transaction of business as therein mentioned.	185	Such person shall be liable to a penalty not exceeding rupees five hundred.

NOTE:—Nothing in the third column of the above Schedule shall be deemed to have the force of law.

150. The confiscation of any goods under this Act shall include any package in which Packages and contents included in confiscation of goods. they are found, and all the other contents thereof.

Every vessel, cart or other means of conveyance, and every horse or other animal, used in the removal of any goods liable to confiscation under this Act, shall in like manner be liable to confiscation. Also conveyances and animals used in removal.

The confiscation of any vessel under this Act includes her tackle, apparel and furniture. Tackle, &c. included in confiscation of vessels.

CHAPTER XVI.

PROCEDURE RELATING TO OFFENCES, APPEALS, ETC.

151. Any Officer of Customs may search any person on board of any vessel in any port in Travancore or any person who has landed from any vessel : Power to search on suspicion.

Provided that such Officer believes in good faith, that such person has dutiable or prohibited goods secreted about his person.

152. When any Officer of Customs is about to search any person under the provisions of Section 151, such person may require the said Officer to take him previous to search, before the nearest Magistrate or Chief Customs Officer or Customs Inspector. Persons may be taken before search, require to be taken before Magistrate or Chief Customs Officer or Customs Inspector.

If such requisition be made, the Officer of Customs may detain the person making it until he can bring him before the nearest Magistrate or Chief Customs Officer or Customs Inspector.

The Magistrate or Chief Customs Officer or Customs Inspector, before whom any person is so brought, shall, if he sees no reasonable ground for search, forthwith discharge such person; but if otherwise, shall direct that the search be made.

A female shall not be searched by any but a female.

153. Any Officer of Customs, or other person duly employed for the prevention of smuggling, may stop and search for smuggled goods, any vessel, cart or other means of conveyance :
 Power to stop vessels, carts, etc., and search for goods on reasonable suspicion.
 Provided that he believes, in good faith, that smuggled goods are contained therein.

154. Any Magistrate may, on application by a Customs Inspector, stating his belief that dutiable or prohibited goods are secreted in any place within the local limits of the jurisdiction of such Magistrate, issue a warrant to search for such goods.
 Power to issue search-warrants.

Such warrant shall be executed in the same way and shall have the same effect as a search-warrant issued under the Code of Criminal Procedure.

155. Any person against whom a reasonable suspicion exists that he has been guilty of an offence under this Act, may be arrested in any place, either upon land or upon water, by any Officer of Customs or by any other person duly employed for the prevention of smuggling.
 Person reasonably suspected may be arrested.

156. Every person arrested on the ground that he has been guilty of an offence under this Act shall forthwith be taken before the nearest Magistrate, or Chief Customs Officer, or Customs Inspector.
 Persons arrested to be taken to the nearest Magistrate or Customs Officer.

157. When any such person is taken before a Magistrate, such Magistrate may, if he thinks fit, order him to be kept in custody for such time as is necessary to enable such Magistrate to communicate with the proper Officer of Customs :
 Persons taken before Magistrate may be detained, &c.

Provided that any person so arrested or kept shall be released, on giving security to the satisfaction of the Magistrate, to appear at such time and place as such Magistrate appoints in this behalf.

158. If any person liable to be arrested under this Act is not arrested at the time of committing the offence for which he may be afterwards liable, or if, after arrest, he escapes, he may, at any time afterwards, be arrested and taken before a Magistrate, to be dealt with as if he had been arrested at the time of committing such offence.

159. When any person employed on the crew of any of the ships of His Majesty's Navy, Indian Marine or Marine Survey, is arrested under this Act, the arresting Officer shall forthwith give notice thereof to the Commanding Officer of the ship, who shall thereupon place such person in security on board of such ship, until the arresting Officer has obtained a warrant from a Magistrate for bringing up such person to be dealt with according to law.

The Magistrate shall grant such warrant upon complaint made to him by the arresting Officer, stating the offence for which the person is detained.

160. Anything liable to confiscation under this Act may be seized in any place, either upon land or upon water, by any Officer of any of the Departments of Customs, Excise, Police or Land Revenue.

161. All things seized on the ground that they are liable to confiscation under this Act shall, as soon, as conveniently may be, be delivered, into the care of any Customs Officer authorised to receive the same.

If there be no such Officer at hand, all such things shall be carried to and deposited at the Customs-house nearest to the place of seizure.

If there be no Customs-house within a convenient distance, such things shall be deposited at the nearest place appointed by the Controlling Officer of Customs for the deposit of things so seized.

162. When any things liable to confiscation under this Act are seized by any Police-Officer, on suspicion that they have been stolen, he may produce them before the Officer in charge of a Police-station or before a Magistrate, and such Officer in charge of the Police-station or the Magistrate as the case may be may detain such things until the conclusion of the investigation, enquiry or trial which necessitates such detention.

In every such case, the Police-Officer seizing the things shall send written notice of such seizure and production to the nearest Customs-house; and immediately after the conclusion of the investigation, enquiry or trial, the Officer in charge of the Police-station or the Magistrate who made the detention shall cause such things to be conveyed to and deposited at the nearest Customs-house, to be there proceeded against according to law.

163. When anything is seized, or any person is arrested, under this Act, the Officer or other person making such seizure or arrest shall, on demand by the person in charge of the thing so seized, or by the person so arrested, give him a statement in writing certifying to such seizure or arrest.

164. In every case, except the cases mentioned in Section 149, Nos. 25, 69, 71, 72 and 73, in which under this Act anything is liable to confiscation or to increased rates of duty, or any person is liable to a penalty, such confiscation, increased rate of duty or penalty may be adjudged:—

(a) without limit by the Controlling Officer of Customs;

(b) up to confiscation of goods not exceeding rupees two hundred and fifty in value, and imposition of

Sec. 163. The words occurring at the end in the corresponding Sec. 181 are "a statement in writing of the reason for such seizure or arrest."

penalty or increased duty not exceeding rupees one hundred, by the Chief Customs Officer ;

(c) up to confiscation of goods not exceeding rupees one hundred in value, and imposition of penalty or increased duty not exceeding rupees twenty-five, by the Customs Inspector.

Our Government may, by Notification in the Gazette, confer on any Customs or other Officer, by name or in virtue of his office, all or any of the powers under this Section.

165. Whenever confiscation is authorised by this Act, the Officer adjudging it shall give the owner of the goods an option to pay, in lieu of confiscation such fine as the Officer thinks fit.

166. When anything is confiscated under this Act, such thing shall thereupon vest in Our Government. The Officer adjudging confiscation shall take and hold possession of the thing confiscated, and every Officer of Police, on the requisition of such Officer, shall assist him in taking and holding such possession.

167. If any vessel actually departs without a port-clearance, or after failing to bring to, when required, at any station appointed under Section 16, the penalty to which the Master of such vessel is liable, may be adjudged by the Chief Customs Officer or the Customs Inspector of any Customs-port to which such vessel proceeds or in which she is.

A certificate of such departure or failure to bring to when required, purporting to be signed by the Chief Officer of the Port from which the vessel is stated to have so departed, shall be *prima facie* proof of the fact so certified.

168. The award of any confiscation, penalty or increased rate of duty, under this Act, by an Officer of Customs, shall not prevent the infliction of any punishment to which the person affected thereby is liable under any other law.

Penalty under this Act not to interfere with punishment under any other law.

169. All offences against this Act, other than those cognisable under Section 164 by Officers of Customs, may be tried summarily by a Magistrate.

Offences not specially provided for, how tried.

170. Any person deeming himself aggrieved by any decision or order passed by an Officer of Customs under this Act, may, within two months from the date of such decision or order, appeal therefrom to the Controlling Officer of Customs.

Appeal from subordinate to Controlling Officer of Customs.

The Controlling Officer of Customs may thereupon make such further enquiry, and pass such order, as he thinks fit, confirming, altering or annulling the decision or order appealed against :

Provided that no such order shall have the effect of subjecting any person to any greater penalty or rate of duty than has been adjudged against him in the original decision or order.

Every order passed in appeal under this Section shall, subject to the power of revision by Our Government be final.

171. Where the decision or order appealed against relates to any duty or penalty leviable in respect of any goods, the owner of such goods, if desirous of appealing against such decision or order, shall, pending the appeal, deposit in the hands of the Chief Customs Officer or the Customs Inspector, at the place where the dispute arises, the amount demanded by the Officer passing such decision or order.

Deposit pending appeal, of duty demanded.

When delivery of such goods to the owner thereof is withheld merely by reason of such amount not being paid, the Chief Customs Officer or the Customs Inspector shall, upon such deposit being made, cause such goods to be delivered to such owner.

If, upon any such appeal, it is decided that the whole or any portion of such amount was not leviabie in respect of such goods, such amount or portion (as the case may be) shall be returned to the owner of such goods on demand by such owner.

172. If, upon consideration of the circumstances under which any penalty, increased rate of duty or confiscation has been adjudged under this Act by an Officer of Customs, the Controlling Officer of Customs is of opinion that such penalty, increased rate or confiscation ought to be remitted in whole or in part, or commuted, he may remit the same or any portion thereof, or may, with the consent of the owner of any goods ordered to be confiscated, commute the order of confiscation to a penalty not exceeding the value of such goods.

173. Our Government may, on the application of any person aggrieved by any decision or order passed under this Act by the Controlling Officer of Customs reverse or modify such decision or order.

174. When any fine, penalty or increased rate of duty is leviabie under this Act, the goods in respect of which such fine, penalty or rate is leviabie, shall not be removed by the owner until such fine, penalty or rate is paid.

If any person has become liable to any such fine, penalty or rate, in respect of any goods, the Chief Customs Officer or the Customs Inspector may detain any other goods belonging to such person passing through the Customs-house until such fine, penalty or rate is paid.

175. When a penalty or increased rate of duty is adjudged against any person under this Act by any Officer of Customs, such Officer, if such penalty of increased rate be not paid, may levy the same by sale of any goods of the said person which may be in his charge or in the charge of any other Officer of Customs.

When an Officer of Customs who has adjudged a penalty or increased rate of duty against any person, under this Act, is unable to realise the unpaid amount thereof from such goods, such Officer may notify in writing to the Tahsildar within the local limits of whose jurisdiction such person resides or owns property, the name and residence of the said person, and the amount of penalty or increased rate of duty unrecovered ; and such Tahsildar shall thereupon recover the said amount as if it were an arrear of land revenue.

CHAPTER XVII.

MISCELLANEOUS.

176. Any Officer of Customs may open any package and examine any goods brought by sea to, or shipped or brought for shipment at, any Customs-port.

177. The Chief Customs Officer or the Customs Inspector may, on the entry or clearance of any goods, or at any time while such goods are being passed through the Customs-house, take samples of such goods for examination, or for ascertaining the value thereof, on which duties are payable, or for any other necessary purpose.

Every such sample shall be returned to the owner or paid for.

Sec. 175. Under the corresponding Sec. 193 of the Indian Act, the Customs Officer has to notify to the Magistrate who may enforce payment of penalty etc., as if it were a fine imposed by him.

Sec. 177. The second paragraph of the corresponding Sec. 195 of the Indian Act runs thus :—“Every such sample shall, if practicable be, at the option of the owner ; either restored to him or sold and the proceeds accounted for to him,

173. The unshipping, carrying, shipping and landing of all goods, and the bringing of them to the proper place for examination or weighing, and the putting of them into and out of the scales, and the opening, unpacking, bulking, sorting, lotting, marking and numbering of goods, where such operations are necessary or permitted,

Owner to pay expenses incidental to compliance with Customs law.

and the removing of goods to, and the placing of them in, the proper place of deposit,

shall be performed by or at the expense of the owner of such goods.

179. No owner of goods shall be entitled to claim from any Officer of Customs compensation for any loss or damage occurring to such goods, at any time while they remain or are lawfully detained in any Customs-house, or on any Customs-house wharf, or under charge of any Officer of Customs, unless it be proved that such loss or damage was occasioned by the culpable neglect or wilful act of such Officer of Customs.

No compensation for loss or injury except on proof of neglect or wilful act

180. No suit or other proceeding shall lie against Our Government, or against any Officer of the Government for any act done, or ordered to be done, in good faith; in pursuance of this Act.

Bar of actions.

No suit or other proceeding shall lie against Our Government, or against any Officer of the Government, for any Act done, or ordered to be done, in pursuance of this Act, after the expiry of three months from the accrual of the cause of action.

Sec. 180. Sec. 198 of the Indian Act runs thus:—"No proceeding other than a suit shall be commenced against any person for anything purporting to be done in pursuance of this Act without giving to such per-

son a month's previous notice in writing of the intended proceeding, and of the cause thereof; or after the expiration of three months from the accrual of such cause".

181. Our Government may, by Notification in the Gazette, make Rules, consistent with this Act, to regulate—

Power to make Rules regarding disposal of things confiscated and rewards.

(a) [the bailment, safe custody, and preservation of things seized and the disposal of things confiscated under this Act; and]

(b) the rewards to be paid to Officers, informers and persons co-operating in a seizure, out of the proceeds of the fines, penalties and confiscations under this Act.

182. Our Government may fix the period, after the expiration of which, goods left on

Wharfage fees.

any Customs-house wharf, or other authorised landing place or part of

the Customs-house premises, shall be subject to the payment of fees, and the amount of such fees.

183. A duplicate of any certificate, manifest, bill or other Customs-house document may

Grant of duplicate of documents.

on payment of a fee to be prescribed therefor, be furnished to any person

applying for the same, if the Chief Customs Officer or the Customs Inspector is satisfied that no fraud has been committed or is intended by the applicant.

184. Except in the cases provided for by Sections 37, 50, 58 and 89, the Chief Customs

Amendment of documents.

Officer or the Customs Inspector may, in his discretion, upon pay-

ment of one rupee, authorise any document, after it has been entered and recorded in the Customs-house to be amended.

185. No person authorised to act as an agent for the transaction of any business relating

Customs-house agent.

to the entrance or clearance of any vessel, or the import or export of

goods or baggage, shall so act in any Customs-house, unless such authorisation is approved by the Chief Customs Officer or the Customs Inspector.

Sec. 181. Clause (a) was substituted by Sec. 2, Act I of 1109. The original Clause read as follows:—"The disposal of all things confiscated under this Act, and"

Sec. 183. The corresponding Sec. 200 of the Indian Act fixes a maximum fee of Rs. ten.

Such Officer may require any person so authorised to give a bond, with sufficient security, in any sum not exceeding rupees two thousand, for his faithful behaviour as regards the Customs-house Rules and Officers.

Such Officer may, in case of misbehaviour of the person so authorised, suspend or withdraw such approval ; but an appeal against every such suspension or withdrawal shall lie to the Controlling Officer of Customs, whose decision thereon shall be final,

Every appeal under this Section shall be made within one month of the suspension or withdrawal.

185. When any person applies to an Officer of Customs for permission to transact any specified business with him on behalf of any other person, such Officer may require the applicant to produce a written authority from the person on whose behalf such business is to be transacted, and in default of production of such authority, may refuse such permission.

Agent to produce authority if required.

The clerk, servant or agent of any person, or mercantile firm, may transact business generally at the Customs house on behalf of such person or firm : Provided that the Chief Customs Officer or the Customs Inspector may refuse to recognise such clerk, servant or agent, unless such person or a member of such firm identifies such clerk, servant or agent to such Officer as empowered to transact such business, and deposits with such Officer an authority in writing, duly signed, authorising such clerk, servant, or agent to transact such business on behalf of such person or firm.

137. All Rules made under this Act shall be notified in the Gazette and shall thereupon have the force of law.

Rules to be notified.

188. Any Notification made by any authority, under powers conferred by this Act, may be cancelled in like manner by the same authority.

Cancellation of Notifications.



PROCLAMATION

*By His Highness, the Maha Raja of Travancore,
issued under date the 29th Medom 1088 cor-
responding with the 11th May 1913.*

Whereas certain services in Our Devaswoms, such as *Tantrom, Santhi, Kazhakom etc.*, had been formerly granted to and are being enjoyed as *Karanma* by certain families; And whereas the holders of the said *Karanma* services had also been granted landed property, or *Thiruppuvaram*, or other emoluments, as remuneration for the due performance of the services; and whereas it has now been represented to Us that the holders of the said *Karanma* services, owing to incompetency, negligence or other cause, do not generally perform such services properly and regularly, and also that some families holding the said *Karanma* have alienated the services or properties or *Thiruppuvarams* or other emoluments attached thereto for pecuniary consideration or otherwise; And whereas We consider it essential that, in the interests of Our Devaswoms, the said services should all be duly performed; And whereas for an efficient administration of Our Devaswoms, it is necessary to declare that Our Government have absolute control over the holders of all *Karanma* services and also over all the properties, *Thiruppuvarams* and other emoluments attached thereto; We are hereby pleased to command that, whenever it is

Karanma Service Proclamation. The object of this Proclamation is stated thus in the Dewan's letter dated 25-4-1913 to the Palace:—"Several *Karanma* holders of services in the Devaswoms had alienated their service and emoluments for consideration, and consequently the services were not being duly performed. In the interests of the Devaswoms, it is absolutely necessary that the services should be performed well and regularly and that the properties and emoluments attached to such services should not be alienated by the holders. It was, therefore, ruled in G. O. No. D. 4905 dated the 25th

October 1912, regarding the re-organisation of the Devaswoms, that the unauthorised alienation of *Karanma* services or the emoluments attached thereto will determine the rights of the *Karanma* holder and that the failure of a *Karanma* holder to perform the service properly and regularly will also terminate the *Karanma*. Mention has also been made in the G. O. of the power vested in the Government to deal with the irregularities of the *Karanma* holders in their service, in the same manner as those of any other subordinate in the Devaswoms. Of late there has been a tendency among the *Karanma*

KARANMA SERVICE PROCLAMATION.

reported to Our Government that, owing to incompetency, negligence or other cause, any *Karanma* service is not being properly and regularly performed, or that an alienation of a *Karanma* service, or of the property, *Thiruppuvaram* or other emolument attached thereto, has been effected by the *Karanma* holder or by any member or members of the *Karanma* family; Our Government shall give due notice of the charge to the head of the family and the next senior member, and also to the alienor or defaulter if he is neither the head nor the next senior member, and also to such other members of the *Karanma* family as Our Government may deem necessary, and if, after hearing their objections, if any, Our Government are satisfied that there has been an alienation of the *Karanma* service or of the property or of the *Thiruppuvaram* or of the other emolument attached thereto, or that owing to incompetency, negligence or other cause there has been a failure to perform the service properly or regularly, Our Government shall suspend, remove, determine, cancel, or deal with in any other manner, the *Karanma* right of the family to the service; and We are further pleased to command that the decision of Our Government that any service or property or *Thiruppuvaram* or other emolument attached thereto has been alienated, or that, owing to incompetency, negligence or other cause, any service has not been properly or regularly performed, shall be final, and that no action shall lie in any Court against Our Government for any act done or ordered to be done in pursuance of this Proclamation.

holders of services to prefer complaints against the action of the Government to the Civil Courts for adjudication on the assumption that the *Karanma* right is a Civil right vesting in the family. The interference of the Civil Courts in a matter like this, which is and should be entirely under the control of the executive, is highly prejudicial to the efficient administration of the *Devaswoms*. It is necessary, therefore, to formally legalise the right vested in the Government to deal with

these *Karanma* services finally and to exclude the jurisdiction of the Courts in regard to the action taken by the Government in this respect.

Of course, the Proclamation will not affect the alienation of *Karanma* lands which have been recognised by the Government by levying the full assessment and issuing *Pattabs* accordingly.

L. R. M., Vol. I, Pp. 719-720. The Proclamation was published in *T. G. G. dated 13-5-1913.*

ACT VI OF 1088.

AN ACT TO AMEND THE HINDU RELIGIOUS ENDOWMENTS ACT, III OF 1079.

*Passed by His Highness the Maha Raja of Travancore,
on the 7th July 1913 corresponding with the
24th Mithunam 1088, under Section 13
of Act V of 1073.*

Whereas it is expedient to amend the Hindu Religious Endowments Act, III of 1079; It is hereby enacted as follows :—

1. Substitute the following for Section 4 :—

“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, or 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.

PENAL CODE (AMENDMENT) ACT.

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 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."

ACT I OF 1089.

AN ACT TO AMEND THE PENAL CODE, ACT I OF 1074.

*Passed by His Highness the Maha Raja of Travancore,
on the 23rd October 1913 corresponding with
the 7th Thulam 1089, under Section 13 of
Act V of 1073.*

Whereas it is expedient to amend the Penal Code, Act I of 1074; It is hereby enacted as follows :--

1. This Act shall come into force at once.

2. In Section 113 of the Code, insert the words "or Her Majesty the Queen Empress of India of the Sovereignty of British India or any part thereof" between the words "thereof" and "or" in line 3, and the words "or His Government or the Government established by law in British India" between the words "kingdom" and "shall" in line 5.

3. In Section 117, omit the expression "intended to be read" in line 1 and substitute the word "written" and insert the expression "brings or attempts to bring into hatred or contempt, or" between the words "otherwise" and "excites" in line 2.

Omit the expression "feelings of" between "excite" and "disaffection" in line 3.

Omit the expression "to Our Government" between the word "disaffection" and the words "or the Government" in line 3 and substitute the words "towards the

ACT II OF 1089.

Sovereign of this kingdom, or His Government, or Her Majesty the Queen Empress of India."

Insert the word "shorter" between the words "any" and "term" in line 5.

4. Omit the Explanation attached to Section 117 and substitute the following :—

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, 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, without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this Section."

ACT II OF 1089.

AN ACT TO AMEND THE PREVENTION OF CRUELTY
TO ANIMALS ACT, IV OF 1079.

Passed by His Highness the Maha Raja of Travancore, on the 23rd October 1913 corresponding with the 7th Thulam 1089, under Section 13 of Act V of 1073.

Whereas it is expedient to amend the Prevention of Cruelty to Animals Act, IV of 1079 ; It is hereby enacted as follows :—

For Section 8, substitute the following :—

"A prosecution for an offence against the Act 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."

ACT III OF 1089.

AN ACT TO AMEND THE LEPERS ACT, III OF 1077.

*Passed by His Highness the Maha Raja of Travancore,
on the 23rd October 1913 corresponding with the
7th Thulam 1089 under Section 13
of Act V of 1073.*

Whereas it is expedient to amend the Lepers Act, III of 1077; It is hereby enacted as follows :—

In Section 6 (1), line 2, omit the words “an Inspector” and substitute the words “a Sub-Inspector” between “of” and “may”

ACT IV OF 1089.

AN ACT TO AMEND THE FOREST ACT, II OF 1068 AS AMENDED BY ACTS IV OF 1071 AND IX OF 1085.

*Passed by His Highness the Maha Raja of Travancore,
on the 23rd October 1913, corresponding with the
7th Thulam 1089, under Section 13
of Act V of 1073.*

Whereas it is expedient to amend the Forest Act, II of 1068, as amended by Acts IV of 1071 and IX of 1085; It is hereby enacted as follows :—

SECTION 21.

At the end of para 2 (penalty clause), add the following :—

“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.”

PROCLAMATION.

*By His Highness the Maha Raja of Travancore,
issued under date the 30th Thulam 1089 cor-
responding with the 15th November 1913.*

Whereas it is expedient to make better provision relating to Coinage and the Mint; We are pleased to enact as follows :—

PRELIMINARY.

1. This Proclamation shall come into force at once.
2. Unless there is something repugnant in the subject or context in this Proclamation,—
 - (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;

Coinage and Mint Proclamation
dated 15-11-1913.

Amended by Proclamations
dated 14-3-1938, 20-10-1941,
4-5-1942, and 7-1-1943

The Proclamation was published in *T. G. G. dated 18-11-1913*. The Proclamation dated 14-3-1938 amended Sec. 9, Clause (a) and enacted that thenceforth the Sirkar half-rupee coins should be called 'Chitra'. This Proclamation was published in *T. G. G. dated 15-3-1938*. Proclamation dated 20-10-1941 was published in the Gazette extraordinary dated 20-11-1941 and it amended Sec. 5 (2) and added Sub-sec. 5 (3) and 5 (4) thereby providing for a change in the composition of the half and quarter rupee coins. It also enacted that the then existing half and quarter rupee coins shall continue to be legal tender.

The Proclamation dated 4-5-1942 amended Sub-secs. 3 and 4 of Sec. 5. It introduced a change in the composition of the fanam coins and also enacted that the then existing fanams shall continue to be legal tender. This Proclamation was published in *T. G. G. dated 5-5-1942*.

The Proclamation dated 7-1-1943 amended Sec. 7 Sub-sec. (1) thereby providing for a change in the composition of copper coins and also enacted that the then existing copper coins shall continue to be legal tender. This Proclamation was published in the Gazette extraordinary dated 8-1-1943.

SEC. 3.

COINAGE AND MINT

- (b) "The Mint" includes the mint now existing and any which may hereafter be established ;
- (c) "prescribed" includes prescribed by a Rule made under this Proclamation ;
- (d) "Remedy" means variation from the standard weight and fineness ;
- (e) "Standard weight" means the weight prescribed for any coin.

3. Our Dewan may, under Our sanction, by Notification in the Government Gazette,

- (a) establish a mint at any place at which a mint does not for the time being exist ; and
- (b) abolish any Mint, whether now existing or which may hereafter be established.

SILVER COINAGE.

4. The following silver coins may be coined at the mint for issue under Our authority, namely :—

- (a) A rupee to be called the Sirkar rupee ;
- (b) a half-rupee, or fourte n-chuckram piece ;
- (c) a quarter-rupee, or seven-chuckram piece ;
and
- (d) one-seventh of a rupee, or fanam, or four-chuckram piece.

5. (1) The standard weight of the Sirkar rupee shall be one hundred and sixty-five and fifteen-sixty-oneths grains Troy, and its standard fineness shall be as follows :—

Nineteen-twentieths, or one hundred and fifty-six and sixty-sixty-oneths grains of fine silver, and on-twentieth, or eight, and sixteen-sixty-oneths grains of alloy.

(2) The other silver-coins shall be of proportionate weight. [* * *]

[(3) The standard of fineness of the half-rupee shall be as follows, namely, one-half or forty-one and nineteen-sixty-oneths grains Troy of fine silver and one-half or forty-one and nineteen-sixty-oneths grains Troy of alloy ; of the quarter-rupee, one-half or twenty and forty-sixty-oneths grains of fine silver and one-half or twenty and forty-sixty-oneths grains of alloy ; and of one-seventh of a rupee, [one-half or eleven and forty-nine-sixty-oneths grains of fine silver and one-half or eleven and forty-nine-sixty-oneths grains of alloy.]

Sec. 5, Sub-sec. 2. The words "and of the same fineness," which occurred within the brackets and the Proviso which is given below were omitted by Sec. 2 of the Amending Proclamation dated 20-10-1941.

"Provided that, in the making of silver coins, a remedy shall be allowed of an amount not exceeding the following, namely :—

	Remedy in weight.	Remedy in fineness.
Rupee	Five thousandths.	Two thousandths.
Half-rupee		
Quarter-rupee	Seven thousandths.	Three-thousandths"
Seventh of a rupee	Ten-thousandths.	

Sec. 5, Sub-sec. (3). This was added by Sec. 2, Amending Proclamation dated 20-10-1941. The words "one half or..... grains of alloy" within brackets were substituted for the words "of the same fineness as that of the Sirkar Rupee" by Sec. 2, Amending Proclamation dated 4-5-1942.

SEC. 6.

COINAGE AND MINT

[(4) In the making of silver coins, a remedy shall be allowed of an amount not exceeding the following, namely :—

	Remedy in weight.	Remedy in fineness.
Rupee	Five thousandths	Two thousandths.
Half-rupee	Nine thousandths	Five thousandths
Quarter-rupee		
Seventh of a rupee	[Nine thousandths]	[Five thousandths.]

COPPER COINAGE.

6. The following copper coins shall be coined at the Mint for issue under Our authority, namely :—

- (i) One chuckram, or one-twenty-eighth of a rupee ;
- (ii) a half chuckram, or one-fifty-sixth of a rupee ;
- (iii) a quarter-chuckram, or one-hundred-and-twelfth of a rupee ; and
- (iv) a cash, or one-sixteenth of a chuckram.

7. (1) The standard weight of the one chuckram shall be [one hundred and twenty grains Troy,] and the other copper coins shall be of proportionate weight.

(2) Copper coins shall be coined from a mixed metal consisting of copper, tin and zinc :

Provided that, in the making of copper coins, a remedy shall be allowed of an amount not exceeding one-fortieth in weight.

Sec 5, Sub sec. (4). This was added by Sec. 2, Amending Proclamation dated 20-10-1941. The entries against "Seventh of a Rupee" in the table were substituted for "Ten thousandths" and "Three thousandths" respectively by Sec. 2,

Amending Proclamation dated 4-5-1942.

Sec. 7, Sub-sec. (1). The words within brackets were substituted for the words "one hundred and fifty-seven grains Troy" by Sec. 2, Amending Proclamation dated 7-1-1943.

DIMENSIONS AND DESIGNS OF COINS.

8. (1) Our Dewan may, under Our sanction, by Notification in the Government Gazette—

- (a) direct the coining and issuing of all coins referred to in Sections 4 and 6, and
- (b) determine the dimensions of, and designs for, such coins.

(2) Until Our Dewan under Our sanction otherwise determines by Notification under Sub-section (1), the dimensions and designs of the Sirkar half-rupee, quarter-rupee and fanam coins, coined under this Proclamation shall be of those prescribed in Our Proclamation dated 3rd April 1912, corresponding to 22nd Meenam 1087.

LEGAL TENDER.

9. (a) The half-rupee shall be legal tender, in payment or on account, for any sum [* * *] provided that the coin—

- (i) has not lost in weight so as to be more than four and thirty-eight-sixty-oneths grains below the standard weight; and
- (ii) has not been defaced.

(b) The quarter rupee shall be legal tender, in payment or on account, for any sum not exceeding two rupees, provided that the coin—

- (i) has not lost in weight so as to be more than two and nineteen sixty-oneths grains below the standard weight; and
- (ii) has not been defaced.

(c) The one-seventh rupee shall be legal tender, in payment or on account, for any sum not exceeding two rupees provided that the coin—

- (i) has not lost in weight so as to be more than two and thirty-seven-sixty-oneths grains below the standard weight; and
- (ii) has not been defaced.

Sec. 9 (a). The words "not deleted by Sec. 2, Amending exceeding two rupees" which Proclamation dated 14-3-1938. occurred within brackets were

10. Copper coins specified in Section 6 shall be legal tender, in payment or on account, for any sum not exceeding one rupee at the following rates, respectively, namely :—

- (a) The one chuckram at the rate of twenty eight for a rupee, or fourteen for a half-rupee ;
- (b) the half-chuckram at the rate of fifty-six for a rupee, or twenty-eight for a half-rupee ;
- (c) the quarter-chuckram at the rate of one hundred and twelve for a rupee, or fifty-six for a half-rupee ; and
- (d) the one cash at the rate of four hundred and forty-eight for a rupee, or two hundred and twenty-four for a half rupee.

DIMINISHED, DEFACED AND COUNTERFEIT SILVER COIN.

11. Where any silver coin which has been coined and issued under Our authority is tendered to any person authorised by Us to act under this Section, and such person has reason to believe that the coin—

- (a) has been diminished in weight so as to be more than such weight below standard weight as has been prescribed in Section 9 as the limit of reasonable wear, or
- (b) has been defaced,

he shall, by himself or another, cut or break the coin.

12. A person cutting or breaking coin under the provisions of Clause (a) of Section 11 shall observe the following procedure, namely :—

- (a) If the coin has been diminished in weight so as to be more than such weight below standard weight as has been prescribed as the limit of reasonable wear in Section 9, but not more than such further weight as may be prescribed in this behalf, he shall receive and pay for the coin at the face value of the coin ; and

(b) If the coin has been diminished in weight so as to be more than such further weight 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.

13. A person cutting or breaking coin under the provisions of Clause (b) of Section 11, shall observe the following procedure, namely:—

(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 face 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.

14. If a coin is liable to be cut or broken under the provisions of both Clause (a) and Clause (b) of Section 11, the person cutting or breaking the coin shall deal with it,—

(a) if he has reason to believe that the coin has been fraudulently defaced, under Clause (a) of Section 13, and

(b) in other cases, under Section 12.

15. Where any silver coin purporting to be coined or issued under Our authority is tendered to any person authorised by Us 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.

SUPPLEMENTAL PROVISIONS.

16. (1) Our Dewan may, under Our sanction, make Rules to carry out the purposes and objects of this Proclamation.

(2) In particular and without prejudice to the generality of the foregoing power, such Rules may—

(a) reduce the amount of remedy allowed by Sections 5 and 7 in the case of any coin ;

(b) provide for the guidance of persons authorised to cut or break coin under Sections 11 and 15 ; and

(c) prescribe the further weight referred to in Clause (a) of Section 12.

(3) Every such Rule shall be published in the Government Gazette, and on such publication shall have effect as if enacted in this Proclamation.

17. 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 Proclamation.

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ACT VI OF 1089.

AN ACT TO DECLARE THE LAW FOR THE REGULATION OF HACKNEY CARRIAGES.

*Passed by His Highness the Maha Raja of Travancore,
on the 27th December 1913 corresponding with the
13th Dhanu 1089, under Section 13 of
Act V of 1073.*

Whereas it is expedient to declare the law relating to the regulation of Hackney Carriages; It is hereby enacted as follows:—

Preamble.

Year.	No.	Short title.	Effect of subsequent Legislation.
1089	VI	Hackney Carriage Act.	Amended by Act I of 1103.

A Bill was originally framed on the lines of the Madras Hackney Carriage Act III of 1879. The Statement of Objects and Reasons appended to that Bill was as follows:—“This Bill is framed exactly on the lines of Act No. III of 1879 which provides for the regulation of hackney carriages in the Town of Madras. The objects and reasons for the legislation in Madras were thus stated when the Bill on the subject was introduced in the Council there:—“The object of this Bill is to make provisions for the registration of all hackney carriages and to place the same under the supervision and control of the Commissioner of Police; to provide for the hiring of the same at fixed and proper rates, thereby preventing unreasonable and

extortionate demands on the part of the owners or drivers of such vehicles; to ensure a decent class of hackney carriages and the orderly and respectable behaviour of the owners and drivers of the same; and to give jurisdiction to Magistrates to determine differences arising between the owners or drivers of hackney carriages and the hirers thereof.’

“The necessity for similar legislation here has long been felt. The Health Officer of the Town, and the Government Veterinarian, have reported that some of the hackney carriages now plying in Trivandrum are faulty in construction and many are in disrepair, that small or sickly animals are often used to drag heavy conveyances, that too many passengers

THE HACKNEY CARRIAGE ACT.

are crowded into small carriages, that accidents are frequent owing to the use of worn-out harness and fittings, that the rates charged are generally exorbitant and that the sanitary condition obtaining in the hackney carriage stables is not at all satisfactory.

"The safety and comfort of the public require speedy legislation to control and protect carriages plying for hire for the conveyance of passengers, and for fixing and enforcing the terms of hiring.

"It is proposed to place on the Superintendent of Police the responsibility of working the measure."

This Bill was referred to a Select Committee who presented their report to the Council on 30-5-1910. The Bill was postponed for final reading.

The Madras Act III of 1879 was in the meanwhile superseded by Act V of 1911 and consequently another Bill was drafted on the lines of the latter Act. This Bill was subsequently passed as Act VI of 1911.

Act VI of 1911. Objects and Reasons. "The necessity for legislation to make provision for the regulation of hackney carriages in the Towns in the State has long been felt. The Bill is framed on the lines of Act V of 1911 which embodies the law in force in the Town of Madras,"— S. O. & R., T. G. G. dated 2-7-1912.

For Report of the Select Committee see T. G. G. dated 20-5-1913.

For legislative proceedings see T. G. G. dated 22-10-1912; 17-6-1913 and 16-12-1913.

The Act was published in T. G. G. dated 6-1-1914.

Act I of 1913. Objects and Reasons. "When a hackney carriage is licensed under the Hackney Carriage Regulation, the Registering Officer has, under Section 14 (1), to cause the register number of the carriage to be painted on some conspicuous part of the carriage or on a plate to be affixed on some conspicuous part of the carriage. Under that provision, this plate has to be, and is being, supplied by the Registering Officer. Although a fee may be levied when the painting or the plate is renewed under Section 14 (2) of the Regulation, doubts have been felt whether such a fee can be levied at the outset when the painting is done, or the plate supplied, under Sub-section (1). Again, drivers' badges (in metal) have to be supplied, to licensed drivers under Sub-sections (1) and (4) of Section 23 of the Regulation. There is no express provision in the Regulation for recovering the cost of the same. Similarly, fare plates have to be supplied for being affixed on hackney carriages under Bye-law 18 of the Bye-laws passed under the Regulation; and the affixture of such plates on some conspicuous part of the carriage is also necessary in the interests of the public. But there is no express provision authorising the recovery of the cost of such plates.

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called "The Hackney Carriage Act."

(2) It extends—

Local extent. (a) to the Town of Trivandrum, and
 (b) to such other parts of Travancore as Our Government may, by Notification, direct :

Provided that no such Notification shall be issued unless notice of the proposed extension inviting objections thereto shall have been published not less than two months previously.

(3) It shall come into force—

Commencement. (a) in the town of Trivandrum, on the first Kumbhom 1089, and

(b) in any area to which it may be extended by a Notification under Clause (b) of Sub-section (2), on such date as may be specified in that behalf in the Notification.

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

Definitions.

(1) "Registering Officer" shall mean the Commissioner of Police, or any other person appointed, by name or by virtue of his office, by Our Government, for registering, within a particular area, hackney carriages :

"Registering Officer."

(2) "Magistrate" means any Magistrate having local jurisdiction in any area to which this Act extends :

"Magistrate."

"2. The cost of supplying the plates of all the classes referred to is not negligible and is sure to increase year by year. In order to enable the cost being recovered from the parties concerned, the appropriate Sections of the Regulation are sought to be amended by this Bill."— S. O & R., T. G. G. dated 2-11-1926.

For legislative proceedings see L. C. P. Vol. XI, Pp. 28—31 ; Vol. XII, Pp. 148—154, 454.

The Act was published in T. G. G. dated 15-5-1928.

Sec. 2 (4). The definition of stage carriage has been omitted in the Madras Act by Amending Act III of 1924.

SEC. 3. THE HACKNEY CARRIAGE ACT. CHAP. II.

(3) "Hackney carriage" means any wheeled vehicle drawn or pushed by man or horse, bullock or other animal, and used for the conveyance of any person, which stands or plies for hire by the hour or day or according to distance :

"Hackney carriage."

(4) "Stage carriage" means any hackney carriage the passengers in which may pay or be charged at the rate of separate and distinct fares for their conveyance thereby :

"Stage carriage."

(5) "Driving" includes dragging or pushing, and "Driver" includes any person who drives, drags or pushes any hackney carriage :

"Driving" and "Driver."

(6) "Horse" includes mule or pony ;

"Horse."

(7) "Year of registration" means the year ending with the last day of Karkatakam :

"Year of registration."

(8) "Minor" means any person who has not completed the age of eighteen years :

"Minor."

CHAPTER II.

REGISTRATION AND NUMBERING OF HACKNEY CARRIAGES.

3. Every hackney carriage shall be annually registered by the Registering Officer.

Annual registration compulsory.

4. (1) Any person who is desirous of having any vehicle registered as a hackney carriage shall apply to the Registering Officer and shall submit such vehicle for such inspection as the Registering Officer may direct.

Application for registry.

(2) The person in whose name any carriage is registered shall be deemed to be the owner of such carriage for the purpose of this Act.

5. Every applicant under Section 4 shall be entitled to registration unless the Registering Officer is of opinion that the vehicle is not fit for public use: Provided that no vehicle shall be registered in the name of a minor.

6. (1) The Registering Officer shall, at the time of registration, deliver a license duly signed by him to the applicant.

(2) A license granted under this Section shall be in force for the year of registration.

7. The following particulars shall be entered in the register and in the license to be given to the applicant:—

First.—The number in the register of the hackney carriage.

Second.—The name and residence of the owner and the place where the carriage is kept.

Third.—A description of the carriage.

Fourth.—The number of horses or other animals to be employed in drawing such carriage and if the carriage is drawn or pushed by men, the number of men to be so employed.

Fifth.—The number of passengers such carriage is licensed to carry.

Sixth.—The date of the license.

8. A fee shall be paid to the Registering Officer for each license in accordance with the following scale:—

	Rs.	Chs.	C.
(a) For every four-wheeled carriage drawn by two or more horses licensed to carry more than six passengers	3	0	0
(b) For every other four-wheeled carriage drawn by two horses	2	0	0
(c) For every other four-wheeled carriage drawn by one horse or by one or more bullocks	1	0	0

Sec. 8. In Madras, Act III of 1924 has substituted a new scale. These rates are Rs. 10, 5, 2 and 1 for the licenses under Clauses (a), (b), (c) and (d) respectively and Annas 8 and 4 respectively for the licenses under Clauses (e) and (f).

SEC. 8-A. THE HACKNEY CARRIAGE ACT. CHAP. II

	Rs.	Chs.	C.
(d) For every two-wheeled carriage drawn by one or more horses	0	14	0
(e) For every two-wheeled carriage drawn by one or more bullocks	0	7	0
(f) For every rickshaw, perambulator or other carriage drawn or pushed by one or more men	0	7	0

8-A. Every person applying for a certified copy of the particulars in the register or license mentioned in Section 7 shall be furnished the same on payment of a fee of four chuckrams.¹

Fee for certified copy of register or license.

9. The registering Officer may suspend for such period as he thinks fit the license of any hackney carriage, whenever it appears to him that such carriage or any animal or harness used therewith is unfit for public use.

Suspension of license by Registering Officer.

10. On any transfer of ownership of a hackney carriage, the transferee shall, if he desires to use it as such, within one week from the date of the transfer, apply to the Registering Officer for transfer of the registry, giving him the particulars specified in the first three Clauses of Section 7.

Transfer of registry.

11. (1) Whenever the owner of a hackney carriage changes his residence, or the place where such carriage is kept, he shall within one week from the date of such change forward his license and give to the Registering Officer a notice in writing signed by him specifying the new residence or place.

Notice of change of residence, etc., to be given by licensee.

(2) Every such owner who neglects to forward his license and give such notice shall be liable to a fine not exceeding twenty rupees.

Penalty.

12. The Registering Officer, on receiving the application or notice specified in either of the two last preceding Sections, shall make the necessary alteration in the register and the license, and return the license ; and a fee of four chuckrams shall be payable in advance in respect thereof.

13. Whoever keeps any hackney carriage, which has not been duly licensed under this Act, shall be liable to a fine not exceeding fifty rupees.

14. (1) Upon the registration of any hackney carriage, the Registering Officer shall cause to be painted on some conspicuous part of the carriage or on a plate to be affixed on some conspicuous part of the carriage its number in the register and the number of passengers it is licensed to carry.

(2) If the words or figures so painted become indistinct or are obliterated during the term of the license, the owner of the carriage shall be bound to produce it before the Registering Officer and apply to have such words or figures renewed. If the plate so affixed shall have been lost or stolen, the owner of the carriage shall be bound to apply to the Registering Officer to have a new plate affixed. [* * *]

[(3) The fee for the painting or the plate, done or supplied under Sub-section (1) or Sub-section (2) shall be seven chuckrams, payable to the Registering Officer.]

15. If any hackney carriage stands or plies for hire without a plate or legible inscription as prescribed by Section 14, the owner thereof shall be liable to a fine not exceeding twenty rupees.

Sec. 14 (2). The words "the charge for such painting or new plate shall be seven chuckrams" which occurred within the brackets were omitted by Sec. 2, Act I of 1103. Sec. 14 (3). This was inserted by Sec. 2. Act I of 1103. See objects and reasons given *supra*.

SEC. 16. THE HACKNEY CARRIAGE ACT. CHAP. III.

16. (1) On the expiration or other determination of the period of registration, the owner of every hackney carriage shall cause the plate of such hackney carriage to be delivered to the Registering Officer.

Return of plate on expiry of license.
Penalty.
(2) Any person who, after the expiration of the period aforesaid, wilfully omits for fourteen days to deliver the plate to the said Officer, shall be liable to a fine not exceeding twenty rupees.

17. (1) Every person who shall, for the purpose of deception, use or have any plate resembling or intended to resemble any plate affixed under this Act, shall be punishable with fine which may extend to fifty rupees, and in the case of a subsequent conviction under this section, with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to one month, or with both.

Penalty for using counterfeit plate.
Seizure of counterfeit plate.
(2) Any Police Officer may seize and take away any plate used or had as aforesaid, wheresoever the same may be found, and deliver the same to the Registering Officer.

CHAPTER III.

DRIVER'S LICENSE AND BADGE.

18. (1) It shall be lawful for the Registering Officer to grant a license to act as driver of any hackney carriage to any applicant whom he may consider fit, provided he is not a minor.

Grant of driver's license.
Form of license.
(2) Every such license shall contain—
the number of the license, the name, place of abode and age of the person to whom such license is granted,

Sec. 17. Under the Madras Act, the penalty is either fine or imprisonment and not both.

Sec. 18 (1). The words "provided he is not a minor" is not in the corresponding Sec. 19 of the Madras Act.

the description of carriage and animals, if any, to be used therewith, and

the date on which the license was granted,

and shall bear the signature of the Registering Officer.

(3) Such license shall be in force for the year of registration and the fee payable

Currency of and therefor shall be one rupee, unless fee for license.

the license relates solely to a car-

riage of the description specified in Clause (f) of Section 8, in which case the fee shall be seven chuckrams.

19. The particulars of every license which shall be granted under the provisions of

Particulars of license Section 18 shall be entered in a to be registered.

register by the Registering Officer

and every person applying shall be furnished with a certified copy of such particulars on payment of a fee of four chuckrams.

20. If at any time fifteen days after the time when a license should have been obtained,

Penalty for driving without license or lending license. any person acts as the driver of a hackney carriage without having a

license in force for the time being,

or, having a license, fails to carry it with him when driving a hackney carriage, or transfers or lends it or allows it to be used by any other person, he shall be liable to a fine not exceeding twenty rupees.

21. The Registering Officer may suspend for such period as he thinks fit the license of

Suspension of license by Registering Officer. the driver of a hackney carriage whenever in his opinion such driver is unfit to be so employed.

22. The owner of a hackney carriage, who knowingly suffers any person, not duly licensed

Penalty for suffering unlicensed person to drive. under this Act, to act as driver of such carriage, shall be liable to a fine not exceeding fifty rupees ;

Sec. 18 (3). The fees has been respectively by the Amending Act raised in Madras to one rupee III of 1924. eight annas and six annas res-

SEC. 23. THE HACKNEY CARRIAGE ACT. CHAP. III.

Provided that such owner and such unlicensed driver shall be subject to all the provisions of this Act for any act done or omitted to be done by such driver during such employment in like manner as if such driver had been duly licensed.

23. (1) The Registering Officer shall, at the time of granting a license to any driver of a hackney carriage, furnish him with a metal badge punched or marked with the number of his license.

(2) Every driver to whom such badge is delivered shall, at all times while acting as driver, or while attending before any Magistrate, in his capacity as driver, wear such badge exposed to view.

(3) In case any such driver omits to wear such badge exposed to view while acting as driver or attending before a Magistrate, in his capacity as driver, he shall be liable to a fine not exceeding ten rupees.

(4) Whenever the number on any badge becomes indistinct or is obliterated during the term of the license, and also whenever any badge is lost or stolen, the person to whom the license relating to any such badge has been granted shall deliver such badge or notify its loss and shall produce such license to the Registering Officer, and such person shall then be entitled to have a new license and badge delivered to him upon payment of half the fee mentioned in Section 18. Such new license shall be in force for the year of registration.

(5) Every person licensed under the authority of this Act who uses or wears the badge granted to him after the writing thereon has become indistinct or obliterated shall be liable to a fine not exceeding ten rupees.

24. (1) Upon the expiration or other determination of any license granted to a driver under this Act, he shall deliver such license and his badge to the Registering Officer.

Return of expired license and badge.

(2) Every driver who neglects for three days to deliver such expired license and badge to the Registering Officer, and also every person who uses or wears, or fraudulently detains any such expired license or badge and every person to whom any expired license or badge has been delivered, who lends, gives away, pledges or sells such badge to any other person, and every person who detains, wears or uses any license or badge, of any other person, shall be liable to a fine not exceeding twenty rupees.

Penalty.

25. Every person who, for the purpose of deception, uses or wears any badge resembling or intended to resemble any badge granted under the authority of this Act, shall be punishable with fine which may extend to fifty rupees, and in the case of a subsequent conviction under this Section, with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to one month.

Penalty for using counterfeit badge.

26. Any Police Officer may seize and take away any expired or counterfeit badge, or any badge in respect of which an offence under Section 24 has been committed, wheresoever the same may be found, and deliver the same to the Registering Officer.

Seizure of expired or counterfeit badge.

27. Whenever any driver is summoned to appear before any Magistrate to answer any charge preferred against him under this Act, he shall carry with him his license, and produce the same if required so to do; and any driver who on such requisition, refuses to produce such license, shall be liable to a fine not exceeding five rupees

Penalty for failing to produce licence before Magistrate.

SEC. 28. THE HACKNEY CARRIAGE ACT. CHAP. III.

28. On the conviction of any driver for any offence under this Act, the Magistrate shall cause to be endorsed on his license the nature of the offence, the date of the conviction and the penalty inflicted.

Convictions under Act to be endorsed on license.

29. (1) On the conviction of any driver for any offence under this Act, the Magistrate may direct the cancellation of the license of such driver or its suspension for such time as he thinks fit.

Cancellation or suspension of license on conviction.

(2) For such purpose, he may require the driver or any other person who may be in possession of the license or badge to deliver up the same.

Delivery of license or badge on conviction.

(3) If such driver or other person refuses or neglects to deliver up license or badge, he shall be liable to a fine not exceeding ten rupees.

Penalty

(4) The Magistrate shall forward every license and every badge delivered up to him under Sub-section (2) to the Registering Officer together with a memorandum of his sentence in the case.

Magistrate to communicate sentence and forward license and badge to Registering Officer.

(5) The Registering Officer shall enter the fact of such sentence in the register referred to in Section 19, and shall either suspend or cancel such license according to the direction of the Magistrate; and if it has been suspended, the Registering Officer shall, on application, at the end of the period of suspension, re-deliver such license or badge to the person to whom it was granted.

Action to be taken by Registering Officer.

CHAPTER IV.

FARES, HIRING AND PLYING FOR HIRE.

30. (1) The owner or driver of every hackney carriage may demand and receive for the hire of such carriage such fares as may be fixed and published by the Registering Officer with the sanction of Our Government duly notified :

Maximum fares for use of hackney carriages.

Provided that any agreement entered into to accept a fare lower than the fare so fixed shall be binding.

Contract for lower fare to be binding.

(2) No owner or driver shall demand or receive over and above the said fare any sum for back fare for the return of the carriage from the place at which it was discharged.

Back fares prohibited.

31. No agreement made with the driver of any hackney carriage for the payment of more than the fare published in accordance with Section 30 shall be binding on the person making the same, and any person, notwithstanding such agreement, may refuse on discharging such hackney carriage to pay any sum beyond such fare. If, in pursuance of such agreement, any person receive any sum exceeding the fare allowed, he shall be liable to pay a fine not exceeding ten rupees and also to refund such excess, which shall be recoverable as if it were a fine.

32. (1) The Registering Officer shall cause to be prepared a list in English and Malayalam or other Vernacular language of the fares published under Section 30 and shall annex to such list a Table showing the distances between the principal places to and from which hackney carriages commonly ply. The distances so shown shall be presumed to be correct.

Sec. 32. Clauses (4) to (6) were inserted by Sec. 3, Act I of 1103. See Objects and Reasons *supra*.

SEC. 33. THE HACKNEY CARRIAGE ACT. CHAP. IV.

(2) Copies of such list and Table shall be issued to all applicants on payment of a fee of four chuckrams for each copy.

Copies of published scale to be available for sale.

(3) The driver of every hackney carriage standing or plying for hire shall have with him a copy of such list and Table and shall on demand produce the same for the inspection of any Police Officer or for the information of any hirer of, or passenger by, his carriage and shall in default be liable to a fine not exceeding ten rupees

Driver to keep copy of published scale and produce on demand.

[(4) The Registering Officer shall also cause an abstract of the fares referred to in Sub-section (1) to be prepared in English and the Vernacular language of the place and printed on enamelled plates and such plates shall be issued to applicants on payment of a fee of seven chuckrams for each plate.

Fare plates

(5) Every hackney carriage shall have such a plate affixed, and, as often as any portion of the printing on any such plate becomes indistinct or obliterated, re-affixed on a conspicuous part of the carriage in accordance with the directions of the Registering Officer.

Fare plates to be affixed on carriages.

(6) If any hackney carriage stands or plies for hire without such a plate affixed or re-affixed as required by Sub-section (5), the owner or driver thereof shall be punishable with fine not exceeding twenty rupees.]

Penalty for plying for hire without fare plate.

33. (1) The driver of every hackney carriage standing or plying for hire shall drive such carriage to any place named by the hirer which is not more than three miles from the place of hiring in the case of vehicles of the description specified in Clause (f) of Section 8 and six miles in the case of any other vehicle.

Maximum distance to which driver is bound to drive.

(2) When any such carriage is hired by time, the driver thereof shall drive the same at a rate of speed not less than that prescribed by the Registering Officer.

Minimum speed when hired by time.

(3) A driver failing, without reasonable excuse, to comply with the provisions of this Section, shall be liable to a fine not exceeding ten rupees.

Penalty.

34. The driver of every hackney carriage shall carry in or upon such carriage without additional charge such quantity of luggage for every person hiring the same as may be prescribed by the bye-laws under this Act.

Quantity of luggage to be carried.

35. Any owner or driver of any hackney carriage who demands more than the fare to which he is legally entitled, or without reasonable excuse refuses to let such carriage for hire, shall be liable to a fine not exceeding fifty rupees and to pay such further sum by way of compensation to the party complaining as to the Magistrate may seem just; and such further sum shall, in default of immediate payment, be levied as if it were a fine.

Penalty for refusing to let hackney carriage for hire.

36. Every driver of a hackney carriage who—

Penalty for various offences by driver.

- (a) is drunk during his employment,
- (b) makes use of insulting or abusive language or gesture,
- (c) stands elsewhere than at some stand or other place appointed for the purpose or loiters for the purpose of being hired in or upon any public street, road or place,
- (d) wilfully obstructs, or hinders, the driver of any other hackney carriage in taking up or setting down any person into, or from, such other carriage,
- (e) wrongfully prevents or endeavours to prevent the driver of any other hackney carriage from being hired,

SEC. 37. THE HACKNEY CARRIAGE ACT. CHAP. IV.

- (f) refuses to admit and carry in such carriage the number of passengers the carriage is licensed to carry,
- (g) carries more than such number of passengers,
- (h) refuses to carry such quantity of luggage as is provided by the bye-laws under this Act,
- (i) being hired permits or suffers any person to be carried in or upon or about such hackney carriage during such hire, without the consent of the person hiring the same,
- (j) drives in any hackney carriage any animal which is not so secured as to be under the control of the driver,
- (k) being hired by time or distance, before he has been discharged by the hirer, wilfully deserts from the hiring,
- (l) plies for hire with any carriage or animal which shall at the time be unfit for public use,
- (m) without previously disinfecting it, knowingly uses for hire any carriage used for the conveyance of a corpse or any person suffering from any contagious or infectious disease,

shall be liable to a fine not exceeding fifty rupees, or to imprisonment which may extend to one month, or to both.

37. (1) When a complaint is made before a Magistrate against the driver of a hackney carriage under this Act, the Magistrate may, if the driver fails to appear, summon the owner to appear and to produce the driver.

(2) If the owner, after being duly summoned fails, without reasonable excuse, to appear or to produce the driver according to the summons, he shall be liable to a fine not exceeding fifty rupees.

(3) If the owner fails without reasonable excuse to appear or produce such driver on a subsequent summons requiring him to do so, the Magistrate may dispose of the complaint in the absence of the owner and driver or either of them.

Ex parte disposal of complaint.

38. (1) In case of any dispute between the hirer and driver of any hackney carriage, either may require the other to proceed forthwith to the nearest Magistrate's Court; and the then sitting Magistrate shall hear and determine the dispute in a summary way.

Procedure in case of disputes between hirer and driver.

(2) If no Magistrate be then sitting, either party may require the other to proceed to the nearest Police-Officer who shall enter the complaint in his diary and require the parties to appear before the Magistrate at his next sitting.

(3) On failure of either party to appear before the Magistrate in pursuance of a requisition under Sub-section (1) or Sub-section (3) or to attend the Court at any subsequent sitting to which the case may be adjourned, the Magistrate may decide the case *ex-parte*, and his decision shall be binding on both parties.

39. (1) If any person who has hired a hackney carriage refuses to pay to the owner or driver thereof the fare payable under this Act, the Magistrate may order payment of such fare, and also of reasonable compensation for loss of time, and, in default of immediate payment, such fare and compensation may be recovered as a fine.

Procedure in case of refusal to pay fare.

(2) If any person who has used any such carriage attempts to evade payment of the legal fare, or any portion thereof, he shall be liable to a fine not exceeding fifty rupees in addition to any payment which may have been ordered under Sub-section (1).

40. (1) Every person who wilfully tears, destroys, defaces, obliterates, or removes any plate, list of fares, Table of distances or driver's badge, kept under the provisions of this Act, shall be liable to a fine not exceeding twenty rupees.

Penalty for defacing or destroying plate, badge or Table of fares.

SEC. 41. THE HACKNEY CARRIAGE ACT. CHAP. IV.

(2) Any portion of the fine may be awarded to the person to whom such plate, list of fares Table of distances, or driver's badge, belongs.

41. Every person using a hackney carriage who wilfully injures the same, shall be liable to a fine not exceeding twenty rupees and shall also pay to the owner such compensation for the injury as the Magistrate may direct; and such compensation shall be leviable as if it were a fine.

Penalty for wilful injury to hackney carriage.

42. (1) It shall be lawful for a registered hackney carriage to ply for hire as a stage carriage.

Hackney carriage may ply for hire as stage carriage.

(2) The owner or driver of a carriage so plying for hire or hired as a stage carriage shall not be subject to the provisions of Section 30, but shall be entitled to receive such fares as shall be agreed upon between him and the several hirers respectively subject to any maximum which may be prescribed by the Registering Officer.

Fares for use of stage carriage.

(3) All the other provisions of this Act shall be applicable, so far as may be, to the case of a hackney carriage standing or plying as a stage carriage.

Provisions of Act applicable to stage carriages.

43. (1) The Registering Officer shall appoint a sufficient number of public stands for hackney carriages.

Hackney carriage-stands.

(2) Every public stand so appointed shall have a board placed in a conspicuous place on the same, containing a notice in English and Malayalam or other Vernacular language, stating that the stand is a public stand under this Act, and specifying the number of carriages that may stand upon it.

Sec. 42. The corresponding Sec. 43 of the Madras Act has been omitted by the Amending Act III of 1924.

CHAPTER V.

LOST PROPERTY.

44. (1) The owner or driver of every hackney carriage wherein any property is left by any person shall, within eighteen hours, carry such property to the nearest Police-station and deposit it with the Sub-Inspector or other Officer on duty and shall be entitled to a receipt duly signed by the Officer taking charge of the same.

Deposit with Police of property left in hackney carriage.

(2) Any such owner or driver making default herein shall be liable to a fine not exceeding twenty rupees, or to imprisonment for a period which may extend to one month, or to both.

Penalty.

45. (1) The said Officer shall forthwith enter, in a book to be kept for that purpose—

Police to register particulars of property deposited and grant receipt.

(a) the description of the property ;

(b) the name and address of the driver or other person who brings it ;

(c) the name and address of the owner of the hackney carriage in which it was left, and the registered number of the carriage ; and

(d) the day and hour when the property is brought; and shall give to the person bringing the property a receipt for the same.

(2) Such property shall be delivered to the person who satisfies the Registering Officer that it belongs to him, upon payment of all expenses incurred by the owner or driver, together with such reasonable sum as the Registering Officer may award :

Return of property to owner.

Provided that, if the property is not claimed and the ownership established within six months from the date of deposit, the Registering Officer may cause the property to be advertised and sold by public auction ; and

Sale of unclaimed property.

the proceeds, after deducting the expenses together with such reasonable sum as the Registering Officer may award to the owner or driver, may be forfeited to the Government.

CHAPTER VI.

PROSECUTIONS.

46. If, in any prosecution under this Act, the person charged does not appear as directed by the summons, the Magistrate may, upon proof of service and if no sufficient cause be shown for the non-appearance, proceed to dispose of the case in his absence.

Ex parte disposal of Criminal charges.

47. (1). No person shall be liable to prosecution for any offence under this Act unless the complaint respecting such offence be made within ten days next after the commission of such offence.

Limitation restricting Criminal proceedings.

(2) For the purposes of this Section, every omission punishable under this Act shall be deemed to be a continuing offence so long as the omission continues.

Continuing offences.

48. Where the Magistrate is satisfied that a complainant had no reasonable ground for instituting a prosecution, he may direct the complainant to pay to the accused such compensation not exceeding fifty rupees as he thinks fit; and the sum so awarded shall be recoverable as if it were a fine.

Compensation for frivolous prosecution.

CHAPTER VII.

BYE-LAWS AND DELEGATION.

49. The Registering Officer may, subject to the approval of Our Government and after previous publication, make bye-laws not inconsistent with the provisions of this Act, with regard to—

Power to make bye-laws.

- (a) the examination and qualifications of drivers and the conditions under which they may be employed ;

Sec. 47. The corresponding Sec. 48 of the Madras Act prescribes a period of one month.

- (b) the description of horses; bullocks or other animals, harness and other things to be used with hackney carriages, the dimensions of such carriages, and the condition in which such carriages and horses, bullocks or other animals, harness and other things used therewith shall be kept ;
- (c) the inspection of the premises on which any such carriages, horses, bullocks or other animals, harness and other things are kept ;
- (d) the protection of weak, lame and sickly horses, bullocks or other animals ;
- (e) the publication of a list of fares and Table of distances and the regulation of the amount and weight of luggage to be carried with or without additional charge ; and
- (f) generally for carrying out the purposes of this Act :

Provided that such bye-laws shall not take effect until the expiration of one month from the date of their publication.

50. Whoever infringes any bye-law shall, on conviction before a Magistrate, be liable to a fine not exceeding twenty rupees.
 Penalty for breach of bye-laws.

51. With the sanction of Our Government, the Registering Officer may delegate to any other Officer under him all or any of his functions under this Act.
 Delegation of Registering Officer's functions.

CHAPTER VIII.

EXTENSION OF THE ACT.

52. Upon the extension of this Act to any Town or place under Sub-section (3) of Section 1, Our Government shall appoint persons by name or by official designation to perform the functions of the Registering Officer under this Act.
 Discharge of Registering Officer's functions in mofussil.

ACT VII OF 1089.

THE BODY GUARD ACT.

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PREAMBLE.

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1. Short title and commencement.
2. Definition of Body Guard.
3. Power to frame Standing Orders.
4. Existing Standing Orders applicable to offences committed before the passing of Standing Orders under this Act.

AN ACT RELATING TO THE BODY GUARD.

Passed by His Highness the Maha Raja of Travancore, on the 2nd March 1914, corresponding with the 19th Kumbhom 1089, under Section 14 of Act V of 1073.

Whereas it is expedient to give the force of law to the Standing Orders that may be passed under this Act, amending the Standing Orders relating to Our Body Guard now in force; We are hereby pleased to enact as follows :—

1. This Act may be called "The Body Guard Act," and it shall come into force at once.
Short title and commencement.
2. The words "Body Guard" in this Act shall mean and include the Force raised for purposes of ceremonial and personal escort to Us and to the other Members of the Ruling Family.
Definition of Body Guard.

The Act was passed direct by His Highness the Maha Raja. It was published in T. G. G. dated 10-3-1914.

ACT VII OF 1089.

3. Our Dewan may, with Our previous sanction, pass from time to time, Standing Orders for all matters connected with Our Body Guard, in supersession or modification of, or in addition to, the 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 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.

4. Notwithstanding anything to the contrary in Section 3 of this Act, the Standing Orders now in force shall be applicable to all offences committed before the passing of Standing Orders under the authority of this Act.

ACT IX OF 1089.

THE ANCHAL ACT.

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THE ANCHAL ACT.

ACT IX OF 1089.

AN ACT TO CONSOLIDATE AND AMEND THE LAW RELATING TO THE ANCHAL OFFICES IN THE STATE.

*Passed by His Highness the Maharaja of Travancore,
on the 4th April 1914 corresponding with the
22nd Meenam 1089, under Section 13 of
Act V of 1073.*

Whereas it is expedient to consolidate and amend
the law relating to the Anchal Offices
in the State; We are pleased to
enact as follows :—

Preamble.

Year.	No.	Short title.	Effect of Subsequent Legislation.
1089	IX	Anchal Act.	Amended by Acts IX of 1096 and II of 1119.

The earliest legislation on the subject was Act I of 1064. Till then the working of the Anchal Service was regulated by certain departmental rules, under which the postage had to be paid in cash and receipts taken therefor from the officers of the Department. With the introduction of cards and stamps the necessity for passing an enactment became imperative. Hence Act I of 1064 was passed. This was in force till 1089.

Act IX of 1089. *Objects and Reasons.* "Considering the growth of the Department in the various branches of its business, the above Regulation (of 1064) must be said to have become incomplete and inadequate

during the twenty years and more that have rolled over it. Many important items of that business, such as the posting, registration and delivery of letters and other articles and the disposal of unclaimed and refused ones are still being regulated by a body of Rules enacted by the Government from time to time in virtue of the authority conferred on them by Sec. 5 of the Regulation. It may also be observed that that Section, while enumerating the various heads of Anchal business on which the Government may pass auxiliary Rules, contains no reference to many important transactions, such as the Hundi, the Money Order and the Value-Payable Post,

ACT IX OF 1089.

which have latterly come into existence and which are being carried on entirely in accordance with Rules passed by the Government in that behalf. The introduction of other measures, such as the insured post, which are not provided for in the existing Regulation will undoubtedly tend to enhance the public convenience. The Regulation has therefore to be amended so as to remove the above defects and introduce a more up-to-date system of Anchal business."—*S. O. & R., T. G. G. dated 23-1-1912.*

For Report of the Select Committee see *T. G. G. dated 6-5-1913.*

For legislative proceedings see *T. G. G. dated 7-3-1911; 23-1-1912; 17-6-1913 and 24-3-1914.*

The Act was published in *T. G. G. dated 7-4-1914.*

Act IX of 1096. The objects and reasons for the amending Act was thus explained by the Official member who moved the Bill:

"The circumstances that led to the introduction of the Bill are these. The recent revision of salaries in the Anchal Department increased the expenditure of that Department, and it was felt that the expenditure of the Department should be met out of the receipts from that Department. Therefore, an emergency Regulation was passed by Government modifying the Schedule of Anchal rates to some extent. That Regulation will be in force only up to the end of Chingom 1097. The present Bill has therefore been introduced to amend the

Schedule. The Bill empowers the Government to fix the rates of postage, registration fee, money orders, etc., below the maximum fixed in the Schedule. Though the Schedule fixes the maximum rates, it is not the object of Government that these rates should be brought into force immediately. It is only when a necessity arises that the rates will be raised by means of a Notification up to the maxima fixed in the Schedule. This provision is necessary as it may not be feasible to bring an amending Bill before the Council on each occasion whenever the rates have to be increased to keep pace with the postal rates elsewhere. The Members are aware of the delay that is incidental to the passing of a measure through the Council. * * * The practice in British India, where at the Budget meeting such Bills are introduced, may be known to the Members. There, the Bill is introduced and discussed and passed at the same session, and, before the session closes, the Bill becomes law. That is not possible here. Whenever a revision has to be effected in the rates, it will take roughly eight months to have it done. It is to avoid this delay that the present provision has been made. In Travancore itself, we have the Post Office and the Anchal Office. The Council may know without any explanation from me that the Anchal rates are always less than the Postal rates. There need therefore be no fear that the Anchal rates will be arbitrarily increased. The Government may be safely trusted to exercise the discretion in such

CHAPTER I.

PRELIMINARY.

1. (1) This Act shall be called "The Travancore Anchal Act."

Short title, extent and commencement. (2) It shall apply to the whole of Travancore.

- (3) It shall come into force on the 1st Medom 1089.

2. Act I of 1064 is hereby repealed.

Repeal of enactment.

a way that the rates do not cause any hardship to the public. With reference to the rates themselves, I may say that, on a comparison of them with the British Postal rates, it will be found that the only rate that approximates that in British India is the price of cards. In other cases, the rates will be found considerably less than the Postal rates. For instance, in the case of letters not exceeding one tola, the rate now is eight cash, and it is proposed to raise it to one chuckram, whereas in British India the rate is one chuckram and six cash, and in Cochin, it is nearly one chuckram. The same is the case in respect of other articles mentioned in the Schedule. I can assure the Council that the discretion vested in the Government will be properly exercised."—*L. C. P. dated 2-6-1921.*

For report of the Select Committee see *T. G. G. dated 5-7-1921.*

For legislative proceedings see *T. G. G. dated 12-7-1921 and 6-9-1921.*

The Act was published in *T. G. G. dated 9-8-1921.*

Act II of 1119. *Objects and Reasons.* "The present war has caused a considerable increase in the price of paper and in the manufacturing of Anchal cards and covers. It is therefore necessary to enhance the rates chargeable on those two items. The existing rates in respect of those items are the maxima leviable under the Schedule to the Act. No further enhancement is possible without amending the Schedule to the Act."—*S. O. & R., T. G. G. dated 6-7-1943.*

For Legislative proceedings see *A. P. Vol. XXII, Pp. 752-755; C. P. Vol. XXII, P. 364.*

The Act was published in *T. G. G. dated 17-8-1943.*

3. In this Act,—
Definitions.

(a) The expression “Mail bag” includes a bag, box parcel or any other envelope or covering in which Anchal articles in course of transmission by Anchal are conveyed, whether it does or does not contain any such articles ;

(b) The expression “Officer of the Anchal Department” includes any person employed in any business of the Anchal Department or on behalf of the Anchal Department ;

(c) The expression “Postage” means the duty chargeable for the transmission by Anchal of Anchal articles.

(d) The expression “Anchal stamp” means any stamp provided by Our Government for denoting postage or other fees or sums payable in respect of Anchal articles under this Act and includes adhesive Anchal stamps and stamps printed, embossed, impressed or otherwise indicated on any envelope, wrapper, card or other article ;

(e) The expression “Anchal office” includes every house, building, room, carriage or boat, or place used for purposes of the Anchal office, and every letter-box provided by the Anchal office for the reception of Anchal articles ;

(f) The expression “Anchal article” includes a letter, card, newspaper, book, pattern or sample packet, parcel and every article or thing transmissible by Anchal.

4. For the purposes of this Act,—

(a) an Anchal article shall be deemed to be in course of transmission by Anchal from the time of its being delivered to an Anchal office to the time of its being delivered to the addressee or of its being returned to the sender or otherwise disposed of under Chapter VII ;

Meanings of “in course of transmission by Anchal” and “delivery”

- (b) the delivery of an Anchal article of any description to an Anchal peon or other person authorised to receive Anchal articles of that description for the Anchal shall be deemed to be a delivery to an Anchal office ; and
- (c) the delivery of an Anchal article at the house or office of the addressee, or to the addressee, or his servant or agent or other person authorised to receive the article according to the usual manner of delivering Anchal articles to the addressee, shall be deemed to be delivery to the addressee.

CHAPTER II.

PRIVILEGE AND PROTECTION OF THE GOVERNMENT.

5. (1) Wherever within Our territories Anchal or Anchal communications is or are established by Our Government, Our Government shall have the exclusive privilege of conveying by Anchal, from one place to another, all letters, except in the following cases, and shall also have the exclusive privilege of performing all the incidental services of receiving, collecting, sending, despatching, and delivering all letters, except in the following cases, that is to say :—

Exclusive privilege of conveying letters reserved to the Government.

- (a) letters sent by a private friend in his way, journey or travel, to be delivered by him to the person to whom they are directed, without hire, reward or other profit or advantage for receiving, carrying or delivering them;
- (b) letters solely concerning the affairs of the sender or receiver thereof, sent by a messenger on purpose ;
- (c) letters solely concerning goods or property, sent either by water or by land to be delivered with the goods or property which the letters concern, without hire, reward or other profit or advantage for receiving, carrying or delivering them ; and

(d) letters carried by the British Post under such arrangement as has been or may be made by Our Government from time to time :

Provided that nothing in this Section shall authorise any person to make a collection of letters except as aforesaid for the purpose of sending them otherwise than by Anchal.

(2) For the purpose of the Section and Section 6, expression " letters " includes Anchal cards.

6. Whenever, within Our territories, Anchal or Anchal communications is or are established by Our Government, the following persons are expressly forbidden to collect, carry, tender or deliver letters, or to receive letters for the purpose of carrying or delivering them, although they obtain no hire, reward or other profit or advantage for so doing, that is to say :—

- (a) common carriers of passengers or goods, and their servants or agents, except as regards letters solely concerning goods in their carts or carriages ; and
- (b) owners and Masters of vessels sailing or passing on any river or canal in Travancore, or between any Ports or places in Travancore, and their servants or agents, except as regards the letters solely concerning goods on board.

7. Our Government shall not incur any liability by reason of the loss, misdelivery or delay of, or damage to, any Anchal-article in course of transmission by Anchal, except in so far as such liability may, in express terms, be undertaken by Our Government, as hereinafter provided ; and no Officer of the Anchal Department shall incur any liability by reason of any such loss, misdelivery, delay or damage, unless he has caused the same fraudulently or by his wilful act or default.

CHAPTER III.

POSTAGE.

8. (1) Our Government may, by Notification in the Government Gazette, fix the rates of postage and other sums to be charged in respect of Anchal articles sent by Anchal under this Act, and may make Rules as to the scale of weights, terms and conditions subject to which the rates so fixed shall be charged :

Power to fix rates of postage.

Provided that the highest rate of postage, when prepaid, shall not exceed the rate set forth for each class of Anchal articles in the Schedule.

(2) Unless and until such Notification as aforesaid is issued, the rates set forth in the Schedule appended hereto, shall be the rates chargeable under this Act.

9. Our Government may, by Rule,—

Power to make Rules as to payment of postage and fees in certain cases.

(a) require the prepayment of postage on Anchal articles or any class of Anchal articles and prescribe the manner in which prepayment shall be made ;

(b) prescribe the postage to be charged on Anchal articles when the postage is not prepaid or is insufficiently prepaid,

(c) provide for the re-direction of Anchal articles and the transmission by Anchal of articles so re-directed, either free of charge or subject to such further charge as may be specified in the Rule ; and

(d) prescribe the fees to be charged for the "Express delivery" of Anchal articles, in addition to, or instead of, any other postage chargeable thereon under this Act.

Explanation.—"Express delivery." means delivery by a special messenger or conveyance.

10. (1) Our Government may make Rules providing for the registration of newspapers for transmission by Anchal as registered newspapers.

Power to make Rules as to registered newspapers.

(2) For the purpose of such registration, every publication consisting wholly or in great part of political or other news, or of articles relating thereto or to other current topics, with or without advertisements, shall be deemed a newspaper, subject to the following conditions, namely:—

(a) that it is published in numbers at intervals of not more than thirty-two days; and

(b) that it has a *bona fide* list of subscribers.

(3) An extra or supplement to a newspaper, bearing the same date as the newspaper and transmitted therewith, shall be deemed to be part of the newspaper:

Provided that no such extra or supplement shall be so deemed, unless it consists wholly or in great part of matter like that of the newspaper, and has the title and the date of publication of the newspaper printed at the top of each page.

Explanation.—Nothing in this Section or in the Rules thereunder shall be construed to render it compulsory to send newspapers by Anchal.

11. (1) The addressee of an Anchal article on which postage or any other sum chargeable under this Act is due, shall be bound to pay the postage or sum so chargeable on his accepting delivery of the Anchal article, unless he forthwith returns it unopened:

Liability for payment of postage.

Provided that, if any such Anchal article appears to the satisfaction of the Anchal Superintendent, to have been maliciously sent for the purpose of annoying the addressee, he may remit the postage.

(2) If any Anchal article on which postage or any other sum chargeable under this Act is due, is refused or

returned as aforesaid, or if the addressee is dead or cannot be found, then the sender shall be bound to pay the postage or sum due thereon under this Act.

12. If any person refuses to pay any postage or other sum due from him under this Act in respect of any Anchal article, the sum so due may, on application made by an Officer of the Anchal Office authorised in this behalf by the written order of the Anchal Superintendent, be recovered, for the use of the Anchal Department from the person so refusing, as if it were a fine imposed under this Act, by any Magistrate having jurisdiction where that person may for the time being be resident.

13. In every proceeding for the recovery of any postage or other sum alleged to be due under this Act in respect of an Anchal article,—

Anchal office marks *prima facie* evidence of certain facts denoted.

(a) the production of the Anchal article having thereon the official mark of the Anchal office denoting that the article has been refused or that the addressee is dead or cannot be found, shall be *prima facie* evidence of the fact, so denoted, and

(b) the person from whom the Anchal article purports to have come shall, until the contrary is proved, be deemed to be the sender thereof.

14. The official mark on an Anchal article denoting that any postage or other sum is due in respect thereof shall be *prima facie* evidence that the sum denoted as aforesaid is so due.

Official mark to be evidence of amount of postage.

Sec. 12, The corresponding on the Majesty's Service, addressed to that person shall be withheld from him until the sum so due is Paid or recovered as aforesaid".

Sec. 12 of the Indian Act has at the end the following "and the Post-Master-General may further direct that any other postal article, not being

CHAPTER IV.
ANCHAL STAMPS.

15. (1) Our Government shall cause Anchal stamps to be provided of such kinds and denominating such values as they may think necessary for the purpose of this Act.

Provision of Anchal stamps and power to make Rules as to them.

(2) Our Government may make Rules as to the supply, sale and use of Anchal stamps.

(3) In particular, and without prejudice to the generality of the foregoing power, such Rules may—

- (a) fix the price at which Anchal stamps shall be sold ;
- (b) declare the classes of Anchal articles in respect of which Anchal stamps shall be used for the payment of postage or other sums chargeable under this Act ;
- (c) prescribe the conditions with regard to perforation, defacement and all other matters subject to which Anchal stamps may be accepted or refused in payment of postage or other sums ;
- (d) regulate the custody, supply and sale of Anchal stamps ;
- (e) declare the persons by whom and the terms and conditions subject to which Anchal stamps may be sold ; and
- (f) prescribe the duties and remuneration, if any, of persons selling Anchal stamps.

16. Anchal stamps provided under Section 15 shall be deemed to be stamps issued by the Government for the purpose of revenue within the meaning of the Travancore Penal Code, and subject to the other provisions of this Act, shall be used for the prepayment of postage or other sums chargeable under this Act in respect of Anchal articles, except where the Government direct that repayment shall be made in some other way.

Anchal stamps to be deemed stamps for the purpose of revenue.

CHAPTER V.

CONDITIONS OF TRANSMISSION OF ANCHAL ARTICLES.

17. (1) Our Government may, by Rule, provide for the re-delivery to the sender, without reference to the consent of the addressee and subject to such conditions (if any) as may be deemed fit, of any Anchal article in course of transmission by Anchal.

Re-delivery to sender of Anchal article in course of transmission by Anchal.

(2) Save as provided by any Rule that may be made under Sub section (i), the sender shall not be entitled to recall an Anchal article in course of transmission by Anchal.

18. (1) Except as otherwise provided by Rule and subject to such conditions as may be prescribed thereby, no person shall send by Anchal any explosive, dangerous, filthy, noxious, or deleterious substance, any sharp instrument not properly protected, or any living creature which is either noxious or likely to injure Anchal articles in course of transmission by Anchal or any Officer of the Anchal Department.

Transmission by Anchal of anything injurious prohibited.

(2) No person shall send by Anchal any article or thing which is likely to injure Anchal articles in course of transmission by Anchal or any Officer of the Anchal Department.

19. No person shall send by Anchal—

(a) any indecent or obscene printing, painting, photograph, lithograph, engraving, book or card or any other indecent or obscene article, or

Transmission by Anchal of anything indecent, &c., prohibited.

(b) any Anchal article having thereon, or on the cover thereof, any words, marks or designs of an indecent, obscene, seditious, scurrilous, threatening or grossly offensive character.

20. (1) Our Government may make Rules as to the transmission of Anchal articles by Anchal.

Power to make Rules as to transmission by Anchal of Anchal articles.

(2) In particular and without prejudice to the generality of the foregoing power, such Rules may—

- (a) specify articles which may not be transmitted by Anchal ;
- (b) prescribe conditions on which articles may be transmitted by Anchal ;
- (c) provide for the detention and disposal of the articles in course of transmission by Anchal in contravention of Rules made under Clause (a) or Clause (b) ;
- (d) provide for the granting of receipts for, and the granting and obtaining of certificates of posting and delivery of Anchal articles and the sums to be paid, in addition to any other postage, for such receipts and certificates ; and
- (e) regulate covers, Forms, dimensions, maximum weights and enclosures and the use of Anchal articles, other than letters, for making communications.

(3) Anchal articles shall be posted and delivered at such times and in such manner as the Anchal Superintendent may, by order, from time to time, appoint.

21. (1) Where the despatch or delivery from an Anchal office of letters would be

Power to postpone despatch or delivery of certain Anchal articles.

delayed by the despatch or delivery therefrom, at the same time, of book, pattern or sample packets and parcels, or any of them, such packets

or parcels or any of them may, subject to such Rules as Our Government may make in this behalf, be detained in the Anchal office so long as may be necessary.

(2) Where separate parcel mails are established, parcels may be forwarded and conveyed by them, being detained, if necessary, in the Anchal office for that purpose.

22. (1) Any Anchal article sent by Anchal in contravention of any of the provisions of this Act, may be detained and either returned to the sender or forwarded to the destination, in each case charged with such additional postage (if any) as Our Government may, by Rule, direct.

Power to deal with Anchal articles posted in contravention of Act.

(2) Any Officer in charge of an Anchal office or authorised by the Anchal Superintendent in this behalf, may open or unfasten any newspaper or any book, pattern or sample packet, in course of transmission by Anchal, which he suspects to have been sent by Anchal in contravention of Section 19, Clause (a), or of Section 20, Sub-section (2), Clauses (a) and (b), or of any of the provisions of this Act relating to postage.

(3) Notwithstanding anything in Sub-section (1)—

(a) any Anchal article sent by Anchal in contravention of the provisions of Section 18 may, under the authority of the Anchal Superintendent, if necessary, be opened and destroyed ; and

(b) any Anchal article sent by Anchal in contravention of the provisions of Section 19 may be disposed of in such manner as Our Government may, by Rule, direct.

23. Except as otherwise provided in this Act, where an Anchal article, suspected to contain any goods of which the import by Anchal or the transmission by Anchal is prohibited by or under any enactment for the time being in force or anything liable to duty, is received for delivery at an Anchal office, the Officer in charge of the Anchal office shall send a notice in writing to the addressee inviting him to attend, either in person or by agent, within a specified time, at the Anchal office, and shall, in the presence of the addressee or his agent, or if the addressee or his agent fails to attend as aforesaid, then in his absence, open and examine the Anchal article in the presence of two respectable witnesses and make a record of the same with their attestation : Provided that in all

Power to deal with Anchal articles containing goods contraband or liable to duty.

cases, an Anchal article, after being opened under this Section shall be delivered to the addressee, unless it is required for the purpose of any further proceeding under this or any other law or enactment for the time being in force, and the opening of the article and the circumstances connected therewith shall be immediately reported to the Anchal Superintendent.

23-A. Where a Notification has been published under Section 18 of the Sea Customs Act, V of 1088, in respect of any goods of any specified description, any Officer of the Anchal Department empowered in this behalf by Our Government may search, or cause search to be made, for any such goods in course of transmission by Anchal, and shall deliver all Anchal articles reasonably believed or found to contain such goods to such Officer as Our Government may appoint in this behalf, and such goods may be disposed of in such manner as our Government may direct. In carrying out any such search, such Officer of the Anchal Department may open or unfasten, or cause to be opened or unfastened, any newspaper or any book, pattern or sample packet in course of transmission by Anchal.

24. (1) On the occurrence of any public emergency or in the interests of the public safety or tranquillity, Our Government or any Officer specially authorised in this behalf by Our Government, may, by order in writing, direct that any Anchal article or class or description of Anchal articles in course of transmission by Anchal shall be intercepted or detained or shall be delivered to the Government or to an Officer thereof mentioned in the order, to be disposed of in such manner as Our Government may direct.

(2) If any doubt arises as to the existence of a public emergency, or as to whether any act done under Sub-section (1) was in the interests of the public safety or tranquillity, a certificate signed by the Chief Secretary to the Government shall be conclusive proof on the point.

25. (1) Where an Anchal article is received by Anchal,—

Power to deal with Anchal articles bearing fictitious or previously used Anchal stamps.

(a) bearing a fictitious Anchal stamp, that is to say, *facsimile* or imitation or representation of an Anchal stamp or
 (b) purporting to be prepaid with any Anchal stamp which has been previously used to prepay any other Anchal article,

the Officer in charge of the Anchal office at which the Anchal article is received, shall send a notice to the addressee inviting him to attend, either in person or by agent, within a specified time at the Anchal office to receive delivery of the article.

(2) If the addressee or his agent attends at the Anchal office within the time specified in the notice and consents to make known to the Officer in charge of the Anchal office the name and address of the sender of the Anchal article and to re-deliver to the Officer aforesaid the portion of the Anchal article which bears the address and the fictitious or previously used postage stamp, or if the Anchal article is inseparable from the stamp, the entire Anchal article, the Anchal article shall be delivered to the addressee or his agent.

(3) If the addressee or his agent fails to attend at the Anchal office within the time specified in the notice, or having attended within that time, refuses to make known the name and address of the sender or to re-deliver the Anchal article or portion thereof as required by Subsection (2), the article shall not be delivered to him, but shall be disposed of in such manner as Our Government may direct.

CHAPTER VI.

REGISTRATION, INSURANCE AND VALUE-PAYABLE ANCHAL.

26. The sender of an Anchal article may, subject to the other provisions of this Act, have the article registered at the Anchal office at which it is posted and require a receipt therefor; and Our

Registration of Anchal articles.

Government may, by Notification in the Government Gazette, direct that in addition to any postage chargeable under this Act, such further fee as may be fixed by the Notification shall be paid on account of the registration of Anchal articles.

27. (1) Our Government may make Rules as to the registration of Anchal articles.

Power to make Rules as to registration. (2) In particular and without prejudice to the generality of the foregoing power, such Rules may—

(a) declare in what cases registration shall be required ;

(b) prescribe the manner in which the fees for registration shall be paid ; and

(c) direct that an amount not exceeding twice the fee for registration shall be levied on the delivery of an article required to be registered on which the fee for registration has not been prepaid.

(3) Anchal articles made over to the Anchal office for the purpose of being registered shall be delivered, when registered, at such times and in such manner as the Anchal Superintendent may, by order, from time to time, appoint.

28. Our Government may, by Notification in the Government Gazette, direct—

Insurance of Anchal articles. (a) that any Anchal article may, subject to the other provisions of this Act, be insured at the Anchal office at which it is posted against the risk of loss or damage in course of transmission by Anchal, and that a receipt therefor shall be granted to the person posting it ; and

(b) that, in addition to any postage, and fees for registration chargeable under this Act, such further fee as may be fixed by the Notification shall be paid on account of the insurance of Anchal articles.

29. Our Government may, by Notification in the Government Gazette, declare in what cases insurance shall be required, and direct that any Anchal article containing anything required to be insured, which has been posted without being insured, shall be returned to the sender or shall be delivered to the addressee, subject to the payment of such special fee as may be fixed by the Notification.

30. (1) Our Government may make Rules as to the insurance of Anchal articles,
 Power to make Rules as to insurance.
 (2) In particular and without prejudice to the generality of the foregoing power, such Rules may—

- (a) declare what classes of Anchal articles may be insured under Section 28 ;
- (b) fix the limit of the amount for which articles may be insured ; and
- (c) prescribe the manner in which the fees for insurance shall be paid.

(3) Anchal articles made over to the Anchal office for the purpose of being insured shall be delivered, when insured at such places, at such times, and in such manner as the Anchal Superintendent may, by order, from time to time, appoint.

31. Subject to such conditions and restrictions as Our Government may, by Rule, prescribe, Our Government shall be liable to pay compensation, not exceeding the amount for which an Anchal article has been insured, to the sender thereof, for the loss of the Anchal article or its contents, or for any damage caused to it in course of transmission by Anchal :

Provided that the compensation so payable shall in no case exceed the value of the article lost or the amount of damage caused.

32. Our Government may, by Notification in the Government Gazette, direct that, subject to the other provisions of this Act, and to the payment of fees at such rates as may be fixed by the Notification a sum of money specified in writing at the time of posting by the sender of an Anchal article, shall be recoverable on the delivery thereof from the addressee, and that the sum so recovered shall be paid to the sender.

Provided that Our Government shall not incur any liability in respect of the sum specified for recovery, unless and until that sum has been received from the addressee.

Explanation.—Anchal articles sent in accordance with the provisions of this section may be described as "value-payable" Anchals articles.

33. (1) Our Government may make Rules as to the transmission by Anchal of value-payable Anchals articles.

Power to make Rules as to value-payable Anchals articles.

(2) In particular and without prejudice to the generality of the foregoing power, such Rules may—

- (a) declare what classes of Anchals articles may be sent as value-payable Anchals articles ;
- (b) direct that no Anchals articles shall be so sent unless the sender declares that it is sent under a *bona fide* order received by him ;
- (c) limit the value to be recovered on the delivery of any value-payable article ;
- (d) prescribe the form of declaration to be made by the senders of value-payable Anchals articles, and the time and manner of the payment of fees ;
- (e) provide for the retention and repayment to the addressee in cases of fraud of money recovered on the delivery of any value-payable Anchals article ; and
- (f) prescribe the fees to be charged for enquiries into complaints regarding the delivery of or payment for value-payable Anchals articles.

(3) Anchal articles shall be made over to the Anchal office for the purpose of being sent as "value-payable" and shall be delivered when so sent, at such times and in such manner as the Anchal Superintendent may, by order from time to time, appoint.

(4) No suit or other legal proceeding shall be instituted against Our Government or any Officer of the Anchal Department in respect of anything done, or in good faith purporting to be done, under any Rule made under Clause (c) of Sub-section (2).

34. (1) Where arrangements are in force with any other State for the transmission by Anchal of registered, insured or value-payable Anchal articles, between Our territories and that State, Our Government may make Rules to give effect to such arrangements.

(2) In particular and without prejudice to the generality of the foregoing power, such Rules may prescribe—

- (a) the form of declaration to be made by the senders of such Anchal articles as aforesaid and
- (b) the fees to be charged in respect thereof.

CHAPTER VII.

UNDELIVERED ANCHAL ARTICLES.

35. (1) Our Government may make Rules as to the disposal of Anchal articles, which for any reason cannot be delivered, hereinafter referred to as "undelivered Anchal articles."

(2) In particular and without prejudice to the generality of the foregoing power, such Rules may—

- (a) prescribe the period during which undelivered Anchal articles at an Anchal office shall remain in that office, and
- (b) provide for the publication of lists of undelivered Anchal articles, or of any class of undelivered Anchal articles.

(3) Every undelivered Anchal article, after being detained at an Anchal office for the period prescribed by Rule under the foregoing provisions of this Section, shall be either forwarded free of further charge to the Anchal office at which it was posted, for return to the sender, or sent to the office of the Anchal Superintendent.

36. (1) Every article received at the office of the Anchal Superintendent under Sub-section (3) of Section 35 shall be dealt with as follows:—
 Disposal of undelivered Anchal articles at the Anchal Superintendent's office.

(a) if practicable, it shall be re-directed and forwarded by Anchal to the addressee ; or

(b) if it cannot be re-directed and forwarded as aforesaid, it shall be opened by some Officer, appointed by the Anchal Superintendent in this behalf and bound to secrecy, in order to ascertain the name and address of the sender.

(2) If the name and address of the sender are so ascertained, it shall be returned by Anchal to the sender, free of further charge or subject to such further charge as Our Government may, by Rule, direct.

37. Undelivered Anchal articles which cannot be disposed of under the foregoing provisions, shall be detained in the office of the Anchal Superintendent for such further period (if any), and shall be dealt with in such manner as Our Government may by Rule, direct :

Final disposal of undelivered Anchal articles-

Provided that—

(a) letters and cards shall be destroyed ;

(b) money or saleable property, not being of a perishable nature, found in any undelivered Anchal article, shall be detained for a period of one year in the office of the Anchal Superintendent, and, if, on the expiration of that period, no person has established his right thereto, shall, if money, be credited to the Anchal Department, and, if saleable property, be sold, the sale proceeds being credited to the Anchal Department.

CHAPTER VIII.

ANCHAL HUNDIS.

38. (1) Our Government may provide for the remitting of small sums of money through the Anchal office by means of Anchal hundis, and may make Rules as to such Anchal hundis.

Power to maintain Anchal hundi system and to make Rules as to remittance thereby.

(2) In particular and without prejudice to the generality of the foregoing power, such Rules may prescribe—

- (a) the limit of amount for which Anchal hundis may be issued ;
- (b) the period during which Anchal hundis shall remain current ; and
- (c) the rates or commission of the fees to be charged on Anchal hundis or in respect thereof.

39. (1) Subject to such conditions as Our Government may, by Rules made under Section 38, prescribe in respect of the levy of additional rates of commission or fees or any other matters, a person remitting money through the Anchal office, by means of Anchal hundi, may require that the amount of the hundi, if not paid to the payee, be repaid to him, or be paid to such person other than the original payee as he may direct.

Power of remitter to recall Anchal hundi or alter name of payee-

(2) If neither the payee nor the remitter of an Anchal hundi can be found, and if, within the period of one year from the date of the issue of the hundi, no claim is made by such payee or remitter, the amount of such hundi shall not be claimable from the Government.

4). (1) Where arrangements are in force with any other State, for the issue and payment through the Anchal office of Anchal hundis between Our territories and that State, Our Government may make Rules to give effect to such arrangements.

Power to give effect to arrangements with another State-

(2) In particular and without prejudice to the generality of the foregoing power, such Rules may prescribe—

(a) the manner in which and the conditions subject to which, such hundis may be issued and paid in Travancore; and

(b) the rates of commission to be charged thereon.

41. If any person, without reasonable excuse, the burden of proving which shall lie on him, neglects or refuses to refund—
 Recovery of Anchal hundi paid to wrong person.

(a) any amount paid to him, in respect of an Anchal hundi by an Officer of the Anchal Department in excess of what ought to have been paid to him in respect thereof, or,

(b) the amount of Anchal hundi paid by an Officer of the Anchal Department to him instead of to some other person to whom it ought to have been paid,

such amount shall be recoverable from the person so neglecting or refusing, as if it were an arrear of land revenue due from him.

42. No suit or other legal proceeding shall be instituted against Our Government or any Officer of the Anchal Department in respect of—
 Exemption from liability in respect of Anchal hundis.

(a) anything done under any Rules made by Our Government under this Chapter; or

(b) the wrong payment of an Anchal hundi caused by incorrect or incomplete information given by the remitter as to the name and address of the payee: Provided that, as regards incomplete information, there was reasonable justification for accepting the information as a sufficient description for the purpose of identifying the payee; or

- (c) the payment of any Anchal hundi being refused or delayed by or on account of any incidental neglect, omission or mistake by, or on the part of an Officer of the Anchal Department, or for any other cause whatsoever other than the fraud or wilful act or default of such Officer; or
- (d) any wrong payment of an Anchal hundi after the expiration of one year from the date of the issue of the Anchal hundi; or
- (e) any wrong payment or delay in payment of an Anchal hundi beyond the limits of Travancore by an Officer of any Anchal Office not being one established by Our Government.

CHAPTER IX.

PENALTIES AND PROCEDURE.

Offences by Officers of the Anchal Department.

43. Whoever, being employed to carry or deliver any mail bag or any Anchal article in course of transmission by Anchal—
- Penalty for misconduct of person employed to carry or deliver mail bags or Anchal articles.
- (a) is in a state of intoxication while so employed; or
- (b) is guilty of carelessness or other misconduct, whereby the safety of any such mail bag or Anchal article as aforesaid is endangered, or
- (c) loiters or makes delay in the conveyance or delivery of any such mail bag or Anchal article as aforesaid, or
- (d) does not use due care and diligence safety to convey or deliver any such mail bag or Anchal article as aforesaid,
- shall be punishable with fine which may extend to fifty rupees.

44. Whoever, being employed to carry or deliver any mail bag or any Anchal article in

Penalty for voluntary withdrawal from duty, without permission or notice, of person employed to carry or deliver mail bags or Anchal articles.

course of transmission by Anchal, voluntarily withdraws from the duties of his office without permission or without having given one month's previous notice in writing, shall be punishable with imprisonment which may extend to one

month, or with fine which may extend to fifty rupees or with both.

45. Whoever, being employed to carry or deliver any

Penalty for making false entries in register kept by persons employed to carry or deliver Anchal articles.

Anchal article in course of transmission by Anchal and required while so employed to keep any register, makes or causes or suffers to be made, any false entry in the register with intent to induce the belief that he has visited a place, or

delivered an Anchal article which he has not visited or delivered, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

46. Whoever, being an Officer of the Anchal Department, commits theft in respect of,

Penalty for theft, dishonest misappropriation, secretion, destruction or throwing away of Anchal articles.

or dishonestly misappropriates or for any purpose whatever secretes, destroys or throws away, any Anchal article in course of transmission by Anchal or anything contained therein, shall be punishable with im-

prisonment for a term which may extend to seven years, and shall also be punishable with fine.

47. Whoever, being an Officer of the Anchal Department, contrary to his duty, opens or

Penalty for opening, detaining or delaying Anchal articles.

causes or suffers to be opened any Anchal article in course of transmission by Anchal, or wilfully detains or delays, causes or suffers to be detained or delayed, any such

Anchal article, shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

Provided that nothing in this Section shall extend to the opening, detaining or delaying of any Anchal article under the authority of this Act or in obedience to the order in writing of Our Government, or the direction of a competent Court.

48. Whoever, being an Officer of the Anchal Department,

Penalty for fraud in connection with official marks and for receipt of excess postage.

- (a) fraudulently puts any wrong official mark on an Anchal article, or
- (b) fraudulently alters, removes or causes to disappear, any official mark which is on an Anchal article, or
- (c) being entrusted with the delivery of any Anchal article, knowingly demands or receives any sum of money in respect of the postage thereof which is not chargeable under this Act,

shall be punishable with imprisonment for a term which may extend to two years, and shall also be punishable with fine.

49. Whoever, being an Officer of the Anchal Department entrusted with the preparing

Penalty for fraudulently, preparing altering, secreting or destroying Anchal office documents.

or keeping of any document, fraudulently prepares the document incorrectly, or alters or secretes or destroys the document, shall be punished with imprisonment for

a term which may extend to two years, and shall also be punishable with fine.

50. Whoever, being an Officer of the Anchal Department, sends by Anchal, or puts into

Penalty for fraudulently sending unpaid Anchal articles.

any mail bag, any Anchal article upon which postage has not been paid or charged in the manner prescribed by this Act, intending there-

by to defraud the Government of the postage on such Anchal article, shall be punishable with imprisonment for a term which may extend to two years, and shall also be punishable with fine.

Other Offences.

51. (1) Whoever—

- Penalty for contra-
vention of Section 5.
- (a) conveys, otherwise than by Anchal, a letter within the exclusive privilege conferred on Our Government by Section 5, or
 - (b) performs any service incidental to conveying, otherwise than by Anchal, any letter within the exclusive privilege aforesaid, or
 - (c) sends, or tenders or delivers in order to be sent, otherwise than by Anchal, a letter within the exclusive privilege aforesaid, or
 - (d) makes a collection of letters excepted from the exclusive privilege aforesaid for the purpose of sending them otherwise than by Anchal, shall be punishable with fine which may extend to fifty rupees for every such letter.

(2) Whoever, having already been convicted of an offence under this Section, is again convicted thereunder, shall, on every such subsequent conviction, be punishable with fine which may extend to five hundred rupees.

- 51-A. (1) Whoever, in contravention of the provisions of Section 6, carries, receives, tenders or delivers letters, shall be punishable with fine which may extend to fifty rupees for every such letter.**
- Penalty for contra-
vention of Section 6.

(2) Whoever, having once been convicted of an offence under this Section, is again convicted thereunder, shall on every such subsequent conviction, be punishable with fine which may extend to five hundred rupees.

52. Whoever, being appointed to sell Anchal stamps,—

- Penalty for breach
of Rules under Sec-
tion 15.
- (a) takes from any purchaser of any Anchal stamp or quantity of Anchal stamps a price higher than that fixed by any Rule made under Section 15, Sub-section (3), Clause (a), shall be punishable with imprisonment for a term which may extend to

si months, or with fine which may extend to two hundred rupees, or with both ; or

(b) commits a breach of any other Rule made under Section 15, shall be punishable with fine which may extend to two hundred rupees.

53. (1) Whoever, in contravention of the provisions of Section 18 or Section 19, sends or tenders or makes over in order to be sent by Anchal, any Anchal article or thing, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

Penalty for contravention of Section 18 or 19.

(2) The detention in the Anchal office of any Anchal article on the ground of its having been sent in contravention of the provisions of Section 18 or Section 19, shall not exempt the sender from any proceedings which might have been taken if the Anchal article had been delivered in due course of Anchal.

54. Whoever places in or against any letter-box provided by the Anchal office for the reception of Anchal articles, any fire, match or light, any explosive, dangerous, filthy, noxious or deleterious substance, or any fluid, or commits a nuisance in or against any such letter-box, or does anything likely to injure any such letter-box or its appurtenances or contents, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

Penalty for defiling or injuring Anchal office letter-boxes.

55. Whoever, without due authority affixes any placard, advertisement, notice, list, document, board or other thing in or on, or paints, tars, or in any way disfigures any Anchal office or any letter-box provided by the Anchal Department for the reception of Anchal articles, shall be punishable with fine which may extend to fifty rupees.

Penalty for affixing without authority anything to, or painting, tarring or disfiguring, Anchal office letter-box.

56. Whoever, being required by this Act to make a declaration in respect of any Anchal article to be sent by Anchal, or the contents or value thereof, makes in his declaration any statement which he knows or has reason to believe to be false, or does not believe to be true, shall be punishable with fine which may extend to two hundred rupees and, if the false declaration is made for the purpose of defrauding the Government, with fine which may extend to five hundred rupees.

57. Whoever, except under the authority of this Act or in obedience to the order in writing of Our Government or the direction of a competent Court, detains the mails or any Anchal article in course of transmission by Anchal or on any pretence opens a mail bag in course of transmission by Anchal, shall be punishable with fine which may extend to two hundred rupees :

Provided that nothing in this Section shall prevent the arrest of an Officer of the Anchal Department carrying the mails or any Anchal article in course of transmission by Anchal, on a charge of having committed an offence declared to be cognizable by the Code of Criminal Procedure, or any other law for the time being in force.

58. Whoever fraudulently retains, or wilfully secretes or makes away with, or keeps or detains, or, when required by an Officer of the Anchal Department, neglects or refuses to deliver up, any Anchal article in course of transmission, which ought to have been delivered to any other person, or a mail bag containing an Anchal article, shall be punishable with imprisonment for a term which may extend to two years, and shall also be punishable with fine.

59. Whoever, not being an Officer of the Anchal Department, wilfully and maliciously, with intent to injure any person, either opens or causes to be opened, any letter which ought to have been delivered, or does any act whereby the due delivery of a letter to any person is prevented or impeded, 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 :

Provided that nothing in this Section shall apply to a person who does any act to which the Section applies, if he is a parent, or in the position of a parent or guardian, of the addressee, and the addressee is a minor or a ward.

General.

60. Whoever abets the commission of any offence punishable under this Act, or attempts to commit any offence so punishable, shall be punishable with the punishment provided for that offence.

61. In every prosecution for an offence in respect of a mail bag or any Anchal article sent by Anchal, it shall be sufficient, for the purpose of the charge, to describe the mail bag or Anchal article as being the property of the Anchal office, and it shall not be necessary to prove that the mail bag or Anchal article was of any value.

62. No Court shall take cognizance of an offence punishable under any of the provisions of Sections 45, 47, 48 Clauses (a) and (b), 49, 50, 51, 53, 56 and 57 of this Act, unless upon complaint made by order of, or under authority from the Anchal Superintendent.

CHAPTER X.

SUPPLEMENTAL.

63. (1) In addition to the powers hereinbefore conferred, Our Government may make Rules to carry out any of the purposes and objects of this Act.

General power to make Rules and provisions as to Rules under Act.

(2) In making any Rule under this Act, Our Government may direct that a breach of it shall be punishable with fine which may extend to fifty rupees.

(3) All Rules made by Our Government under this Act shall be published in the Government Gazette, and on such publication shall have effect as if enacted by this Act.

(4) Such of the Anchal Rules as are in force on the passing of this Act and are not contrary or prejudicial to any of the provisions of this Act shall be considered as passed under this Act.

64. Our Government may, by Notification in the Government Gazette, authorise, either absolutely or subject to conditions, the Anchal Superintendent to exercise any of the powers conferred upon the Government by this Act, other than a power to make Rules.

Delegation of powers other than Rule-making powers to Anchal Superintendent.

SCHEDULE OF ANCHAL RATES

(See Section 8.)

	Rs.	Chs.	C.	Rs.	As.	P.
[Anchal Cards.]						
For a single Anchal card	12			5	1	19
<i>Letters.</i>						
For a weight not exceeding one tola	1	8		10	2	19
For a weight exceeding one tola and not exceeding five tolas	1	8		10	2	19
For every five tolas or fraction thereof exceeding five tolas.	1	8		10	2	19

Schedule. The Schedule appended to Act IX of 1089 was substituted by Act IX of 1096. For items "Anchal cards" and "letters" and entries under them in the substituted Schedule, the

portions bracketed were substituted by Act II of 1119. The portion within the brackets as substituted by Act IX of 1096 ran as follows:—

	Rs.	Chs.	C.	Rs.	As.	P.
"Anchal cards	6			2	10	19
<i>Letters</i>						
For a weight not exceeding one tola	12			5	1	19
For a weight exceeding one tola and not exceeding five tolas	1	8		10	2	19
For every five tolas or frac- tion thereof exceeding five tolas	1	8		10	2	19

Rs. Chs. C. Rs. As. P.

The Schedule appended to Act IX of 1089 read as follows:—

<i>"Cards</i>						
Anchal card	4			1	13	19
Letter card	12			5	1	19
<i>Letters</i>						
Not exceeding one tola	8			3	7	19
Not exceeding ten tolas	1	4		8	8	19
Not exceeding twenty tolas	2	8		1	4	15

SCHEDULE OF ANCHAL RATES—(Contd.)

(See Section 8.)

Book, Pattern and Sample Packets.

	Rs.	Chs.	C.	Rs.	As.	P.
For a weight not exceeding ten tolas	12	...	...	5 1/19
For every ten tolas or fraction thereof exceeding ten tolas...	12	...	...	5 1/19

(Note - Book packets—maximum 400 tolas Pattern and sample packets—maximum 40 tolas.)

Newspapers.

	Rs.	Chs.	C.	Rs.	As.	P.
For a weight not exceeding eight tolas	6	...	...	2 10/19
For a weight exceeding eight tolas and not exceeding forty tolas	12	...	...	5 1/19
For every forty tolas or fraction thereof exceeding forty tolas	12	...	...	5 1/19

	Rs.	Chs.	C.	Rs.	As.	P.
Book and pattern packets						
Not exceeding ten tolas	8	...	...	3 7/19
For every additional ten tolas or fraction thereof	8	...	...	3 7/19
Book packets maximum 400 tolas						
Pattern packets maximum 40 tolas						
Newspapers						
Not exceeding six tolas	6	...	...	2 10/19
For every additional six tolas or fraction thereof	6	...	...	2 10/19
Parcels						
Not exceeding in weight twenty tolas or fraction thereof	2	...	1	2 1/19
Maximum weight 600 tolas						
Registration						
On all articles	3	...	1	8 4/19
Acknowledgment	8	...	...	3 7/19
Hundis						
For every British Rupees five or fraction thereof	1	...	...	6 14/19
Maximum amount of an order B. Rs. 500''						

THE ANCHAL ACT.

	Rs. Ch. C.	Rs.	As.	Ps.
<i>Parcels.</i>				
For a weight not exceeding twenty tolas	... .. 3	...	1	8 4/19
For a weight exceeding twenty tolas and not exceeding forty tolas	... .. 4 8	...	2	6 6/19
For every forty tolas or frac- tion thereof exceeding forty tolas	... .. 4 8	...	2	6 6/19

(Note.—Parcels—maximum 600 tolas.)

<i>Registration.</i>				
On all articles	... .. 8	...	...	8 4/19
Acknowledgment	... .. 1	...	...	8 14/19

<i>Hundis.</i>				
For an amount not exceeding five British Rupees	... .. 1 8	...	...	10 2/19
For an amount exceeding five British rupees and not ex- ceeding ten British rupees	... .. 3	...	1	8 4/19
For an amount exceeding ten British rupees and not ex- ceeding fifteen British rupees	... .. 4 8	...	2	6
For an amount exceeding fifteen British rupees and not ex- ceeding twenty-five rupees	... .. 6	...	3	4 8/19

(Note.—Maximum amount of an order—British rupees five hundred.)

ACT XI OF 1089.

LAND ACQUISITION ACT.

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THE LAND ACQUISITION ACT.

AN ACT TO AMEND THE LAND ACQUISITION ACT, III OF 1067, AS AMENDED BY ACT VIII OF 1085.

*Passed by His Highness the Maha Raja of Travancore
on the 10th July 1914 corresponding with the
26th Mithunam 1089, under Section 13 of
Act V of 1073.*

Whereas it is expedient to amend the law for the acquisition of land needed for public purposes and for determining the amount of compensation to be made on account of such acquisition; It is hereby enacted as follows :—

Year.	No.	Short title.	Effect of subsequent Legislation.
1089	XI	Land Acquisition Act.	Amended by Act V of 1096 and Act I of 1099.

“In 1042 M. E. a set of Rules was passed regarding the assumption of lands for public purposes. This was an important measure intended to facilitate the execution of public works which were at the time taken up in earnest and continued to receive particular attention in the subsequent years. These Rules were issued on 10th Vrischigom 1042” *L. R. M., Vol. IV, P. 389.*

The Rules referred to above were published in *T. G. G. dated 20-4-1042.*

Detailed instructions were issued under date 30-7-1042 and published in Gazette dated 1-8-1042 prescribing the method of

valuing land and trees and the apportionment of compensation amount between Jenmis and tenants and mortgagees and owners. In the actual working, the Rules were found not sufficiently comprehensive and the necessity arose to put the entire law on a sound footing. Act III of 1067 was therefore enacted on the lines of the Indian Act X of 1870. Act VIII of 1085 amended Act III of 1067, providing for reference by the Division Peishkar to the District Court. These enactments were repealed by the present Act.

Act XI of 1089. *Objects and Reasons.* In introducing the

ACT XI OF 1089.

PART I.

PRELIMINARY.

1. This Act may be called "The Land Acquisition Act," and it shall come into force on the 1st Chingom 1090, corresponding to the 17th August 1914.
- Short title and commencement.

Bill the official member in charge spoke as follows :--

"The whole of Regulation III of 1067 has been recast. The principal alterations are contained in Secs. 17 and 18, which give the owners of lands acquired by the Government a decided advantage in that they could, in cases of dispute as to the amount of compensation, &c., ask the Division Peishkar to refer the matter for the decision of the Civil Court. This procedure is allowed under the British Act."—*L. C. P.*, dated 17-10-1912.

For Report of the Select Committee see *T. G. G.* dated 6-5-1913,

For Legislative proceedings see *T. G. G.* dated 19-9-1911, 22-10-1912, 17-6-1913, 30-9-1913 and 23-6-1914.

The Act was published in *T. G. G.*, dated 14-7-1914.

Act V of 1096. This amended Sec. 6. *Vide* notes under that Section.

For Report of the Select Committee see *T. G. G.*, dated 5-9-1922.

For legislative proceedings see *T. G. G.*, dated 18-1-1921, 26-4-1921 and 12-7-1921.

The Act was published in *T. G. G.*, dated 19-7-1921.

Act I of 1099. *Objects and Reasons.* "By virtue of the

provisions of Sec. 47 of the Municipal Regulation, V of 1095, any acquisition of land on behalf of any Municipality has to be paid for by that body. But according to the Land Acquisition Regulation, the Municipality which pays has no *locus standi* either to assist the Division Peishkar to arrive at the true value, or to seek the aid of the Civil Court for that purpose. This disability of the Municipal authorities was pointed out and a remedy was earnestly pleaded for at the 17th session of the Sri Mulam Popular Assembly by the member for the Kottayam Municipality. As the request urged is considered reasonable, the present Bill is aimed at amending the Land Acquisition Regulation so as to enable Municipal authorities and other local public bodies to have an opportunity to see that no more than the true value of land needed for their purposes is fixed."—*S. O. & R.*; *T. G. G.* dated 4-7-1922,

For Report of the Select Committee see *T. G. G.* dated 5-9-1922,

For Legislative proceedings see *L. C. P. Vol. I. Pp. 15-16, Vol. II. Pp. 53, 79, Vol. IV. P. 11.*

The Act was published in *T. G. G.* dated 18-12-1923.

SEC. 2. THE LAND ACQUISITION ACT. PART I.

2. (1) The Land Acquisition Acts, III of 1067 and VIII of 1085, are hereby repealed.

Repeal of enactments.

(2) But all proceedings commenced, officers appointed or authorised, agreements published and Rules made under the said Land Acquisition Acts shall, as far as may be, be deemed to have been respectively commenced, appointed or authorised, published and made under this Act.

(3) Any enactment or document referring to the said Land Acquisition Acts, shall, as far as may be, be construed to refer to this Act or the corresponding portion thereof.

3. In this Act, unless, there is something repugnant in the subject or context,—
Interpretation-
Clause.

(a) The expression "Land" includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth :
"Land."

(b) The expression "Person interested" includes all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land :
"Person interested."

(c) The expression "Division Peishkar" includes any Officer, appointed by Our Government to perform the functions of a Division Peishkar under this Act.
"Division Peishkar."

[(c-1) "Local authority" means any Municipal Council or other authority legally entitled to, or entrusted by the Government with the control or management of any municipal or local fund.]
"Local Authority."

Sec. 3. The definition of 'local authority' was inserted by Sec. 1, Act I of 1099.

(d) The following persons shall be deemed "Persons entitled to act" as and to the extent hereinafter provided (that is to say) —

trustees for other persons beneficially interested shall be deemed the persons entitled to act with reference to any such case, and that to the same extent as the persons beneficially interested could have acted, if free from disability; and

the guardians of minors and of lunatics or idiots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics or idiots themselves, if free from disability, could have acted :

Provided that—

(i) no person shall be deemed "entitled to act" whose interest in the subject-matter shall be shown to the satisfaction of the Division Peishkar or Court to be adverse to the interest of the person interested for whom he would otherwise be entitled to act ;

(ii) in every such case the person interested may appear by a next friend, or, in default of his appearance by a next friend, the Division Peishkar or Court, as the case may be, shall appoint a guardian for the case to act on his behalf in the conduct thereof ;

(iii) the provisions of Chapter XXX of the Code of Civil Procedure shall, *mutatis mutandis*, apply in the case of persons interested appearing before a Division Peishkar or Court by a next friend or by a guardian for the case, in proceedings under this Act ; and

(iv) no person "entitled to act" shall be competent to receive the compensation money payable to the person for whom he is entitled to act, unless he would have been competent to alienate the land and receive and give a good discharge for the purchase-money on a voluntary sale.

PART II.

ACQUISITIONS.

Preliminary Investigation.

4. (1) Whenever it appears to the Government that land in any locality is likely to be needed for any public purpose, a Notification to that effect shall be published in the Gazette, and the Division Peishkar shall cause public notice of the substance of such Notification to be given at convenient places in the said locality.

(2) Thereupon, it shall be lawful for any Officer, either generally or specially authorised by the Government in this behalf, and for his servants and workmen,—

Power to enter and survey.

- 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 mark such levels, boundaries, and line by placing marks and cutting trenches ; and, where otherwise the survey cannot be completed and the 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 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.

Previous notice of entry.

5. The Officer so authorised shall, at the time of such entry, pay or tender payment for any damage which may be done by the act aforesaid, and in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Division Peishkar, and, in case such Officer is a Division Peishkar, to the decision of the Government. Such decision shall be final and payment shall be made accordingly.

Declaration of Intended Acquisition.

6. (1) Whenever it appears to the Government that any particular land is needed for a public purpose, a declaration shall be made to that effect over the signature of the Chief Secretary to Government.

Sec. 5. The corresponding Section 5 of the Indian Act is as follows:— The officer so authorised...tender payment for all necessary damage to be done as aforesaid, and.....such decision shall be final."

After Sec. 5. The Indian Act contains a Section 5-A added by Act XXXVIII of 1923 providing for preferring objections to the acquisition by persons interested.

Sec. 6. The bracketed words in the last para were substituted for the words "for such purpose" by Act V of 1086. The reasons for the amendment is thus explained when the Bill was introduced in the Council:—

"The object of the Section is that, if a declaration is publish-

ed it will be conclusive evidence that the land mentioned therein is required for a public purpose. As the wording stands, and as the third paragraph is not numbered separately, it may be regarded as a Proviso to Sub-sec. (2). It is therefore likely to be interpreted that the declaration is evidence that the land is required for the purpose mentioned in Para (2). As such a misconstruction is possible, the words 'for a public purpose' are proposed to be substituted for the words 'for such purpose' in the last Para, the Para being numbered as (3). This is exactly how the British Indian Section stands."—L. C. P. dated 11-11-1920.

(2) The declaration shall be published in the Gazette and shall state the Taluk and Pakuthi in which the land is situate, the purpose for which it is needed, its approximate area, and where a plan shall have been made of the land, the place where such plan may be inspected.

Contents of declaration.
 [(3)] The said declaration shall be conclusive evidence that the land is needed [for a public purpose.]

7. Whenever any land shall have been so declared to be needed for a public purpose, the Government shall direct the Division Peishkar to take order for the acquisition of the land.

After declaration the Division Peishkar to take order for acquisition.
 8. The Division Peishkar shall thereupon cause the land (unless it has already been marked out under Section 4) to be marked out. He shall also cause it to be measured and (if no plan has been made thereof) a plan to be made of the same.

9. (1) The Division Peishkar shall then cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intend to take possession of the land and that claims to compensation for all interests in such land may be made to him.

(2) Such notice shall state the particulars of the land so needed and shall require all persons interested in the land to appear personally or by agent before the Division Peishkar at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state in writing signed by the party or agent the nature of their respective interests in the land, and the amount and particulars of their claims to compensation for such interests, and their objections, if any, to the measurements made.

Sec. 9, Sub-Sec. 2. The words "in writing signed by the party or agent" are additions not found in the Indian Act.

(3) The Division Peishkar shall serve notice to the same effect on the occupier (if any) of such land and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside, or have agents authorised to receive service on their behalf, within the Revenue Division in which the land is situate.

(4) In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by Post or Anchal and registered in a letter addressed to him at his last known residence, address or place of business.

(5) The notice shall also be published in the Gazette, and shall be deemed to be sufficient notice to all persons interested in the land as between the Government and such persons.

10. The Division Peishkar may require any such person that appears before him to deliver to him at a time and place mentioned (such time not being earlier than fifteen days after the date of the requisition) a statement signed by him containing, so far as may be practicable, the name of every other person possessing any interest in the land, or any part thereof, as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interest, of the rents and profits (if any) received or receivable on account thereof for three years next preceding the date of the statement and of such other particulars as the Division Peishkar or the claimant may consider necessary.

Every person required to deliver a statement under this or the last preceding Section shall be deemed to be legally bound to do so within the meaning of Sections 168 and 169 of the Travancore Penal Code.

Persons required to make statements to be deemed legally bound to do so.

Sec. 9, Sub-Sec. 5. There is no corresponding provision in the Indian Act.

*Enquiry into Measurements, Value and Claims,
and Award by the Division Peishkar.*

11. (1) On the day so fixed or on any other day to which the enquiry has been adjourned, the Division Peishkar shall proceed to enquire into the objection, if any, to the measurements and into the value of the land and into the respective interests of the persons claiming the compensation, and determine the amount of compensation which should be allowed therefor.

(2) The Division Peishkar shall make an award, under his hand, of—

- (i) the true area of the land ;
- (ii) the compensation which in his opinion should be allowed for the land ; and
- (iii) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom or of whose claims he has information, whether or not they have respectively appeared before him.

12. (1) Such award shall be filed in the Division Peishkar's office and shall, except as hereinafter provided, be final and conclusive evidence as between the Division Peishkar and the persons interested, whether they have respectively appeared before the Division Peishkar or not, of the true area and value of the land, and the apportionment of the compensation among the persons interested.

(2) The Division Peishkar shall give immediate notice of the award to such of the persons interested as are not present personally or by their representatives when the award is made.

Sec. 11. In the corresponding Section 11 of the Indian Act the words "at the date of the publication of the notification under Section 4, Sub-section (1)" have been inserted after the words "value of the land" in sub-sec. 1 by Act XXXVIII of 1923.

13. (1) The Division Peishkar may, for any cause he thinks fit, from time to time, adjourn the enquiry to a day to be fixed by him.

Power to adjourn enquiry.

(2) For the purpose of enquiries under this Act, the Division Peishkar shall have power to summon and enforce the attendance of witnesses including the parties interested or any of them and to compel the production of documents by the same means and (so far as may be) in the same manner as is provided in the case of a Civil Court under the Code of Civil Procedure.

Power to summon etc.

14. In determining the amount of compensation, the Division Peishkar shall be guided by the provisions contained in Sections 22 and 23.

Division Peishkar to be guided by Sections 22 and 23, in determining compensation.

15. If the Division Peishkar and all the persons interested agree as to the amount of compensation to be allowed, the Division Peishkar shall, with the previous sanction of the Government, make an award under his hand for the same.

Award in case of agreement as to the amount of compensation.

Such award shall be filed in the Division Peishkar's office and shall be conclusive evidence, as between the Government and all persons interested, of the value of the land and the amount of compensation allowed for the same.

Award to be filed and to be evidence.

Taking possession.

16. When the Division Peishkar has made an award under Section 11 or 15, he may take possession of the land, which shall thereupon vest absolutely in the Government free from all claims and encumbrances.

Power to take possession.

17. (1) In case of urgency, whenever the Government so direct, the Division Peishkar may, on the expiration of fifteen days from the publication of the notice mentioned in Section 9, Sub-section (1), take possession of any land needed for public purposes. Such land shall thereupon vest absolutely in the Government, free from all claims and encumbrances.

(2) In every case under the preceding Sub-section, the Division Peishkar shall, at the time of taking possession, offer to the persons interested compensation for the standing crops and trees (if any) on such land and for any other damage sustained by them caused by such sudden dispossession and not excepted in Section 23; and in case such offer is not accepted, the value of such crops and trees and the amount of such other damage shall be allowed for in awarding compensation for the land under the provisions herein contained.

PART III.

REFERENCE TO COURT AND PROCEDURE THEREON.

18. (1) Any person interested who has not accepted the award, may, by written application to the Division Peishkar, require that the matter be referred by the Division Peishkar for the determination of the District Court within whose jurisdiction the land is situate whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken :

Provided that every such application shall be made—

(a) if the person making it was present or was represented before the Division Peishkar at the time when he made his award, within two months from the date of the Division Peishkar's award ;

Sec. 17. In the Indian Act, there are two additional Clauses.

- (b) in other cases, within two months of the receipt of the notice from the Division Peishkar under Section 12, Sub-section (2), or within six months from the date of the Division Peishkar's award, whichever period shall first expire.

19. (1) In making the reference, the Division Peishkar shall state, for the information of the District Court, in writing } under his hand —
 Division Peishkar's statement to the Court.

- (a) the situation and extent of the land, with particulars of any trees, buildings or standing crops thereon ;
- (b) the names of the persons who, he has reason to think, are interested in such land ;
- (c) the amount awarded for damages and paid, tendered or offered under Sections 5 and 17, and the amount of compensation awarded under Section 11 ; and
- (d) if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined.

(2) To the said statement shall be attached, a schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by, the parties interested, respectively.

20. The District Court shall thereupon cause a notice, specifying the day on which the Court will proceed to determine the objection and directing their appearance before the Court on that day, to be served on the following persons, namely :—

- (a) the applicant ;
- (b) all persons interested in the objection except such (if any) of them as have consented without protest to receive payment of the compensations awarded ; and
- (c) the Dewan.

21. The scope of the enquiry in every such proceeding shall be restricted to a consideration of the interests of the persons affected by the objection and every such proceeding shall take place in open Court.

22. (1) In determining the amount of compensation to be awarded for land under this Act, the Court shall take into consideration —

Matter to be considered in determining compensation. *firstly*, the market-value of such land at the date of the publication of the declaration relating thereto under Section 6 ;

secondly, the damage sustained by the person interested by reason of the taking of any standing crops or trees which may be on the land at the time of the Division Peishkar's taking possession thereof ;

thirdly, the damage (if any) sustained by the person interested, at the time of the Division Peishkar's taking possession of the land, by reason of severing such land from his other land ;

fourthly, the damage (if any) sustained by the person interested at the time of the Division Peishkar's taking possession of the land, by reason of the acquisition injuriously affecting his other property, movable or immovable, in any other manner, or his earnings ;

fifthly, if in consequence of the acquisition, he is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change ; and

sixthly, the damage (if any) *bona fide* resulting from diminution of the profits of the land between the time of the publication of the declaration under Section 6 and the time of the Division Peishkar's taking possession of the land.

(2) In addition to the market-value of the land as above provided, the Court shall, in every case, award a sum of fifteen per centum on such market-value, in consideration of the compulsory nature of the acquisition.

Sec. 22. In the Indian Act Sec. 23 Clause (1) reads :—
 "...publication of the Notifica-
 tion under Section 4 Sub-Section (1)."

23. But the Court shall not take into consideration—
 Matters to be neglected in determining compensation. *firstly*, the degree of urgency which has led to the acquisition ;

secondly, any disinclination of the person interested to part with the land acquired ;

thirdly, any damage sustained by him which, if caused by a private person, would not render such person liable to a suit ;

fourthly, any damage, which, after the date of the publication of the declaration under Section 6, is likely to be caused by or in consequence of the use to which the land acquired will be put ;

fifthly, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired ;

sixthly, any increase to the value of other land of the person interested likely to accrue from the use to which the land acquired will be put ; or

seventhly, any outlay or improvements on or disposal of such land made, commenced or effected, without the written sanction of the Division Peishkar, after the publication of the declaration under Section 6.

24. (1) When the applicant has made a claim to compensation pursuant to any notice given under Section 9, the amount awarded to him by the Court shall not exceed the amount so claimed or be less than the amount awarded by the Division Peishkar under Section 11.

(2) When the applicant has refused to make such claim or has omitted without sufficient reason (to be allowed by the Court) to make such claim, the amount awarded to him by the Court shall in no case exceed the amount awarded by the Division Peishkar.

(3) When the applicant has omitted for sufficient reason (to be allowed by the Court) to make such claim,

Sec. 23. In the Indian Act under Section 4 Sub-section Sec. 24, Clause 7 reads :—“..... (1).”
 publication of the Notification

SEC. 25. THE LAND ACQUISITION ACT. PART III.

the amount awarded to him by the Court shall not be less than and may exceed, the amount awarded by the Division-Peishkar.

25. (1) Every award made by the Court shall be in writing, signed by the Judge and shall specify the amount awarded under Clause (1) of Sub-section (1) of Section 22 and also the amounts (if any) respectively awarded under each of the other Clauses of the same Sub-section together with the grounds of awarding each of the said amounts.

(2) Every such award shall also state the amount of costs incurred in the proceedings under this Part, and by what persons and in what proportions they are to be paid.

(3) If the sum which, in the opinion of the Court, the Division Peishkar ought to have awarded as compensation is in excess of the sum which the Division Peishkar did award as compensation, the award of the Court may direct that the Government shall pay interest on such excess at the rate of six per centum per annum from the date on which the Division Peishkar took possession of the land to the date of payment of such excess in Court.

Sec. 25 To the corresponding Section 26 of the Indian Act a Sub-section has been added by Act XIX of 1921. It reads:—

“Every such award shall be deemed to be a decree and the statement of the grounds of every such award a judgement within the meaning of Section (2), Clause (2), and Section (2), Clause (9) respectively of the Code of Civil Procedure 1908.”

Sub-section (2) of this Section regarding costs is Sec. 27 of the

Indian Act, which has also another Clause which runs as follows:—“(2) When the award of the Collector is not upheld the costs shall ordinarily be paid by the Collector unless the Court shall be of opinion that the claim of the applicant was so extravagant or that he was so negligent in putting his case before the Collector that some deduction from his costs should be made or that he should pay a part of the Collector's costs.”

PART IV.

APPORTIONMENT OF COMPENSATION.

26. When there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

Apportionment of compensation.

27. When the amount of compensation has been settled under Section 11 or 15, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Division Peishkar may refer such dispute to the decision of the District Court within whose jurisdiction the land is situate.

Disputes as to apportionment, after settlement of compensation, to be referred to District Court.

PART V.

PAYMENTS.

28. (1) On making an award under Section 11 or 15, the Division Peishkar shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and shall pay it to them unless prevented by some one or more of the contingencies mentioned in the next Sub-section.

Tendering payment.

(2) If they shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Division Peishkar shall deposit the amount of the compensation in the Court to which a reference under Section 18 would be submitted :

Depositing in Court.

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount:

Provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under Section 18 :

Provided also that nothing herein contained shall affect the liability of any person who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

(3) Notwithstanding anything in this Section, the Division Peishkar may, with the sanction of the Government, instead of awarding a money compensation in respect of any land, make any arrangement with a person having limited interest in such land, either by the grant of other lands in exchange, the remission of land revenue on other lands held under the same title, or in such other way as may be equitable having regard to the interest of the parties concerned.

(4) Nothing in the last foregoing Sub-section shall be construed to interfere with or limit the power of the Division Peishkar to enter into any arrangement with any person interested in the land and competent to contract in respect thereof :

Provided that no such arrangement shall be made without the previous sanction of the Government,

29. (1) If any money shall be deposited in Court under Sub-section (2) of the last preceding Section and it appears that the land in respect whereof the same was awarded belonged to any person who had no power to alienate the same, the Court shall—

Investment of money deposited in respect of lands belonging to persons incompetent to alienate.	
-------------------------------------------------------------------------------------------------	--

(a) order such money to be invested in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect of which such money shall have been deposited was held, or

(b) if such purchase cannot be effected forthwith, then in such approved securities as the Court shall think fit,

and shall direct the payment of the interest or other proceeds arising from such investments to the person or persons who would, for the time being, have been entitled to the possession of the said land, and such moneys shall remain so deposited and invested until the same be applied—

(i) in the purchase of such other lands as aforesaid, or

(ii) in payment to any person or persons becoming absolutely entitled thereto.

(2) In all cases of moneys deposited to which this Section applies, the Court shall order the costs of the following matters, including therein all reasonable charges and expenses incident thereto, to be paid by the Government, namely :—

(a) the costs of such investments as aforesaid ;

(b) the costs of the orders for the payment of the interest or other proceeds of the securities upon which such moneys are for the time being invested, and for the payment out of Court of the principal of such moneys and of all proceedings relating thereto ; except such as may be occasioned by litigation between adverse claimants.

30. When any money shall have been deposited in Court under this Act for any cause other than that mentioned in the last preceding Section, the Court may, on the application of any party interested or claiming an interest in such money, order the same to be invested in such approved securities as it may think proper, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as, it may consider, will give the parties interested therein the same benefit therefrom as they might have had from the land in respect whereof such money shall have been deposited or as near thereto as may be.

Investment of money deposited in other cases.

31. When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Division Peishkar shall pay the amount awarded with interest thereon at the rate of six per centum per annum from the time of so taking possession until it shall have been so paid or deposited.

PART VI.

MISCELLANEOUS.

32. Whoever wilfully obstructs any person in doing any of the acts authorised by Section 4 or Section 8, or wilfully fills up, destroys, damages or displaces any trench or mark made under Section 4, shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding one month, or to fine not exceeding fifty rupees, or to both.

33. If the Division Peishkar is opposed or impeded by any person in taking possession under this Act, of any land, he may remove such person from such land, using such force as may be necessary.

34. (1) The Government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken.

(2) Whenever the Government withdraw from any such acquisition, the Division Peishkar shall determine the amount of compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings thereunder, and shall pay or tender such amount to the person interested, together with all costs reasonably incurred in the prosecution of the proceedings under this Act relating to the said land.

Sec. 31. After the corrections relating to temporary occupation of land not required for permanent use.

(3) The provisions of Part III of this Act shall apply, so far as may be, to the determination of the compensation payable under this Section.

35. (1) The provisions of this Act shall not be put in force for the purpose of acquiring a part only of any house, manufactory, or other building, if the owner desires that the whole of such house, manufactory or other building shall be so acquired :

Part of house or building not to be taken.

Provided that the owner may, at any time before the Division Peishkar has made his award under Section 11, by notice in writing, withdraw or modify his expressed desire that the whole of such house, manufactory or other building shall be so acquired ;

Provided also that, if any question shall arise as to whether any land proposed to be taken under this Act does or does not form part of a house, manufactory or other building within the meaning of this Section, the Division Peishkar shall refer the determination of such question to the District Court and shall not take possession of such land until after the question has been determined.

In deciding on such a reference, the Court shall have regard to the question whether the land proposed to be taken is reasonably required for the full and unimpaired use of the house, manufactory or other building.

(2) If in the case of any claim under Section 22, Sub-section (1) Clause (3), by a person interested, on account of the severing of the land to be acquired from his other land, the Government are of opinion that the claim is unreasonable or excessive, they may, at any time before the Division Peishkar has made his award, order the acquisition of the whole of the land of which the land first sought to be acquired forms a part.

Power of Government to acquire the whole land in certain cases.

(3) In the case last hereinbefore provided for, no fresh declaration or other proceedings under Sections 6 to 10, both inclusive, shall be necessary ; but the Division Peishkar shall, without delay, furnish a copy of the order of the Government to the person interested, and shall thereafter proceed to make his award under Section 11.

SEC. 35-A. THE LAND ACQUISITION ACT. PART VI.

[35-A. (1) Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any fund controlled or managed by a local authority, the charges of and incidental to such acquisition shall be defrayed from or by such fund.

(2) In any proceeding held before a Division Peishkar or Court in such cases, the local authority concerned may appear and adduce evidence for the purpose of determining the amount of compensation.

(3) Any such local authority which objects to the award of a Division Peishkar in regard either to the area of the land or to the amount of compensation may ask for a reference to the District Court within whose jurisdiction the land is situate in the manner and within the time specified in Section 18 ; and thereupon the provisions of Sections 19 to 23 and 25, in so far as they may, shall apply.]

36. No suit or other proceedings shall be commenced or prosecuted against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended proceeding and of the cause thereof, nor after tender of sufficient amends, nor after the expiration of six months from the accrual of the cause of action.

37. Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the Code of Civil Procedure shall apply to all proceedings before the District Court under this Act.

Sec. 35-A. This Sec. was inserted by Sec. 2, Act I of 1099. In the Indian Act Sec. 50, the local fund is denied the right of reference under Sec. 18. There is, after Sec. 50, a Sec. which exempts awards and

agreements under the Act from stamp duty and fees.

Sec. 36. The corresponding Section 52 of the Indian Act does not contain the words "nor after the cause of action."

38. Subject to the provisions of the Code of Civil Procedure applicable to appeals from original decrees, an appeal shall lie to the High Court from the award or from any part of the award of the District Court in any proceedings under this Act,

39. The provisions of the Limitation Act and the Code of Civil Procedure in respect of regular appeals in ordinary suits shall, so far as may be, apply to proceedings before the High Court under this Act.

40. (1) Service of any notice by the Division Peishkar under this Act shall be made by delivering or tendering a copy thereof signed by him.

(2) Whenever it may be practicable, the service of the notice shall be made on the person therein named.

(3) When such person cannot be found, the service may be made on any adult male member of his family residing with him; and, if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business, or by fixing a copy thereof in some conspicuous place in the office of the Division Peishkar and also in some conspicuous part of the land to be acquired.

Provided that, if the Division Peishkar shall so direct, a notice may be sent by Post or Anchal and registered, in a letter addressed to the person named therein at his last known residence, address or place of business and service of it may be proved by the production of the addressee's receipt.

41. Our Government may make Rules consistent with this Act for the guidance of Officers in all matters connected with its enforcement and may from time to time alter and add to the Rules so made. All such Rules, alterations and additions shall be published in the Gazette and shall thereupon have the force of law.

ACT XII OF 1089.

THE GAME AND FISH PROTECTION ACT.

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SEC. 2. THE GAME AND FISH PROTECTION ACT.

(3) It shall come into force on such date as Our Government may by Notification in the Government Gazette, prescribe in this behalf.

2. (1) On and from the day this Act comes into force, Act III of 1073 shall be repealed.
Repeal of enactment.

(2) But all appointments, Notifications, Rules and orders made under the Act hereby repealed, shall be deemed to have been respectively made under this Act, except in so far as such appointments, Notifications, Rules and orders may be inconsistent herewith.

(3) References made to Act III of 1073 hereby repealed, shall be read as if made to the corresponding Sections of this Act.

3. (1) This Act applies in the first instance to the birds and animals while in their wild state, specified in the Schedule, and to fish.
Application of Act.

(2) Our Government may, by Notification in the Government Gazette, apply the provisions of this Act to any kind of wild bird or animal other than those specified in the Schedule, which in their opinion it is desirable to protect or preserve.

4. Our Government may, by Notification in the Government Gazette, declare the whole year or any part thereof to be a close time throughout the whole or any part of, or any place in, Travancore, for any kind of wild
Close time.

of the Fishery Department should have power to call for the production of licenses and accounts for inspection. It may, in the working of the Regulation, be found necessary that other Officers should have similar powers. Hence the proposed amendment."—S. O. & R. T. G. G. dated 1-2-1916.

For legislative proceedings see T. G. G. dated 14-3-1916 and 13-7-1916.

The Act was published in T. G. G. dated 1-8-1916.

Act XI of 1097. (Fisheries Act). This Act repealed such provisions of Act XII of 1039 relating to fish. See also Notes under Act XI of 1097.

See. 4. The words "except under a license and in the manner and extent permitted thereby" do not occur in the corresponding Section of the Indian Act.

bird or animal or fish to which this Act applies or for female or immature wild birds or animals of such kind ; and subject to the provisions hereinafter contained, during such close time and within the areas specified in such Notification, it shall be unlawful except under a license and in the manner and extent permitted thereby,—

(a) to capture any such bird, animal or fish, or kill any such bird or animal which has not been captured before the commencement of such close time ;

(b) to sell or buy, or offer to sell or buy, or to possess, any such bird, animal or fish, which has not been captured before the commencement of such close time, or the flesh thereof ; or

(c) if any plumage has been taken from any such bird captured or killed during such close time, to sell or buy, or to offer to sell or buy or to possess, such plumage.

5. Nothing in this Act shall be deemed to apply to the capture or killing of any wild animal for the destruction of which a reward may be claimed from Our

Savings. Government, or of any wild animal by any person in defence of himself or any other person, or to the capture or killing of any wild bird or animal in *bona fide* defence of property.

PROVISIONS AS TO LICENSES.

6. (1) Our Government may, from time to time, by Notification in the Government Gazette, make Rules to determine the Officers by whom, the form in which, and the terms and conditions subject to which, any license shall be granted, and may, by such Rules, among other matters, specify—

(a) the area within which it is to be in force ;

(b) the instruments which may be used under it ;

Sec. 5. The words "if any wild animal for the destruction of which a reward may be claimed from Our Government" are

additions not found in the corresponding Section 8 of the Indian Act.

THE GAME AND FISH PROTECTION ACT. SEC 7.

- (c) the kinds of game or of fish which may be captured or killed ;
- (d) the number of head of any kind of animal which the holder may kill, subject to the payment of a fee that may be fixed in respect of each such head actually killed by him.

(2) Every hunter, beater, and others assisting and aiding the holder of a license granted under this Act, in the pursuit, capture or killing of game in accordance with the terms and conditions of such license, shall, while so assisting and aiding, be protected by such license.

7. Subject to any Rule made in this behalf by Our Government, any license may be cancelled or suspended by the authority competent to issue the license—

Cancellation of license.

- (a) when any of the terms or conditions of the license has been infringed ;
- (b) when the holder or any of the holders has been convicted of an offence against the provisions of this Act.

8. Every license granted under this Act shall be non-transferable and may be granted and renewed for any period not exceeding one year, subject to the payment of such fee and on such conditions as may be fixed by Rules made by Our Government from time to time :

Period of, and fees for, licenses.

Provided that Our Government may, either in the interests of scientific research or for any other cause, exempt a license-holder from the payment of any fee.

9. Every holder of a license granted under this Act shall be bound—

Duty of license-holders to produce and deliver up licenses.

- (a) to produce such license for inspection, at any time, on being required to do so by any Magistrate, or by any Police-Officer, or, within a forest, by any Forest Officer [or by any other person authorised in this behalf, by name or in virtue of his office, by Our Government] and

Sec. 9. The bracketed words in Clause (a) were added by Sec. 1. Act VI of 1091.

(b) upon the expiry of the period for which his license was granted, or upon leaving Travancore, not intending to return within the period of the license, to deliver up such license to the Division Peishkar, or to any authority empowered to grant such license, or to the principal Police-Officer in the District or Town in which he then is.

10. Every holder of a license granted under this Act limiting the number of head of any specified kind of animal which the holder may kill, shall—
 Duty of certain license-holders to keep account of game killed.

(a) keep an account of all such head actually killed by him showing the sex of each and the date upon and the place at which it was killed :

(b) produce such account on being required to do so by Magistrate or by any Police-Officer not below the rank of a Sub-Inspector or, within a forest, by any Forest Officer not below the rank of a Deputy Ranger [or by any other person authorised in this behalf, by name or in virtue of his office, by Our Government]; and

(c) upon the expiry of the period for which his license was granted, or upon his leaving Travancore not intending to return within the period of the license, deliver up such account, together with his license, to the Division Peishkar, or any authority competent to issue such license, or the principal Police-Officer in the District or Town in which he then is.

11. Every license granted under the provisions of any enactment relating to forests for the time being in force, which permits any person to capture or kill game, shall have the effect of a like license granted under this Act.
 Effect of license under Forest enactment.

Sec. 10. The bracketed words were added by Sec. 2. Act VI of 1091.

SEC. 12. THE GAME AND FISH PROTECTION ACT.

PENALTIES.

12. (1) Whoever does any act or attempts to do any act in contravention of the provisions of this Act or of any Rules passed thereunder or in violation of any of the terms and conditions of the license issued under this Act shall, on conviction, be liable to a fine not exceeding five hundred rupees.

Penalty for contravention of the Act or Rules etc.

(2) Whoever, having been already convicted of an offence under this Act, is again convicted thereunder shall, on every subsequent conviction, be punished with imprisonment for a term which may extend to one month or with fine which may extend to one thousand rupees, or with both.

13. When any person is convicted of an offence punishable under this Act, the convicting Magistrate may direct that any bird or animal or fish in respect of which the offence has been committed, or the flesh or any part of such bird or animal or fish, together with the instruments or dogs or other animals, if any, with which the offence was committed, shall be confiscated.

Confiscation.

14. No Court inferior to that of a Magistrate of the Second Class shall try any offence under this Act or the Rules framed thereunder.

Cognizance of offences.

15. (1) Where any person is found in possession—
(a) of any game recently captured or killed in any area within a period during which its capture or killing is absolutely prohibited within such area by a Notification under Section 4, or

Presumption of commission of certain offences.

Sec. 13. The words "together with the instruments or dogs... offence was committed" do not occur in the corresponding Section 5 of the Indian Act, which contains an additional

Sub-section which reads "such confiscation may be in addition to the other punishment provided by Sec. 4 for such offence."

(b) of any fish in the vicinity of any area within a period during which its capture or killing is absolutely prohibited in such area by a Notification under Section 4, the Court shall presume, that he has committed an offence punishable under Section 12, Sub-section (1).

(2) Where any person is found carrying any game or fish recently captured or killed, together with any fire-arms or instruments with which such game or fish could be so captured or killed, the Court shall presume that he has captured or killed such game or fish with such fire-arms or instruments.

16. When the holder of a license granted under this Act has been convicted of an offence thereunder, the convicting Court shall send a copy of its judgment, together with the license (if before the Court) to the nearest authority empowered to cancel the license under this Act, for such action as such authority may deem fit.

Duty of Court as regards cancellation of licenses.

17. Where any person commits an offence against the provisions of this Act in the presence of a Magistrate or Police-Officer, or, within a forest, of a Forest Officer, or of any other person authorised in this behalf [by name or in virtue of his office] by Our Government, such Magistrate, Officer or person may seize the game or fish, if any, captured or killed, and any arms or other instruments or any dogs or other animal, used in the commission of such offence, and shall send them without unnecessary delay, together with a report of the circumstances, to a Magistrate competent to take cognizance of the alleged offence.

Power of seizure when offence committed in presence of certain Officers and persons

Sec. 17. The bracketed words were introduced by Sec. 3, Act, VI of 1091.

SEC. 18. THE GAME AND FISH PROTECTION ACT.

18. (1) Where any person is found carrying arms or other instruments in such circumstances as to afford reasonable ground for belief that he is carrying the same with intent to use them, or that they may be used in contravention of any of the provisions of this Act or of any Rule made or Notification or license issued thereunder, any Magistrate or Police-Officer, or, within a forest, any Forest Officer, or any other person authorised in this behalf [by name or in virtue of his office] by Our Government, may seize the arms or instruments, and shall send them without unnecessary delay to the Division Peishkar.

(2) The Division Peishkar to whom any arms or instruments are sent under Sub-section (1) may, if satisfied after such enquiry as he thinks fit that there was any such intention as aforesaid, direct the cancellation of the license (if any) in respect thereof, and, in the absence of a license, confiscate the arms or other instruments aforesaid.

MISCELLANEOUS.

19. Our Government may, by Notification in the Government Gazette, make Rules to carry out the purposes of this Act and to provide for appeals from orders made, under this Act, by any person other than by a Magistrate, and such Rules, when so published, shall have the force of law.

SCHEDULE.

(1) Bustards, ducks, geese, floricans, jungle fowl, partridges, peafowl, pheasants, pigeons, quail, sand-grouse, snipe, spur-fowl and wood-cock.

(2) Hares, Malabar squirrels, asses, oxen, bison, buffaloes, elephants, sheep, goat, antelopes, gazelles and deer.

Sec. 18. The bracketed words were inserted by Sec. 4, Act VI of 1091.

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or (2) at the request of either party and with the consent of the other. The first point that was considered by the Committee was whether, as in the Madras Regulation, the litigants should, under the proposed law, be allowed the choice in regard to the Court to be resorted to in the matter of petty suits. If Village Panchayat Courts are established leaving it optional to the parties to resort to such Courts, the likelihood is that litigants may not fully take advantage of it and thus the object with which the law is proposed to be enacted may be defeated. The Committee are, therefore, of the opinion that the proposed law should make it obligatory on the parties to resort to the Courts created by it and that those Courts should be entrusted with the adjudication of petty suits of a specified value. The Committee also consider that the Village Panchayat Courts should have full power to summon parties and witnesses and to execute their own decrees. If, as provided in the Madras Regulation the work of execution &c., is to devolve on the munsiffs' Courts, the contemplated relief to the latter Courts cannot be attained. It has therefore been thought advisable by the Committee, while accepting the provision in the Madras Village Panchayat Regulation as to the numerical constitution of the Bench, to follow, in regard to details, the Madras Village Courts Act. I of 1889, the provisions of which are simpler and more comprehensive.

3. The Bill consists of VII Chapters. *Chapter I* deals with preliminary matters, including definitions. Section 2 contains the vital provision, authorising the Government to extend the application of the law to specified areas by Notification in the Gazette. The Committee think that, at present, there are a few centres such as the headquarters of the Revenue Divisions (excepting Devicolam), and Mavelikara, Thiruvallah and Shencottah, where Government may establish the new Courts. It also appears to the Committee that it is not desirable that practising lawyers should be appointed Judges of the Village Panchayat Courts.

4. *Chapter II* treats of the constitution of the Courts. Section 5 of the Bill enacts that a Village Panchayat Court shall consist of five Judges. One of these who is styled the President is to be given administrative powers in regard to the Court. But unlike the Madras Regulation (V of 1816) and the Act (I of 1889), according to which the Judges are either nominated by the Village Munsiffs or elected by the parties, the Bill requires that the Judges shall be appointed by the Government. A proviso is however, added, enabling the Government to make Rules for the election of the Judges by the people of the village or villages concerned.

5. *Chapter III* contains provisions dealing with the jurisdiction of the Courts. It is provided in Section 9 that all

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suits for money due or for personal property, the amount or value of which does not exceed Rs. 20, shall be cognizable by the Village Panchayat Courts, it being, however, competent to the Government to invest any particular Court with jurisdiction to take cognizance of suits of the value not exceeding Rs. 50. Analogous to Section 14 of the Madras Village Courts Act, Section 10 of the Bill provides that, with the written consent of both parties the Village Panchayat Courts may have jurisdiction up to Rs. 200. Section 17 gives power to the High Court to transfer cases from a Village Panchayat Court to the District Munsiff of the place or to another Village Panchayat Court. The Madras Act gives such power to the District Munsiff of the locality. But in view of the status of the proposed Courts and of the fact that every suit in such Courts has to be heard and determined by a Bench of at least three Judges, it has been thought advisable in the Bill to give this power to the High Court. It may further be pointed out that under the Civil Procedure Code the power of transferring Small Cause Suits from one District Munsiff's Court to another or, for that matter, of transferring any kind of Civil suit from one Court to another, is vested only in the High Court. Throughout the Bill, the High Court alone are recognized as the authority having jurisdiction over these Courts in respect of the judicial matters connected with them.

6. *Chapter IV* comprises subjects such as the institution

and frame of suits and matters of procedure prior to the hearing. In Section 28 relating to the setting aside of an *ex-parte* decree against the defendant, the language of Section 103 of Travancore Civil Procedure Code has been adopted as being clearer and more comprehensive.

7. *Chapter V*. This chapter deals with the hearing and disposal of suits and also with the procedure relating thereto. The provisions contained in this part are generally on the lines of those in the Act. Section 32 relating to the summoning of witnesses, has been modelled on the language, respectively of Section 360 of our Civil Procedure Code and of Section 221 of the Criminal Procedure Code.

8. *Chapter VI* contains the important provisions relating to the execution of decrees. It will be noted that the proviso to Sec. 40 expressly disallows payment of Vakil's fees in the decree agreeably to the object of this piece of legislation, namely, to minimise the cost of the litigation in petty suits. Sec. 42 providing for the award of interests in decrees for money is an adaptation of Sec. 204 of our Civil Procedure Code. The rate of 12 per cent. interest allowable on the sum decreed under the Madras Act, cannot be adopted here, having regard to our Regulations regarding interest. In view to give additional facilities for the prompt recovery of moneys due under the decrees, a proviso has been put into Sec. 46, enabling the Government to

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empower a Village Panchayat Court or its President to order the arrest and imprisonment of the judgment-debtor.

9. *Chapter VII* deals with miscellaneous matters, such as the substitution on the record of the names of the legal representatives of deceased parties, the High Court's powers of revision, the institution fee leviable, etc. Unlike the Madras Act which, as already mentioned in para 6 *supra* gives revisionary jurisdiction to the District Munsiffs, it is proposed in Sec. 67 of the Bill to confer such power on the High Court. Secs. 70 to 72 contain provisions which are altogether new. Consistently with the object of this law, as stated in the preamble, namely, reducing the cost of petty civil litigation, Sec. 70 lays down that no fee other than the ordinary institution fee under the Court Fees Regulation, shall be leviable in connection with suits in the Village Panchayat Courts, except that copies of records shall be granted only on payment of the usual fee. The general rules of procedure laid down in the Civil Procedure Code are extended, so far as may be, by Sec. 71, to the suits in the Village Panchayat Courts. Sec. 72, the last Section, enables the Government to pass Rules generally for carrying out the provisions of this Regulation.*"—

T. G. G. dated 9-7-1912.

For report of the Select Committee see *T. G. G. dated 5-8-1913.*

For legislative proceedings see *T. G. G. dated 22-10-1912, 30-9-1913, 4-11-1913 and 23-6-1914.*

The Act was published in *T. G. G. dated 15-9-1914.*

Act II of 1106. Objects and Reasons.—"Under Section 7 of the Village Panchayat Courts Regulation, the term of office of a President or other Judge of a Village Panchayat Court automatically expires on the lapse of two years from the date of his appointment. This has been found to cause considerable inconvenience if there happens to be a delay in the appointment of a successor; for until the appointment is made there will be no Judge at all. It is therefore proposed by this Bill that every President and Judge should, notwithstanding the expiry of his term of two years, continue in office until a successor is appointed"—*S. O. & R., T. G. G. dated 19-4-1930.*

For legislative proceedings see *L. C. P. Vol. XVI. Pp. 535-545, Vol. XVII. Pp. 41-44 and Vol. XVIII. Pp. 25-40,*

The Act was published in *T. G. G. dated 10-2-1931.*

Act XI of 1114. Objects and Reasons: "The institution fee leviable under Section 76 of the Village Panchayat Courts Act is five per cent. of the value of the suit instituted. This five per cent. *ad valorem* fee when worked out, results in very small amounts in cash and sometimes fraction of a cash. The proposed amendment to Section 76 (made on the recommendation of the High Court) prescribes a minimum fee of one chuckram to be levied in such cases"—*S. O. & R., T. G. G. dated 29-11-1938.*

For legislative proceedings see *A. P. Vol. XIII. P. 45. C. D. Vol. XIII. P. 32.*

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Travancore Village Panchayat Courts Act," and it shall come into force on the 1st Makaram, 1090.

Short title and commencement.

2. Our Government may from time to time, by Notification in the Government Gazette, specify the villages or areas to which this Act shall apply, and may, by a like Notification, withdraw any of such villages or areas from its operation.

Extent.

3. When any such village or area is withdrawn from the operation of this Act, all suits pending in a Village Panchayat Court therein, shall be heard and determined, and all decrees passed by such Court and remaining unexecuted, shall be executed, by the Civil Court which, if such Village Panchayat Court had not existed, would have jurisdiction to try them.

Procedure in regard to suits and decrees pending in area withdrawn from Act.

Such suits shall be tried and such decrees shall be executed as suits instituted in, and decrees passed by, such Civil Court.

The Act was published in *T. G. G. dated 21-3-1139.*

Act XII of 1118. *Objects and Reasons.* "It is proposed to amend the Court Fees Act for the levy of a fee of two chuckrams on every application for copies of records in small cause suits filed before the Munsiff's Courts. What is stated of such applications is true of similar applications filed before Panchayat Courts also. It is therefore proposed to amend the

Panchayat Courts Act for the same purpose"— *S. O. & R., T. G. G. dated 11-11-1941.*

For legislative proceedings see *A. P. Vol. XIX P. 85 ; Vol. XXI Pp. 59-60 and C. P. Vol. XXI P. 29.*

The Act was published in *T. G. G. dated 23-2-1943.*

Act XX of 1124. The adaptation of Laws Act. This Act was published in *T. G. G. dated 15-3-1949.*

SEC. 4. VILLAGE PANCHAYAT COURTS ACT. CHAP. II.

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

“Village” means a local area recognised by Our Government from time to time, as a village for purposes of collecting the land revenue, or a local area for which a Village Panchayat Court has been established under this Act ;

“Village Panchayat Court” means a Civil Court of original jurisdiction established under this Act for a village.

CHAPTER II.

ESTABLISHMENT AND CONSTITUTION OF VILLAGE PANCHAYAT COURTS.

5. Our Government may, from time to time by Notification in the Government Gazette,—
Establishment of Village Panchayat Courts. (1) group two or more villages and establish one Village Panchayat Court for them all,
(2) constitute divisions in any village and establish a separate Village Panchayat Court for each of such divisions, or,
(3) establish a Village Panchayat Court for any specified area.

6. A Village Panchayat Court established under this Act shall consist of not less than five Judges, one of whom shall be styled the President. Every suit instituted in and every proceeding before a Village Panchayat Court shall be disposed of by a Bench of at least three Judges. In case of difference, the opinion of the majority shall prevail. When the Judges are equally divided, the opinion of the President, or, in his absence, of the Senior Judge, shall prevail.

For the purpose of this Act, Our Government may nominate one of the Judges other than the President, as the Senior Judge.

7. The President and the other Judges of the Village Panchayat Court shall be appointed by Our Government once in two years, according to such Rules as may, from time to time, be prescribed by Our Government in that behalf :

Provided that Our Government may, by Rules made in that behalf, provide for all or any of the Judges being elected by the people of the village or villages concerned.

[Provided also that every President and Judge shall, notwithstanding the expiry of two years from his appointment, remain in office, unless Our Government otherwise direct, until his successor is appointed.]

8. Our Government may suspend or remove the President or other Judge of a Village Panchayat Court, for incapacity, neglect of duty, misconduct, or other just and sufficient cause, and shall do so, on a requisition made by the High Court, for like cause appearing in the judicial proceedings of such President or other Judge.

9. Subject to such Rules as may be framed by Our Government in this behalf, it shall be competent to the President of a Village Panchayat Court to appoint, degrade, suspend, dismiss or otherwise deal with any member of the establishment sanctioned by Our Government for that Court.

It shall be the duty of the President and, in his absence, of the Senior Judge, to control and supervise the work of the Court, and to carry on all correspondence connected with the Court.

Sec. 7. The Second proviso was inserted by Sec. 2, Act II of 1106.

CHAPTER III.

JURISDICTION, RES JUDICATA AND LIMITATION.

10. (1) The Village Panchayat Courts shall try all suits of a Civil nature, except suits specified in Schedule I hereto annexed, the amount or value of which does not exceed thirty rupees.

Cognizance of suits by Village Panchayat Courts.

(2) It shall, however, be competent to Our Government, on the recommendation of the High Court, to invest any Village Panchayat Court with Jurisdiction to hear and determine suits of the nature described in this Section, the amount or value of which shall not exceed fifty rupees.

11. With the written consent of both parties, executed before the Court, a Village Panchayat Court may hear and determine suits of the nature described in Section 10, the amount or value of which shall not exceed two hundred rupees.

Jurisdiction up to Rs. 200 with consent.

12. Subject to the provisions of Section 13, and notwithstanding anything contained in the Civil Courts Act, II of 1084, every suit falling within Section 10 shall be brought in the Village Panchayat Court within

Court in which suit to be instituted.

Sec. 10. The corresponding section 13 of the Madras Act reads as follows:—

"The following are the suits which shall be cognisable by Village Courts (namely) — claims for money due on contract or for movable property, or for the value of such property, when the debt or demand does not exceed in amount or value the sum of rupees fifty, whether on balance of account or otherwise: Provided that no action shall be brought in any such Court (1) on a balance of partnership account unless the balance shall have been struck by the parties or their agents; (2) for a share or part of a share

under an intestacy, or for a legacy or part of a legacy under a Will; (3) for rent for land, unless such rent be due upon a written contract signed by the defendant; (4) by or against Government or public Officers in their official capacity; (5) by and against minors or persons of unsound mind."

The original Bill contained a similar provision, but in the Council it was resolved that such restrictions which applied to small cause suits should be made applicable to suits in Panchayat Courts. The existing sub-section (1) and the schedule were therefore put in,

the local limits of whose jurisdiction the defendant is, or, if there are more defendants than one, the majority of them are, and, if there is no majority, any of the defendants is, at the time of the commencement of the suit, residing or carrying on business or personally working for gain.

13. No Judge of a Village Panchayat Court shall try any suit to which he is a party or in which he is personally interested, or shall adjudicate upon any proceeding connected with, or arising out of, such suit.

Suit in which judge is personally interested.

14. No Village Panchayat Court shall try any suit brought on a cause of action, which has been heard and determined by a Court of competent jurisdiction, in a former suit, between the same parties or those under whom they claim.

Res-judicata.

15. Every suit instituted in a Village Panchayat Court shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action, but he may relinquish any portion of his claim in order to bring the suit within the jurisdiction of such Court.

Suit to include whole claim

If a plaintiff omit to sue in respect of, or intentionally relinquish, any portion of his claim, he shall be precluded from bringing a fresh suit for or in respect of the portion so omitted or relinquished.

Relinquishment of part of claim.

Sec. 12. The corresponding Section 15 of the Madras Act reads thus:—

“.....Village Court within the local limits of whose jurisdiction all the defendants at the time of the commencement of the suit reside, or carry on business, or personally work for gain.”

Sec 13 Section 16 of the Madras Act contains clause (1) which corresponds to this section with the addition of “Every such suit or proceeding

may be instituted in the Village Court of any village immediately adjoining” at the end. Clause (2) of Sec. 16 added by Act II of 1920 runs as follows:—

“2. When any member of a Panchayat Court is a party to, or personally interested in, any suit or proceeding before such Court, he shall withdraw from Court during the hearing of such suit or proceeding and shall take no part in its determination.”

SEC. 16. VILLAGE PANCHAYAT COURTS ACT. CHAP. III

16. If, in the decision of a suit cognizable by a Village Panchayat Court under Section 10 or Section 11, it becomes 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 by a Village Panchayat Court, it shall be competent to the Village Panchayat 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, contract or obligation, in any other action, though between the same parties or their representatives.

17. The provisions of the Travancore Limitation Act, II of 1062, shall apply to suits and applications under this Act.

18. The District Court within the limits of whose jurisdiction a Village Panchayat Court is situate, may withdraw any suit from such Village Panchayat Court and transfer it, for trial, to the Court of any District Munsiff subordinate to such District Court or to any other Village Panchayat Court situate within the limits of the jurisdiction of such District Court.

Sec. 18. Section 21 of the Madras Act runs thus:—

“(1) The District Munsiff may on the application of any of the parties, withdraw any suit from a Village Court and try the suit himself as if it had been instituted in his Court, or transfer it for trial to any other village Court within the local limits of his jurisdiction: Provided that any party applying to have a suit withdrawn from

a Village Court and tried by the District Munsiff shall, before any such order of transfer is made, pay the amount of the fees payable under the Court Fees Act 1870 in respect thereof.

2. Pending disposal of any application under sub-section (1) the District Munsiff may, order a stay of proceedings in the Village Court.”

19. The Village Panchayat Court may, at any time, upon its own motion or upon the application of a party to the suit, order that the name of any person who ought to have been joined, whether as plaintiff or defendant, whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all questions involved in the suit, be added, provided that no person shall be added as a plaintiff without his own consent thereto.

Power of Court to add parties to suit.

20. When a defendant is added, the plaint, if previously filed, shall, unless the Court direct otherwise, be amended in such manner as may be necessary, and an amended copy of the plaint shall be served on the new defendant and the original defendants.

Procedute upon the adding of party.

CHAPTER IV.

THE INSTITUTION AND FRAME OF SUITS, RECOGNISED AGENTS, THE ISSUE AND SERVICE OF SUMMONS ON PARTIES, ADJOURNMENTS AND CONSEQUENCES OF NON-APPEARANCE.

21. Every suit under this Act shall be instituted by presenting a plaint to the Village Panchayat Court, together with as many copies thereof as there are defendants. One copy shall be delivered to each defendant, or affixed as hereinafter provided, together with the copy of the summons.

Suit to be commenced by plaint.

Sec. 19 and 20. There are no corresponding Secs. in the Madras Act.

SEC. 22. VILLAGE PANCHAYAT COURTS ACT. CHAP. IV.

22. The plaint shall be written in the language of the village, or in Malayalam, and signed and verified by the plaintiff, or, in his absence, by an agent duly authorised by him, and it shall contain the following particulars :—

- (a) the name, description and residence of the plaintiff and of the defendant ;
- (b) a concise statement of the cause of action and when it arose ; and
- (c) the relief prayed for and the total amount or value of the claim.

23. Any appearance, application or act required or authorised by law to be made or done by a party to a suit in any Village Panchayat Court, may be made or done in such Court, by the party in person or by his recognised agent or by a pleader duly appointed to act in this behalf :

Provided that it shall be competent to the Court, whenever it thinks it necessary for the ends of justice, to order the personal attendance of any of the parties to the suit.

Explanation—Recognised agent is a person holding a power-of-attorney from a party, authorising him to make and do appearances, applications and acts on behalf of such party.

Sec. 22. The Section of the Madras Act does not contain the word "verify".

Sec. 23. In the Madras Act, the corresponding Sec. is, "No legal practitioner, whether qualified or unqualified shall be allowed to appear before a Village Court on behalf of any party to a suit or proceeding, but any party may authorise a servant, gumestha, partner, relation or friend to appear and plead for him :

Provided that it shall be competent to the Village Munsiff whenever he thinks it necessary for the ends of justice to order the personal attendance of any of the parties to the suit ; and if the party so ordered does not attend in person, he shall be subject to the same consequences as if he did not appear either in person or by an agent."

24. When the plaintiff has been presented, the Village Panchayat Court shall cause the same to be registered, and shall, by a summons in writing, require the defendant to appear and answer the claim on a specified day. The summons shall be served on the defendant personally and a copy thereof delivered to him.

25. If the Village Panchayat Court is satisfied that the defendant is evading service of the summons the Court may order that it be served upon, and a copy thereof delivered to, an adult male member of the family of the defendant, residing with him, or that a copy thereof be affixed upon some conspicuous part of the house in which he generally resides.

26. Whenever it may be necessary to serve the summons upon a defendant beyond the local jurisdiction of the Village Panchayat Court, it shall be forwarded to the District Munsiff within whose jurisdiction the defendant resides, who shall cause it to be served, as if it had been a summons issued by himself, and shall then return it to the Village Panchayat Court, together with a report of such service. Such report shall be *prima facie* evidence of the facts stated therein.

27. If a defendant does not appear in person or by agent or pleader as referred to in Section 23 on the day fixed, and if it be proved that the summons was duly served, the Village Panchayat Court may proceed *ex-parte*.

If it is not proved that the summons was duly served, the Village Panchayat Court shall issue a fresh summons.

Sec. 25. In the Madras Act, the Sec. reads "if the Village Munsiff.....sum or has refused to affix his signature to the summons, the Village

Munsiff may....."

Sec. 27. In the Madras Act the defendant may claim only two clear days' notice of suit.

SEC. 28. VILLAGE PANCHAYAT COURTS ACT. CHAP. IV.

Every defendant may claim seven clear days' notice of suit, and if the summons was not served in sufficient time to enable him to answer on the day fixed, the hearing shall be adjourned to a future day, of which written notice shall be given to the defendant.

28. Where, on the day fixed for the defendant to appear—

Procedure where plaintiff or defendant does not appear, or where summons not served through plaintiff's default.

the Court may make an order that the suit be dismissed.

29. Where the plaintiff does not appear, but the defendant appears when the suit is called on for hearing, the Court shall make an order that the suit be dismissed, unless the defendant admits the claim, or part thereof, in which

case, the Court shall pass a decree against the defendant upon such admission, and, where part only of the claim has been admitted, shall dismiss the suit so far as it relates to the remainder.

Sec. 28. The corresponding Sec. of the Madras Act runs thus:—

“30. If on the day fixed for the defendant to appear—(1) neither party appears, or (2) the plaintiff does not appear, and the defendant appears and does not admit the claim, or (3) the summons has not been served owing to the plaintiff's default and the defendant does not appear, the suit shall be dismissed unless the Village Court otherwise directs.”

Sec. 29. The corresponding Sec. of the Madras Act reads thus:—

“31. If the plaintiff does not appear, but the defendant appears and admits the claim wholly or in part, the Village Court shall pass Judgment against defendant in accordance with such admission: Provided that when only a part of the claim is admitted the Court may adjourn the hearing to a future day.”

30. (1) Where a suit is dismissed under Section 28, the plaintiff may (subject to the law of limitation) bring a fresh suit; or he may apply for an order to set it aside and if he satisfies the Court that there was sufficient cause for his default or non-appearance, as the case may be, the Court shall make an order setting aside the dismissal and shall appoint a day for proceeding with the suit.

(2) Where a suit is wholly or partly dismissed under Section 29, the plaintiff shall be precluded from bringing a fresh suit; but he may apply for an order to set the dismissal aside. If he satisfies the Court that there was sufficient cause for his non-appearance when the suit was called on for hearing, the Court shall make an order setting aside the dismissal, and shall appoint a day for proceeding with the suit.

31. In any case in which a decree is passed *ex-parte* against a defendant by a Village Panchayat Court, he may apply to such Court for an order to set it aside, and if he satisfies the Court that the summons was not duly served, or that he was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall make

Sec. 30. The corresponding Sec. of the Madras Act is as follows.:

"32. Whenever a suit is dismissed under Clause (1) or Clause (3) of Section 30, the plaintiff may bring a fresh suit; and, if within thirty days from the date of an order under Clause (2) of Section 30 dismissing the suit, or of a decree passed for only a part of the claim under Section 31, the plaintiff satisfies the Village Court that he was prevented by any sufficient cause from appearing, the Court shall set aside the dismissal or the decree, and shall appoint a day for proceeding with the suit."

Sec. 31. The corresponding Sec. of the Madras Act reads as follows:—

"33. Any defendant against whom a decree has been passed *ex-parte* may, within thirty days from the date of executing any process for its enforcement, apply to the Village Court to set it aside; and if satisfied that the summons or notice was not duly served, or that the defendant was prevented by any sufficient cause from appearing, the Court shall set aside the decree and shall appoint a day for proceeding with the suit."

an order setting aside the decree as against him upon such terms as it thinks fit, and shall appoint a day for proceeding with the suit :

Provided that, where the decree is of such a nature that it cannot be set aside as against such defendant only, it may be set aside as against all or any of the other defendants also.

32. No decree shall be set aside on any application under Section 30 or Section 31 unless notice has been served on the opposite party.

No decree to be set aside without notice to opposite party.

CHAPTER V.

THE HEARING, WITHDRAWAL OR COMPROMISE OF SUITS, AND THE SUMMONING AND EXAMINATION OF WITNESSES.

33. When the defendant appears, the Court shall ascertain from him whether he admits the claim made in the plaint. If he admits the claim, or if the suit be compromised, either then or at any subsequent stage, in whole or in part, such admission or compromise shall be recorded in writing and signed by the parties, and the Court shall pass a decree in accordance therewith. If the defendant does not admit the claim, he shall be required to state his objections, either orally or in writing, and the Court may, if it thinks fit, adjourn the case to enable him to file a written statement.

Procedure on appearance of both parties.

34. At any time after the institution of a suit, the plaintiff, or where there are more plaintiffs than one any one of them, with the consent of the others, may, as against all or any of the defendants, withdraw the suit or abandon part of

Withdrawal of suit.

Sec. 34. The corresponding Sec. 36 of the Madras Act is as follows :—

“If the plaintiff wishes to withdraw a suit, he shall signify

the same in writing to the Court, which shall strike the suit off the file, and no fresh suit shall be brought on the same cause of action.”

the claim, and no fresh suit shall be brought in respect of the subject-matter of such suit or such part of the claim so withdrawn or abandoned.

35. If the parties agreed to have the suit or any part of it decided by an oath taken by one of them in Court or elsewhere, and tender a written agreement signed by both of them setting forth the terms of the oath and the place where it is to be taken, the Court may accept such agreement. After the oath has been taken in the manner proposed the Court shall decide the case in terms of the agreement.

When suit may be settled by oath.

After the agreement has been accepted by the Court, it shall not be competent to any of the parties to withdraw therefrom without the leave of the Court. If any party so withdraws or refuses to take the oath without lawful excuse, the Court may decide the case against him or pass such other order as it deems proper.

36. The defendant may set-off any amount legally due to him by the plaintiff, for which he could bring a suit in a Village Panchayat Court. If such set-off is established, the decree shall be for any sum which finally appears to be due to either party.

Set-off.

37. When the defendant's statement has been made, the Court shall proceed to examine the truth of the claim, and shall take all such evidence as may be produced in behalf of the plaintiff and of the defendant.

Witnesses not present to be summoned.

The Court may, if it thinks fit, on the application of the plaintiff or defendant, issue process to compel the attendance of any witness or the production of any document.

Sec. 37. The corresponding Sec. 39 of the Madras Act reads as follows :—

“When the defendant's statement the claim, and shall summon the witnesses cited by

either party who are not present.”

The second para is an addition not found in the Madras Act.

SEC. 38. VILLAGE PANCHAYAT COURTS ACT. CHAP. V.

38. Any witness residing within the jurisdiction of the Village Panchayat Court, or within five miles beyond such jurisdiction, may be summoned in writing by such Court.

Summons to witness how served.

If any witness resides more than five miles beyond its jurisdiction, the Court may call on the parties to frame written interrogatories, and shall forward such interrogatories to the District Munsiff or the Village Panchayat Court within whose jurisdiction the witness resides, and such District Munsiff or Village Panchayat Court shall forthwith summon and examine the witness upon the interrogatories, and shall return his answers to the Court in which the suit is pending.

Interrogatories when to issue.

39. A summons may direct any person summoned either to appear and give evidence, or to produce or cause the production of a document.

Summons to appear and give evidence or produce document.

40. Whoever is summoned to appear and give evidence or to produce a document in a suit, by a Village Panchayat Court, shall, except for a reasonable cause, be bound so to attend and give evidence or produce or cause the production of such document.

Duty of persons summoned to give evidence or produce document.

41. Women who, according to the customs and manners of the country, ought not to be compelled to appear in public, persons exempted from personal appearance in Court, and any person who, by reason of sickness or bodily infirmity, cannot attend without serious inconvenience, shall not be compelled to attend; but when the evidence of any such person is necessary, the Village Panchayat Court shall itself or by commission examine such person at his or her residence.

Exemption of certain women & other persons from personal appearance.

Secs. 40 and 41. There are no corresponding provisions in the Madras Act.

42. Witnesses shall be examined on oath or solemn affirmation, and it shall not be necessary for the Village Panchayat Court to take down the evidence of the witnesses in writing at length; but any one of the Judges, as the examination of each witness proceeds, shall make a memorandum of the substance of what the witness deposes and such memorandum shall be signed by the Judges before whom the witness is examined.

Every such memorandum shall form part of the record.

43. The Village Panchayat Court, if it appears likely that the parties will settle the matter amicably or for any other sufficient cause, may adjourn the hearing to a day to be fixed in the presence of the parties, or in cases in which the defendant does not appear, in the presence of the plaintiff. If, on such day, the parties or any of them fail to appear, the Village Panchayat Court may proceed to dispose of the suit in one of the modes prescribed in that behalf by Sections 28 and 29, or make such other order as it thinks fit.

44. If any party to a suit, who shall be ordered to attend to give evidence or produce a document, shall, without lawful excuse, fail to comply with such order, the Village Panchayat Court may, in its discretion, pass a decree against him or make such order in relation to such suit as it deems fit.

CHAPTER VI.

THE DECREE AND ITS EXECUTION.

45. When the parties or their agents have been heard, and the evidence on both sides considered, the Village Panchayat Court shall pass such decree as may seem just:

SEC. 46. VILLAGE PANCHAYAT COURTS ACT. CHAP. VI.

Provided that it shall not be competent to any Village Panchayat Court to allow any sum of money as Vakil's fees to either party either in the suit or in the execution proceedings.

46. The decree shall be in the language of the village or in Malayalam, and shall contain
Contents of decree. the number of the suit, the names of the parties, the particulars of the claim, the names of the witnesses examined, the titles of the exhibits read, the decision in the suit and the reasons for such decision. It shall specify the sum of money adjudged, or the movable property to be delivered, or the sum to be paid in default of delivery, and the amount of costs and by what parties and in what proportion such costs shall be paid.

The decree shall bear date the day on which it is passed, and be signed by all the Judges who decided the case. Each party shall be entitled to receive a copy of the decree upon application.

47. In suits for money, the Village Panchayat Court may, in the decree, order interest, at such rate as the Court deems reasonable, to be paid on the principal sum adjudged, from the date of the suit to the date of the decree in addition to any interest adjudged on such principal sum for any period prior to the institution of the suit, with further interest, at such rate, not exceeding nine per cent. per annum, as the Court deems reasonable on the aggregate sum so adjudged, from the date of the decree to the date of the payment, or to such earlier date as the Court thinks fit.

Sec. 46. The Madras Act provides for delivery of copy of decree to each party in the suit.

Sec. 47. In the Madras Act, the corresponding Sec. contains only two paragraphs, the second of which is the third one

in this Act and the first reads thus: "In suits for money the Village Court may decree interest on the sum decreed not exceeding 12 per cent. per annum from date of suit till date of payment."

Where such a decree is silent with respect to the payment of further interest on such aggregate sum as aforesaid, from the date of the decree to the date of payment or other earlier date, the Court shall be deemed to have refused such interest, and a separate suit therefor shall not lie.

When a Village Panchayat Court decrees the payment of a sum of money, it may direct that it be paid by instalments, with or without interest at the above rate.

48. If any clerical or arithmetical error be found in the decree, the Court shall, of its own motion or on that of any of the parties, amend the decrees so as to correct such error, provided that reasonable notice has been given to the parties of the proposed amendment.

49. The decree shall be executed by the Village Panchayat Court which passed it or by a Village Panchayat Court or District Munsiff to whom it is sent for execution under the provisions hereinafter contained.

50. If the decree be for any specific movable, it may be enforced by the seizure of the property and its delivery to the decree-holder. If the seizure of the property be not practicable, the decree shall be executed by enforcing payment of the sum decreed as an alternative.

51. (1) All money payable under a decree passed by a Village Panchayat Court shall be paid into Court.
 (2) If the decree is otherwise adjusted to the satisfaction of the decree-holder, the nature of such adjustment shall be recorded in writing, and

Sec. 48. The Madras Act contains no corresponding

Sec. 51. The corresponding Sec. 50 of the Madras Act reads thus:—

“All money payable under a decree passed by a Village

Court shall be paid to the decree holder, or his agent specially authorised in writing, in the presence of the Village Munsiff whose duty it is to execute the decree, but if the decree is otherwise adjusted to

SEC. 52. VILLAGE PANCHAYAT COURTS ACT. CHAP. VI.

signed by him or his agent authorised in writing, in open Court and such record shall bear the initials of the President, or, in his absence, of the Senior Judge.

(3) All payments or adjustment shall be endorsed by the President, or, in his absence, the Senior Judge, on the decree and also recorded in the register of suits.

(4) No payment under a decree, and no adjustment of a decree in whole or in part, shall be recognised unless it has been made or recorded in the manner prescribed by this Section.

(5) Notwithstanding anything contained in this Section the execution of a decree of a Village Panchayat Court, transferred to a District Munsiff for execution, shall be governed by the provisions of the Civil Procedure Code for the time being in force.

52. No judgment-debtor shall be arrested, and no immovable property attached by a Village Panchayat Court, in execution of a decree.

Judgement-debtor not to be arrested nor immovable property attached.

53. On the application of the decree-holder, the Village Panchayat Court, or on days when the Court does not sit, the President, may order attachment of any movable property within its jurisdiction, belonging to the judgment-debtor, pointed out by the decree-holder, to the value of the amount payable under the decree :

Attachment of movable property.

the satisfaction of the decree-holder, the nature of such adjustment shall be recorded in writing and signed by him or his agent in the presence of, and attested by such Village Munsiff. Such payment or adjustment shall be endorsed by the Village Munsiff on the decree, and recorded in the register of suits mentioned in Section 10. No payment under a decree and no adjustment of a decree in whole or in part shall be recognised unless it

has been made or recorded in the manner prescribed by this section or in the Court of the District Munsiff."

Sec. 53. The exemption from attachment under the Madras Act is co-extensive with the exemption from attachment under the Code of Civil Procedure.

See also Public Servants Temporary Relief Proclamation dated 6-9-1943.

Provided that the following properties shall not be liable to such attachment, namely,—

- (a) the necessary wearing apparel and bedding of the judgment-debtor, his wife and children, and such personal ornaments as, in accordance with religious usage, cannot be parted with by a woman ;
- (b) tools of artisans. and, where the judgment-debtor is an agriculturist, his implements of husbandry and such cattle and seed-grain as may, in the opinion of the Court, be necessary to enable him to earn his livelihood as such ;
- (c) the materials of houses and other buildings belonging to and occupied by an agriculturist ;
- (d) books of account ;
- (e) a mere right to sue for damages ;
- (f) stipends and gratuities allowed to pensioners of the Government, and political pensions ;
- (g) the salary of a Public Officer to the extent of—
 - (i) the whole of the salary where the salary does not exceed ten rupees monthly,
 - (ii) ten rupees monthly where the salary exceeds ten rupees and does not exceed twenty rupees monthly, and
 - (iii) one moiety of the salary in any other case ;
- (h) the pay and allowances of persons to whom the Native Articles of War apply ;
- (i) the wages of labourers and domestic servants, whether payable in money or in kind.

Explanation.—The particulars mentioned in Clauses (f), (g), (h) and (i) are exempt from attachment or sale whether before or after they are actually payable.

SEC. 54. VILLAGE PANCHAYAT COURTS ACT. CHAP. VI.

54. If the property be in the possession of the judgment-debtor, it shall be attached by actual seizure, and the Court shall provide for its safe custody. It may be left in the custody of the judgment-debtor, upon any person approved by the Court rendering himself liable as surety, in writing, for its production when required. On default, the decree may be executed against the surety to the value of the property not produced, after giving him such notice as the Court may deem sufficient.

55. If the property be not in the possession of the judgment-debtor, the attachment shall be made by a written order prohibiting the person in possession of the property from giving it over to the judgment-debtor.

56. (1) Debts and moneys due to the judgment-debtor, shall be attached by a written order prohibiting the judgment-debtor from recovering the debt or receiving the sum of money, and the debtor from making payment thereof, until the further order of the Court. Nothing in this Section shall be held to authorise a Village Panchayat Court to attach or sell a debt charged on immovable property.

(2) In the case of the salary of a Public Officer, the attachment shall be made by a written order requiring the Officer whose duty it is to disburse the salary, to withhold every month such portion as the Court may direct until the further orders of the Court.

Sec. 54. The corresponding Sec. 53 of the Madras Act reads as follows:—

“If the property be ... safe custody. It may be left... Judgment debtor, upon sufficient security being given in writing for its production when requir-

ed. On default, the decree may be executed against the surety to the value of the property not produced.”

Sec. 56. The corresponding Sec. 55 of the Madras Act contains only the first sub-section of this Sec.

57. When an attachment has been made by actual seizure or by a written order, any private alienation of the property attached, whether by sale, gift, pledge or otherwise, and any payment of the debt or money attached to the judgment-debtor, during the continuance of the attachment, shall be void as against all claims enforceable under the attachment.

58. If, within fifteen days after the date of attachment, any claim be preferred to property attached in execution of a decree, the Village Panchayat Court shall investigate the claim, and if it appears that the judgment-debtor has no saleable interest therein, such property shall be released from attachment.

59. As soon as possible after attachment, the Village Panchayat Court shall fix a day, not less than fifteen days from the date of attachment, for the sale of the property attached, and shall cause a written proclamation of the intended sale to be fixed outside the Court, and such sale shall be further proclaimed by beat of drum previous thereto :

Provided that (i) with the consent in writing of the judgment-debtor, or (ii) when the property seized is subject to speedy and natural decay, or (iii) when the expense of keeping it in custody may exceed its value, the Court may, after giving due notice by beat of drum, sell the attached property at any time within fifteen days from the date of attachment. In such case, the Court shall hold the sale proceeds subject to the provisions hereinafter made for payment of moneys attached in execution of decrees.

Sec. 58. The words "within fifteen days after the date of attachment" are additions not found in the Madras Act.

SEC. 60. VILLAGE PANCHAYAT COURTS ACT. CHAP VI.

60. On the day fixed for the sale, the property shall be put up for sale by public auction in open Court and sold to the highest bidder. The price shall be paid without delay, and in default, the property shall again be put up to sale.

On payment of the purchase-money, the Court shall grant a receipt for the same, and the sale shall become absolute.

Any loss on re-sale shall, at the instance of either the judgment-creditor or judgment-debtor, be recoverable from the defaulter as if a decree has been passed against him for the same.

61. Any sale advertised under this Act may at the discretion of the Court, be adjourned to a specified day, public notice thereof being given in the manner prescribed by Section 59.

62. No judge of a Village Panchayat Court or other Officer having any duty to perform in connection with any sale under this Act, shall, either directly or indirectly, bid for or acquire any interest in any property sold at such sale.

63. Every sale of property under this Act shall be stopped if, before the lot is knocked down, the amount due under the decree and the costs attending the sale are tendered to the Court.

64. Out of the moneys realised in execution, the cost of execution shall first be defrayed, and then the amount due to the decree-holder shall be paid. Any surplus which may remain shall be paid to the judgment-debtor.

65. When the property sold is one of which actual seizure has been made, the property shall be delivered to the purchaser.

66. When the property sold is in the possession of any person other than the judgment-debtor, or is a debt due by any person to the judgment-debtor, delivery thereof to the purchaser shall be made by a written notice to such person, prohibiting him from delivering possession of the property or paying the debt to any person except the purchaser, and whatever right the judgment-debtor had in such property or debt at the time of attachment shall vest in the purchaser.

67. Any decree passed by a Village Pauchayat Court may, on the application of the decree-holder, be transmitted for execution to the Court of any District Munsiff within whose jurisdiction the judgment-debtor may reside or may have property, or to the Pauchayat Court of any other village in which the judgment-debtor is represented to have movable property. The Court to which a decree is transferred for execution shall execute it as if it were a decree passed by itself.

Sec. 67. The corresponding Sec. 66 of the Madras Act runs as follows.—

“66 (1) Any decree passed by a Village Court may, on the application of the decree holder be transmitted for execution to a District Munsiff, who may (a) execute the decree as if it were a decree passed by himself; or (b) transmit it for execution to the Court of any other village within his jurisdiction in which the defendant is represented to have movable property; or (c) transmit it to the Court of any other District Munsiff within whose jurisdiction the defendant is represented to reside or to have property.

(2) The District Munsiff to whom a decree has been transmitted under clause (c) of sub-section (1) may execute the decree as if it were a decree passed by himself or transmit it for execution to the Court of any village within his jurisdiction in which the defendant is represented to have movable property—

(3) The Village Court to which the decree is transmitted under clause (b) of sub-section (1) or sub-section (2) shall proceed as if the decree was passed by itself.”

CHAPTER VII.

MISCELLANEOUS.

68. If a plaintiff or defendant die before decree is passed in the suit, the name of his legal representative may be entered in his place on the record, on the application of the opposite party or of such legal representative, but the legal representative of a deceased defendant shall be liable only to the extent of the assets of the deceased which have come to his hands and have not been duly disposed of.

69. If no such application be made within thirty days from the date of the death of the plaintiff or defendant, the suit shall be dismissed, and no fresh suit shall be allowed to be brought on the same cause of action.

70. If there be more plaintiffs or defendants than one and any of them die, and his representative is not joined as aforesaid, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants.

71. If a decree-holder die before the decree has been fully executed, his legal representative may apply to the Village Panchayat Court to substitute his name as the decree-holder in the room of the deceased, and if the Court be satisfied, after giving notice to the judgment-debtor, that the applicant is the legal representative of the deceased, it shall substitute his name on the record as the decree-holder.

Sec. 69. The Madras Act provides sixty days instead of thirty.

72. If a judgment-debtor die before the decree has been fully executed, it may be executed on the application of the decree-holder against the legal representative of the judgment-debtor, to the extent of the assets derived from him and not duly accounted for.

If judgment-debtor die, decree may be executed against his legal representative.

73. The District Court within whose jurisdiction a Village Panchayat Court is situated, may, on a petition being presented within thirty days from the date of any decree or order of such Village Panchayat Court, by any party deeming himself aggrieved by such decree or order, set aside such decree or order, on the ground (i) of corruption, gross partiality or misconduct of any of the Judges of the Village Panchayat Court, or (ii) of the Court having exercised a jurisdiction not vested in it by law, or otherwise acted illegally or with material irregularity, or (iii) that the decree or order is contrary to law ;

Revision by District Court of Village Panchayat Court's proceedings.

and may pass such other decree, or order as it thinks fit: Provided that no decree or order of a Village Panchayat Court shall be set aside without notice to the opposite party.

Pending disposal of any such petition, the District Court may stay execution of the decree or order.

A petition under this Section may be entertained after thirty days by the District Court, if it is satisfied with the cause shown for the delay.

Except as provided in this Section, every decree and order of a Village Panchayat Court shall be final.

Nothing in this Section shall prevent the High Court from exercising the powers vested in it by Section 568 of the Code of Civil Procedure.

Sec. 73. The period allowed for revision is sixty days in the Madras Act. The words 'clearly unjust' are found there for the words 'contrary to law.' The last para of this Sec. is an addition not found in the Madras Act.

SEC. 74. VILLAGE PANCHAYAT COURTS ACT. CHAP. VII

74. Whenever under Section 73 a decree or order of a Village Panchayat Court is set aside, the High Court may report the case to Our Government, and shall report every case in which a decree or order is set aside on the ground of corruption, gross partiality, or misconduct of any of the Judges.

75. The High Court may, from time to time, prescribe Forms and Registers for use in the Village Panchayat Courts and the returns which they shall be bound to submit and may at any time, call for and inspect the Registers and records of the Village Panchayat Courts.

76. A fee of five per centum of the value of the suit [subject to a minimum of one chuc-kram] shall be paid on its institution in the Village Panchayat Court, and notwithstanding anything contained in the Court Fees Act, VI of 1087, no other fee shall be paid for the issue of processes or set-off claimed or otherwise at any subsequent stage of the suit or in matters relating to execution :

Provided, however, that when a suit is transferred for trial or when a decree is transmitted for execution from a Village Panchayat Court to the Court of a District Munsiff, under the provision hereinbefore contained, the Rules in regard to the levy of process and other fees with respect to such suits and proceedings obtaining in the District Munsiff's Court shall become applicable :

Provided also that no copy of the decree or any other record in the suit shall be supplied to either party, except [on application duly stamped and] at the expense of the party making the application.

Sec. 76. There is no similar provision in the Madras Act. The words "subject to etc." within brackets were inserted by Sec. 2 Act XI of 1114. The bracketed words in the proviso were added by Sec. 2, Act XII of 1118.

77. Our Government may make Rules, consistent with this Act, to regulate—
- Power of Govern-
ment to make Rules.
- (a) the election and appointment of the Judges of a Village Panchayat Court ;
 - (b) the administrative powers of the President and of the other Judges of a Village Panchayat Court ; and
 - (c) generally, all matters connected with the carrying out of the provisions of this Act.

SCHEDULE I.

Suits which shall not be triable by a Village Panchayat Court.—

- (1) a suit concerning an act or order purporting to be done or made by [any Minister or Our Council of Ministers] in his official capacity, or concerning an act purporting to be done by any person by order of [any such Minister] 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 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 or interest in immovable property ;

Sch. I. Item 1. The words within brackets were substituted for the words "Our Dewan" by Sec. 2 and the Sch. of Act XX of 1924.

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(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 interest 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 a 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 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 Mohamedan for exigible (*mu'ajjal*) or deferred (*mu'wjjal*) 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;

SCH. VILLAGE PANCHAYAT COURTS ACT.

(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 IV OF 1090.

THE OPIUM ACT.

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ACT IV OF 1090.

AN ACT TO CONSOLIDATE AND AMEND THE LAW RELATING TO OPIUM.

*Passed by His Highness the Maha Raja of Travancore
on the 19th December 1914 corresponding with the
4th Dhanu 1090 under Section 13 of Act V of 1073.*

Whereas it is expedient to consolidate and amend
the law relating to opium; It is
Preamble. hereby enacted as follows:—

Opium was an article of free trade subject only to an import duty of 10 per cent. on a tariff valuation of Rs. 13 2-0 per pound. A Proclamation was issued under date 16 10-1036 by which free trade in opium and ganja was stopped and a new source of revenue by a system of leases to the highest bidder was introduced. In the year 1059 the import duty was relinquished by a Proclamation. The Administration report of the year states: "The sale of opium was a State monopoly from the farming of which a revenue was derived. The importer paid the British Indian duty and brought the drug under permits granted by the British Resident. An import duty to the Travancore State in addition was found to operate as an inducement to smuggling through the State of Cochin which imposed no such duty and injuriously affected the revenue derived from the monopoly. It was consequently abolished."

A. R. 1059.

Act VI of 1063 amended and re-enacted the law relating to

opium. It repealed the Proclamation of 1036 and Section 38 of the Police Act VI of 1010 which provided for the prevention of smuggling of articles of State monopoly.

Act IV of 1090. Objects and Reasons.—(1) "The Opium Regulation VI of 1063, contains the following defects.—(1) The cultivation of the poppy is not prohibited. (2) The transport of Opium is not brought within its purview. (3) Power is not reserved to make Rules for permitting the cultivation of the poppy and for transporting Opium (4) Neither Constables nor peons of the Excise Department have power to seize Opium in any open place or in transit. (5) Power is not reserved for realising, under the Revenue Recovery Regulation, amounts due to farmers of Opium revenue from their licensees.

"2. The cultivation of the poppy and the manufacture of Opium under strict provision may open out a new industry. Although, at present, there may not be any pressing necessity for introducing this industry in

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Opium Act of 1090"; and it shall come into force on the first day of Makaram 1090, corresponding to the 14th January 1915.
- Short title commencement.
2. (i) Act VI of 1063 is hereby repealed.
- Repeal.
- (ii) But all Notifications, Rules and orders, made under the Act hereby repealed, shall be deemed to have been respectively made under this Act, except in so far as such Notifications, Rules and orders, may be inconsistent herewith.
- Saving of Notifications, Rules, &c.
3. In this Act, unless there be something repugnant in the subject or context,—
- Interpretation Clause.

the country, yet an Opium law which does not make any provision for attempting such cultivation must necessarily be defective.

"3. Though the existing Regulation neither prohibits the transport of Opium from one part of the State to another nor empowers the Dewan to make Rules for such transport, the Opium Rules, dated the 15th August 1907, contain a set of provisions restricting the transport of the article within the State. The legality of these Rules may perhaps be questioned.

"4. Sec. 11 of the present Opium Regulation empowers certain Officers who are superior in rank to a Mudalper or Constable (and who are specially authorised by Government),

to make searches in buildings; and Section 12 authorises only such Officers to seize Opium in any open place or in transit. It is necessary that all Constables as well as peons of the Excise and Revenue Departments should have the power to seize Opium in open places or while in transit."—S. O. & R., T. G. G. dated 19-10-1909.

The provisions relating to the cultivation of poppy were omitted from the Bill. L. C. P. dated 3-3-1914.

The Report of the Select Committee was published on 1-11-1910. For legislative proceedings See. T. G. G. dated 28-9-1909; 7-12-1099; 13 12-1910; 24-3 1914 and 17-11-1914.

The Act was published in T. G. G. dated 22-12-1914.

“Opium” includes also poppy-heads, preparations or admixtures of opium, and intoxicating drugs prepared from the poppy ;

“Import” means to bring into any part of Travancore from sea or from any foreign territory ;

“Export” means to take out of Travancore to sea or to any foreign territory ;

“Transport” means to remove from one place to another within Travancore.

CHAPTER II.

CULTIVATION OF THE POPPY, AND THE MANUFACTURE, POSSESSION, IMPORT, EXPORT, TRANSPORT OR SALE OF OPIUM.

4. The cultivation of the poppy is prohibited.

Poppy cultivation prohibited.

5. Except as permitted by this Act, or by any other enactment relating to opium for the time being in force, or by Rules issued under this Act, or under any such enactment, no one shall—

- (a) manufacture opium,
- (b) possess opium,
- (c) transport opium,
- (d) import or export opium, or
- (e) sell opium.

Sec. 4. This Sec. correspond to Clause (a) of Sec. 4 which was repealed by Act II of 1930.

6. Our Government may, from time to time, by Notification in the Gazette, make Rules consistent with this Act, to permit absolutely, or subject to the payment of duty or fee or to any other conditions and to regulate within the whole or any specified part of Travancore, all or any of the following matters :—

Power to make Rules.

- (a) the manufacture of opium ;
- (b) the possession of opium ;
- (c) the import, export or transport of opium ;
- (d) the sale of opium, and the form of duties leviable on the sale of opium by retail ; and
- (e) generally to carry out the provisions of this Act.

7. Our Government may, from time to time by Notification in the Gazette, impose such duty as it thinks fit on opium or on any kind of opium, imported by land into Travancore or into any specified part thereof, and may alter or abolish any duty so imposed.

Duty on opium imported by land.

8. Our Dewan may, by order notified in the Gazette,—

Ware-housing opium.

- (a) prescribe the routes by which opium shall be imported or exported;
- (b) authorise the establishment of depots or ware-houses for storing opium, manufactured in or legally imported into, or intended to be exported from Our territory ; and

Sec. 6. The corresponding Sec. 5 of the Indian Act contains a Proviso which reads thus :—

“Provided that no duty shall be levied under any such Rule on any opium imported and on which a duty is imposed by or under the law relating to Sea Customs for the time being in force or under the Dangerous Drugs Act, 1930.”

Sec. 8. The corresponding Section 7 of the Indian Act as substituted runs thus :—“The

Provincial Government may by notification published in the Official Gazette declare any place to be a ware-house for all Opium legally imported whether before or after the payment of any duty leviable thereon into the territories administered by that Government or into any specified part thereof and intended to be exported thence.

So long as the declaration remains in force the owner of all such opium shall be bound to deposit it in that ware-house.”

(c) regulate the mode, time and place, of levying duty on opium.

When routes have been prescribed under Clause (a), no opium shall be imported or exported except through such routes, and when depots or ware-houses have been established under Clause (b), the owner of all opium manufactured in, or imported into, Our territory, shall deposit it in such depots or ware-houses. The Dewan may also, by Notification in the Gazette, cancel or modify such order.

9. Our Government may, from time to time, by Notification in the Gazette, make Rules,

Power to make Rules relating to ware-houses. consistent with this Act, to regulate the safe custody of opium ware-housed under Section 8, the levy of fees for such ware-housing, the removal of such opium for sale, exportation or transport; and the manner in which it shall be disposed of, if any duty or fee leviable on it be not paid within twelve months from the date of ware-housing the same.

CHAPTER III.

POWER TO SEARCH, SEIZE AND ARREST.

10. Whenever an Officer of the Excise Department not below the rank of an Inspector,

Power to search houses, etc., without warrant. or an Officer in charge of a Police Station, or any other class of Officer of Government superior in rank to a peon or constable who may, by Notification in the Gazette,

Sec. 10. The corresponding Section 14 of the Indian Act runs thus:—“Any Officer of any of the Departments of Excise, Police, Customs, Salt, Opium or Revenue, superior in rank to a peon or Constable, who may, in right of his office, be authorised by the Local Government in this behalf and who has reason to believe, from personal knowledge or from information given by any person and taken down in writing, that opium liable to confiscation under this Act is kept or.....(c) seize such opium and any other thing.....(d) detain..... under this or any other law for the time being in force.” The Section of the Indian Act does not contain the Proviso.

be authorised by the Dewan in this behalf, has reason to believe that opium, liable to confiscation under this Act, is manufactured, kept or concealed in any building, conveyance, vessel or enclosed place, and that the delay occasioned by obtaining a search-warrant under Section 15 will prevent the execution thereof, he may, after recording his reasons and the grounds of his belief,—

- (a) enter into any such building, conveyance, vessel or place ;
- (b) in case of resistance, break open any door and remove any other obstacle to such entry ;
- (c) seize such opium, and all materials used in the manufacture thereof, and any other thing which he has reason to believe to be liable to confiscation under this Act ;
- (d) detain and search, and, if he thinks proper, arrest any person whom he has reason to believe to be guilty of any offence relating to such opium under this Act :

Provided that every person arrested under this Section shall be admitted to bail by such Officer as aforesaid, if sufficient bail be tendered for his appearance before a Magistrate, or an Officer of the Excise Department not below the rank of an Inspector.

11. Any Officer of the Excise, Police, or Land Revenue Department, may—

Power to seize opium in open places and to detain, search and arrest the offenders in open places.

- (a) seize, in any open place or in transit, any opium or other thing which he has reason to believe to be liable to confiscation under this Act ;
- and (b) detain and search any person whom he has reason to believe to be guilty of any offence under this Act, and, if such person has opium in his possession, arrest him :

Sec. 11. The corresponding Sec. 15 of the Indian Act runs as follows :—

“Any Officer in any of the said Departments (a) seize-
.. ...to confiscation under Sec-

tion 11 or any other law for the time being in force relating to opium. (b) detainhis possession, arrest him and any other person in his company.”

Provided that every person arrested under this Section shall be admitted to bail by such Officer as aforesaid, if sufficient bail be tendered for his appearance before a Magistrate or an Officer of the Excise Department not below the rank of an Inspector.

12. 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.

13. All Officers of the Police and Land Revenue Department shall be legally bound to assist any Excise Officer, in carrying out the provisions of this Act.

Officers of certain Departments to assist.

14. Every officer employed by Government, other than an Excise Officer, shall be bound to give immediate information of the commission of an offence under this Act to an Excise Officer, and every Excise 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.

Offences to be reported, etc.

15. The Excise Commissioner, the Assistant Excise Commissioner, the Circle officer, or other Officer authorised by Our Dewan in this behalf either personally or in right of his office, or a Magistrate may issue a warrant for the arrest of any person, who, he has reason to believe, has committed an offence relating to opium, or for the search, whether by day or by night, of any building, conveyance, vessel or place, in which he has reason to believe that opium liable to confiscation is kept or concealed.

Issue of warrants.

16. Whenever any Officer makes any arrest or seizure under this Act, he shall, within twenty-four hours next after such arrest or seizure, make a full report of all the particulars of such arrest or seizure to his immediate official superior as well as to the nearest Magistrate having jurisdiction.

17. (a) When any person is arrested under the provisions of Section 10, 11 or 15 of this Act the person arresting him shall, unless bail shall have been accepted under the provisions of Section 10 or 11, forthwith forward him to an Excise Inspector, or, if there be no such Officer within a distance of ten miles from the place at which the arrest took place, to the nearest Police-station with a report of the circumstances under which such arrest was made.

(b) 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 Excise 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

(c) On any person being brought in custody before such Excise Inspector as aforesaid, or appearing before him on bail, such Officer shall, after such enquiry as he may deem fit, either —

Sec. 16. Under Sec. 12 of the Indian Act the report is to be made within 48 hours.

Sec. 17. The following is the corresponding Sec. 20 of the Indian Act. "Every person arrested, and thing seized, under Section 14 or Section 15, shall be forwarded without delay to the Officer in charge of the nearest Police Station; and every person arrested and thing

seized under Section 19 shall be forwarded without delay to the Officer by whom the warrant was issued.

Every Officer to whom any person or thing is forwarded under this Section shall, with all convenient despatch, take such measures as may be necessary for the disposal according to law of such person or thing."

(i) admit him to bail to appear before the Magistrate having jurisdiction, or in default of bail, forward him in custody to such Magistrate, or

(ii) release him on his executing a bond, with or without sureties as such Officer may think proper, to appear, if and when so required, before such superior Officer as the Government may, by general or special order, appoint on this behalf, and make a full report to such superior Officer of the circumstances under which such release was made

18. Every such Officer, on receipt of such report, shall, after such further enquiry as he considers necessary, either release the accused, or cause his appearance before the Magistrate having jurisdiction, in the manner provided in Section 17.

19. 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 Officer before whom he was bailed to attend :

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.

20. When, by reason of default of appearance of a person bailed to appear before an Excise Inspector or such superior Officer as is mentioned in Section 17, such Inspector or superior 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.

21. Any Excise Officer holding an enquiry in the manner provided in Section 17, may
Excise Officers may summon witnesses. summon any person to appear before himself to give evidence on such enquiry or to produce any document relevant thereto, which may be in his possession or under his control.

Provided that no such Excise 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.

22. Every summons issued under the last preceding Section, shall state whether the
Terms of summons. 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.

23. Persons so summoned shall attend as required, and shall answer truly all questions relating to such enquiry 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 Dewan.

24. It shall be lawful for an Excise 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 enquiry; and such person shall be bound so to answer accordingly, and the provisions of Section 23 shall apply to such answers.

25. 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 Excise Inspector, and to any person summoned by him to appear under provisions of this Act.

26. When an Excise 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 name 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 report had been made to him under Clause (b) of Section 170 of the Code of Criminal Procedure.

27. When an Excise 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

When attendance of witnesses to be dispensed with, and procedure in such cases.

Law relating to Criminal Courts as to summoning of witnesses to apply.

Report of Excise Inspector gives jurisdiction to a competent Magistrate

Tower of Excise Inspector to cause attendance of witnesses before Magistrates.

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.

28. 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 a 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 Excise Inspector may be and thence to the Court having jurisdiction to try the case.

29. 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 Excise Inspector all articles seized under this Act which may be delivered to them; and shall allow any Excise 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.

CHAPTER IV.

OFFENCES AND PUNISHMENTS.

30. Any person who, in contravention of this Act or of Rules made or orders issued hereunder:—

Penalty for cultivation of poppy, &c.

(a) cultivates the poppy, or

Sec. 30. Clauses corresponding to (a) and (b) in the corresponding Sec. 9 of the Indian Act have been repealed.

- (b) manufactures opium, or
- (c) possesses opium, or
- (d) transports opium, or
- (e) imports or exports opium, or
- (f) sells opium, or
- (g) imports or exports opium by any route not legally sanctioned for that purpose, or
- (h) omits to ware-house opium, or removes or does any act in respect of ware-housed opium, or
- (i) otherwise contravenes any provision of the Act or Rules made or orders passed thereunder or attempts or abets the contravention of any provision of the Act or Rules made or orders passed thereunder,

shall, on conviction before a Magistrate, be punished, for each such offence, with imprisonment for a term which may extend to six months, or with fine which may amount to five hundred rupees, or with both. On a second or subsequent conviction, he shall be liable to imprisonment for a period not exceeding a year, or fine not exceeding one thousand rupees, or to both. Where fine is imposed, the convicting Magistrate shall direct the offender to be imprisoned, in default of the payment of the fine, for a term which may extend to three months, and such imprisonment shall be in excess of any other imprisonment to which he may have been sentenced for the offence.

31. In prosecutions under Section 30, it shall be presumed, until the contrary is proved, that all opium which the accused is unable to account for satisfactorily, is opium in respect of which he has committed an offence under this Act.

Presumption in prosecutions under Section 30.

32. (1) In any case in which an offence under Section 30 has been committed —
 What things are liable to confiscation. (a) the poppy so cultivated,

(b) the opium in respect of which any offence under the said Section has been committed,

(c) where in the case of an offence under Clause (d) or (e) the offender is transporting, importing or exporting any opium exceeding the quantity, if any, which he is permitted to transport, import or export, as the case may be, the whole of the opium which he is transporting, importing or exporting, and
 (d) where, in the case of an offence under Clause (f), the offender has in his possession any opium other than the opium in respect of which the offence has been committed, the whole of such other opium,
 shall be liable to confiscation.

(2) The vessels, packages and coverings, in which any opium liable to confiscation under this Section is found, and the other contents, if any, of the vessel or packages in which such opium may be concealed, and the animals and conveyances used in carrying it, and the implements or articles, if any, employed in the cultivation of the poppy or manufacture of opium, shall likewise be liable to confiscation.

33. When the offender is convicted, or when the person charged with an offence in respect of any opium is acquitted but the Magistrate decides that the opium is liable to confiscation, such confiscation may be ordered by the Magistrate.
 Order of confiscation by whom to be made.

Sec. 32. In Sub-Section (1) the words "the poppy so cultivated" and in Sub-Section (2) the words "and the implements or articles, if any employed..... of opium" do not occur in the corresponding Sec. 11 of the Indian Act.

Sec. 33. At the end of the Proviso to the 2nd para of the corresponding Sec. 12 of the Indian Act, the following words occur "and the evidence (if any) which they produce in support of their claims."

When an offence against this Act has been committed, but the offender is not known or cannot be found, or when opium not in the possession of any person cannot be satisfactorily accounted for, the case shall be enquired into and determined by the Excise Commissioner, the Assistant Excise Commissioner, the Circle Officer, or by any other Officer authorised by Our Government in this behalf by Notification in the Gazette either personally or in right of his office, who may thereupon order such confiscation :

Provided that no such order shall be made, until the expiration of one month from the date of seizing the things intended to be confiscated, or without hearing the persons, if any, claiming any right thereto.

Whenever confiscation is authorised by this Act, the Officer ordering it may, in lieu of confiscation, give the owner of the thing liable to be confiscated, an option to pay such fine as the Officer thinks fit.

34. Any Excise, Police or other Officer, who without reasonable ground for suspicion, enters or searches, or causes to be entered or searched, any building, conveyance, vessel or place, or vexatiously and unnecessarily seizes the property of any person, on the pretence of seizing or searching for any opium or other thing liable to confiscation under this Act, or vexatiously and unnecessarily detains, searches or arrests any person, shall, for every such offence, be punished with fine not exceeding five hundred rupees, or in default of payment of the fine, with imprisonment of either description, for a term which may extend to six months.

Sec. 34. Imprisonment in default of fine is not provided for in the corresponding Sec. 18 of the Indian Act.

CHAPTER V.

MISCELLANEOUS.

35. Our Government may, from time to time, by Notification in the Gazette, make Rules, consistent with this Act, to regulate—

Power to make Rules regarding disposal of things confiscated and rewards.

(a) the disposal of all things confiscated under this Act, and

(b) the rewards to be paid to Officers or informers, out of the proceeds of fines and confiscations under this Act.

36. All duties, taxes, fines and fees, payable to Government direct, under any of the provisions of this Act or of any license 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 opium 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 Excise Commissioner, or such other Officer as Our Government may direct in this behalf, may take the grant or farm under management, at the risk of the defaulter, or may declare the grant or farm forfeited, and re-sell it at the risk and loss of the defaulter. When a grant or farm is under management under this Section, the Excise Commissioner, or such other Officer as Our Government may direct in this behalf, may recover any moneys due to the defaulter by any lessee or assignee, as if they were arrears of land revenue.

Recovery of arrears of fees, duties, &c.

37. When any amount is due to a grantee, farmer, lessee or assignee, of an exclusive privilege under this Act, from his licensee in respect of a license, such grantee, farmer, lessee or assignee may make an application to the Excise Commissioner, or other Officer, authorised by Our Government in this behalf, praying such Officer to recover

Recovery of amounts due to grantees, farmers, &c..

such amount on behalf of the applicant, and, on receiving such application, the Excise Commissioner or such other Officer may, in his discretion, recover such amount as if it were arrears of land revenue; and, if the amount claimed is disputed, the Excise Commissioner or, under his orders the Assistant Excise Commissioner or Officer in charge of a Circle, or such other Officer, 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:

Provided that the execution of any process issued in connection with the recovery of such amount shall be stayed, if the licensee institutes a suit in the Civil Court to try the demand of the grantee, farmer, lessee or assignee and furnishes a security, to the satisfaction of the Officer issuing such process, for the payment of the amount, which such Court may adjudge to be due from such licensee to such grantee, farmer, lessee or assignee:

Provided also that nothing contained in this Section or done thereunder, shall affect the right of any grantee, farmer, lessee or assignee, of an exclusive privilege under this Act, to recover, by suit in the Civil Court or otherwise, any amount due to him from his licensee.

38. Excise Officers superior in rank to an Excise Inspector may exercise the same powers throughout the local area to which they are appointed, as may be exercised by such Inspector within the limits of his jurisdiction.

Power of superior Officers of the Excise Department.

39. The provisions of the Code of Criminal Procedure for the time being in force shall be applicable to all arrests made under this Act and to all other matters of procedure in cases arising under this Act.

Provisions of the Criminal Procedure Code applicable.

PROCLAMATION.

By His Highness the Maha Raja of Travancore, issued under date the 16th Meenam 1090, corresponding with the 29th March 1915.

Whereas an emergency has arisen which makes it necessary to prohibit financial and other dealings with any State at war with His Majesty the King-Emperor of India and to provide for the punishment of persons contravening the provisions of any Proclamation or Order in Council of His Majesty, the King-Emperor of India, for the time being in force, relating to trade, commercial intercourse or other dealings with His Majesty's enemies ;

We are pleased to command as follows :—

1. This Proclamation shall be called "The Commercial intercourse with Enemies Proclamation. 1090."
Short title.
2. (1) During the continuance of the state of war between His Majesty and any State, it shall not be lawful to contribute to, or participate in, or assist in the floating of, any loan raised by or on behalf of the Government of such State, or to advance money to, or enter into any contract or dealings with, or otherwise to aid, abet or assist the Government of such State.
Prohibition against financial and other dealings with hostile State.

(2) Any person contravening the provisions of this Section shall be punishable as if he had committed an offence under Section 112 of the Penal Code.

3. During the continuance of a state of war between His Majesty and any State, any person who contravenes any of the provisions of any Proclamation or Order in Council of His Majesty for the time being in force, relating to trade, commercial intercourse or other dealings with any
Penalty for trading in contravention of His Majesty's direction.

The Proclamation was published in the Gazette dated 6th April 1915.

PROCLAMATION.

subject of such State, or any person residing, carrying on business or being in the territories, colonies or dependencies of such State, shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

4. Where a company, association or body of individuals, whether incorporated or not, has done any act which is an offence under this Proclamation, every member or officer of such company, association or body, who is knowingly a party to such act, shall be deemed to have committed such offence.

Provision relating to companies and associations.

5. A certificate signed by the Chief Secretary to Our Government, or by any Officer authorised in this behalf by Our Government, certifying to the fact that on the date specified in such certificate any State was or was not at war with His Majesty shall be conclusive evidence of such fact.

Certificate of Chief Secretary to Government to be conclusive evidence of certain facts.

6. Nothing in this Proclamation shall be deemed to prohibit anything done by command of, or under license granted by, or under the authority of His Majesty or the Governor-General of India or Our Government.

Savings.

7. (1) No Court shall proceed to the trial of any offence under this Proclamation unless upon complaint made by order of, or under the authority of, Our Government or some Officer, empowered by Our Government in this behalf.

Trial of offences.

(2) No Court inferior to a Court of Session shall try any offence punishable under Section 2, and no Court inferior to that of a District Magistrate or Magistrate of First Class shall try any offence punishable under Section 3.

ACT VI OF 1090.

AN ACT TO AMEND THE IRRIGATION ACT, III OF 1072.

*Passed by His Highness the Maha Raja of Travancore,
on the 3rd August 1915, corresponding with the
18th Karkatakam 1090, under Section
13 of Act V 1073.*

Whereas it is found expedient to amend the Irrigation Act, III of 1072: It is hereby enacted as follows:—

1. *Section 3.*—Omit 'irrigation' in the second line.
2. Insert the following as Section 11-A:—

"If in the case of any accident being apprehended or happening to any petty or 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 6 and 8 to 11, order the execution of such work at the cost of Government".

3. *Section 16.*—Insert '11-A' between '11' and '12' in the first line.

4. *Section 23.*—Insert between "the Division Peishkar" and "on" in line 5, the words "or any Officer specially authorised in this behalf," and *add after* "the Division Peishkar" in line 14, the words "or such Officer as aforesaid."

ACT VII OF 1090.

AN ACT TO AMEND THE CATTLE TRESPASS ACT,
IV 1086.

*Passed by His Highness the Maha Raja of Travancore,
on the 3rd August 1915, corresponding with the
18th Karkatakam 1090, under Section
13 of Act V of 1073.*

— Whereas it is expedient to amend the law relating to trespass by cattle ; It is hereby enacted as follows :—

1. Substitute the following for paragraph 3 of Section 17:—

“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”.

ACT IX OF 1090.

SUCCESSION CERTIFICATE ACT.

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ACT IX OF 1090.

AN ACT TO FACILITATE THE COLLECTION OF DEBTS ON SUCCESSIONS AND AFFORD PRO- TECTION TO PARTIES PAYING DEBTS TO THE REPRESENTATIVES OF DECEASED PERSONS.

*Passed by His Highness the Maha Raja of Travancore,
on the 7th August 1915, corresponding with the
22nd Karkatakam 1090, under Section 13
of Act V of 1073.*

Whereas it is expedient to facilitate the collection of debts on successions and afford protection to parties paying debts to the representatives of deceased persons;

Preamble.

It is hereby enacted as follows :—

Year.	No.	Short Title.	Effect of subsequent Legislation.
1090	IX	Succession Certificate Act.	Amended by Acts V of 1092 and II of 1105, Sec. 155.

Act IX of 1090. *Objects and Reasons.* "There is at present no law to facilitate the collection of debts due to deceased person. When on the death of a person, his heir or heirs desire to collect the debts, a certificate from the Provertikar is applied for and the latter issues the same. In cases of disputed heirship, the Provertikar cannot say who the real heir is; nor is the certificate issued by him declared to be valid by any law or rule having the force of law. So far as the debtor is concerned, the certificate does not afford any protection to him if he pays the debt. The result is that, in the case of disputed heirship, the parties are referred to a regular suit which entails heavy expense and delay. The

absence of a Succession Certificate Regulation has of late been very much felt and the present Bill has therefore been drafted on the lines of the British Indian Succession Certificate Act, VII of 1889."—

S. O. & R., T. G. G. dated 18-8-1914.

The Report of the Select Committee was published on 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.

The Indian Succession Certificate Act VII of 1889 has been repealed by the Indian Succession Act XXXIX of 1925.

SEC. I. THE SUCCESSION CERTIFICATE ACT.

1. (1) This Act may be called the "Succession Certificate Act, 1090,"

Title, commencement and extent.

(2) It shall come into force on the first day of Chingam 1091; and

(3) It extends to the whole of Travancore.

2. In this Act, unless there be something repugnant in the subject or context, "Security" means:—

Definition,

(a) any promissory note, debenture, stock or other security of the Government of India, or of Our Government;

(b) any bond, debenture, or annuity charged by Our Government on the revenues of Our State;

(c) any stock or debenture of, or share in, a Company or other incorporated institution;

(d) any other security which Our Dewan may, by Notification in the Government Gazette, declare to be a security for purposes of this Act.

3. No Court shall:—

Proof of representative title a condition precedent to recovery through the Courts of debts from debtors of deceased persons.

(a) pass a decree against a debtor of a deceased person for payment of his debt to a person claiming to be entitled to the effects of the deceased person or to any part thereof, or

(b) proceed, upon an application of a person claiming to be so entitled to execute against such a debtor a decree or order for the payment of his debt;

Act V of 1092. *Objects and Reasons.* "Sec. 12 of the Regulation is one relating to Court fees. As in the case of Court fees leviable under Regulation VI of 1087, it may sometimes be necessary to exempt in whole or in part the fees leviable under Sec. 12 of the Regulation. The present Sec. 24 is therefore drafted on the lines of Sec. 22 of the Court Fees Regulation"—S. O. & R. T. G. G. dated 19-9-1916.

For legislative proceedings see T. G. G. dated 7-11-1916. and 3-4-1917.

The Act was published in T. G. G. dated 3-4-1917.

Act II of 1105. Sec. 3 of Act IX of 1090 was amended by Sec. 155 of the Probate and Administration Act II of 1105. see also Notes under Act II of 1105.

Sec. 3. The words within brackets were added by Sec. 155 of Act II of 1105.

except on the production by the person so claiming of a certificate granted under this Act and having the debt specified therein, [or, of a probate or letters of administration evidencing the grant to him of administration to the estate of the deceased including the debt in question.]

The word "debt" in this Section includes any debt, except rent, revenue or profits payable in respect of land used for agricultural purposes.

4. The District Court within the jurisdiction of which the deceased ordinarily resided at the time of his death or, if at that time he had no fixed place of residence, then, within the jurisdiction of which any part of the property of the deceased may be found, may grant a certificate under this Act.

Court having jurisdiction to grant certificate.

5. (1) Application for such a certificate must be made to the District Court by a petition, signed and verified by or on behalf of the applicant in the manner prescribed by the Code of Civil Procedure for the signing and verification of a plaint by or on behalf of a plaintiff, and setting forth the following particulars, namely :—

Application for certificate.

- (a) the time of the death of the deceased ;
- (b) the ordinary residence of the deceased at the time of his death and, if such residence was not within the local limits of the jurisdiction of the Court to which the application is made, then the property of the deceased within those limits ;
- (c) the family or other near relatives of the deceased and their respective residences ;
- (d) the right in which the petitioner claims ;
- (e) the absence of any impediment under any provision of this Act or any other enactment to the grant of the certificate or to the validity thereof if it were granted ; and

Sec. 5. The corresponding Sec. 372 of the Indian Act contains an additional sub-section permitting applications in respect of debt or debts or portions thereof.

SEC. 6. THE SUCCESSION CERTIFICATE ACT.

(f) the debts and securities in respect of which the certificate is applied for.

(2) If the petition contains any averment which the person verifying it knows or believes to be false, or does not believe to be true, that person shall be subject to punishment according to the provisions of the law for the time being in force for the punishment of giving or fabricating false evidence.

6. (1) If the District Court is satisfied that there is ground for entertaining the application, it shall fix a day for the hearing thereof and cause notice of the application and of the day fixed for the hearing—

Procedure on application.

(a) to be served on any 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 published in such other manner, if any, as the Court, subject to any Rules made by the High Court in this behalf, thinks fit ;

and upon the day fixed, or as soon thereafter as may be practicable, shall proceed to decide in a summary manner, the right to the certificate.

(2) When the Court decides the right thereto to belong to the applicant, it shall make an order for the grant of the certificate to him.

(3) If the Court cannot decide the right to the certificate without determining questions of law or fact which seem to it to be too intricate and difficult for determination in a summary proceeding, it may nevertheless grant a certificate to the applicant, if he appears to be the person having *prima facie* the best title thereto.

(4) When there are more applicants than one for a certificate, and it appears to the Court that more than one of such applicants are interested in the estate of the deceased, the Court may, in deciding to whom the certificate is to be granted, have regard to the extent of interest, and the fitness in other respects, of the applicants.

7. When the District Court grants a certificate, it shall therein specify the debts and securities set forth in the application for the certificate and may thereby empower the person to whom the certificate is granted—

Contents of certificate.

- (a) to receive interest or dividends on, or
- (b) to negotiate or transfer, or
- (c) both to receive interest or dividends on, and to negotiate or transfer, the securities or any of them.

8. (1) The District Court shall, in any case in which it proposes to proceed under Section 6, Sub-section (3) or Sub-section (4), and may, in any other case, require, as a condition precedent to the granting of a certificate, that the person to whom it proposes to make the grant shall give to the Judge of the Court, to ensure for the benefit of the Judge for the time being, a bond with one or more surety or sureties, or other sufficient security, for rendering an account of debts and securities received by him and for indemnity of persons who may be entitled to the whole or any part of those debts and securities.

(2) The Court may, on application made by petition, and on cause shown to its satisfaction, and upon such terms as to security, or providing that the money received be paid into Court, or otherwise as the Court thinks fit, assign the bond or other security to some proper person, and that person shall thereupon be entitled to sue thereon in his own name as if it had been originally given to him instead of to the Judge of the Court, and to recover, as trustee for all persons interested, such amount as may be recoverable thereunder.

9. (1) A District Court may, from time to time, on the application of the holder of a certificate under this Act, extend the certificate to any debt or security not originally specified therein, and every such extension shall have the same effect as if the debt or security to which the certificate is extended had been originally specified therein.

Extension of certificate.

SEC. 10. THE SUCCESSION CERTIFICATE ACT.

(2) Upon the extension of a certificate, powers with respect to the receiving of interest or dividends on, or the negotiation or transfer of, any security to which the certificate has been extended, may be conferred, and bond or further bond or other security for the purpose mentioned in the last foregoing Section may be required, in the same manner as upon the original grant of a certificate.

10. Certificates shall be granted and extensions of certificates shall be made, as nearly as circumstances admit, in the Forms set forth in the Schedule.

Form of certificates and extended certificates.

11. Where a district Court has not conferred on the holder of a certificate any power with respect to a security specified in the certificate, or has only empowered him to receive interest or dividends on, or to negotiate or transfer, the security, the Court may, on application made by petition and on cause shown to its satisfaction, amend the certificate by conferring any of the powers mentioned in Section 7 or by substituting any one for any other of those powers.

Amendment of certificate in respect of powers as to securities.

12. The amount of fees leviable for the grant of a certificate or the extension of a certificate under this Act is one and a half per centum on the amount or value of any debt or security specified in the certificate under Section 7, and two per centum on the amount or value of any debt or security to which the certificate is extended under Section 9.

Levying of Court fees.

Explanation I.—The amount of a debt is its amount, including interest, on the day on which the inclusion of the debt in the certificate is applied for, so far as such amount can be ascertained.

Explanation II.—Whether or not any power with respect to a security specified in a certificate has been conferred under the Act, and where such a power has been so conferred, whether the power is for the receiving of interest or dividends on, or for the negotiation or

transfer of, the security, or for both purposes, the value of the security is its market-value on the day on which the inclusion of the security in the certificate is applied for, so far as such value can be ascertained.

13. (1) Every application for a certificate or for the extension of a certificate must be accompanied by a deposit of a sum equal to the fee payable, under the next preceding Section, in respect of the certificate or extension applied for.

Mode of collecting Court fees on certificates.

(2) If the application is allowed, the sum deposited by the applicant shall be expended under the direction of the Court, in the purchase of the stamp to be used for denoting the fee payable as aforesaid.

(3) Any sum received under Sub-section (1) and not expended under Sub-section (2) shall be refunded to the person who deposited it.

14. A certificate under this Act shall have effect throughout the whole of Travancore.

Local extent of certificate.

15. Subject to the provisions of this Act, the certificate of the District Court shall, with respect to the debts and securities specified therein, be conclusive as against the persons owing such debts or liable on such securities, and shall, notwithstanding any defect, afford full indemnity to all such persons as regards all payments made, or dealings had, in good faith, in respect of such debts or securities to or with the person to whom the certificate was granted.

Effect of certificate.

16. A certificate granted under this Act may be revoked for any of the following causes, namely:—

Revocation of certificate.

(a) that the proceedings to obtain the certificate were defective in substance;

(b) that the certificate was obtained fraudulently by the making of a false suggestion, or by the concealment from the Court of something material to the case;

SEC. 17. THE SUCCESSION CERTIFICATE ACT.

- (c) that the certificate was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant thereof, though such allegation was made in ignorance or inadvertently ;
- (d) that the certificate has become useless and inoperative through circumstances ;
- (e) that a decree or order made by a competent Court in a suit or other proceeding with respect to effects comprising debts or securities specified in the certificate renders it proper that the certificate should be revoked.

17. (1) Subject to the other provisions of this Act, an appeal shall lie to the High Court, from an order of a District Court granting, refusing or revoking a certificate under this Act, and the High Court may, if it thinks fit, by its order on the appeal, declare the person to whom the certificate should be granted and direct the District Court, on application being made therefor, to grant it accordingly, in supersession of the certificate, if any, already granted.

(2) An appeal under Sub-section (1) must be preferred within the time allowed for an appeal under the Code of Civil Procedure.

(3) Subject to the provisions of Sub-section (1) and of Chapters XLIII and XLIV of the Code of Civil Procedure as applied by Section 584 of that Code, an order of a District Court under this Act shall be final.

18. Save as provided by this Act, a certificate granted thereunder in respect of any of the effects of a deceased person shall be invalid, if there has been a previous grant of such a certificate in respect of the estate of the deceased person and if such previous grant is in force.

19. Where a certificate under this Act has been superseded or is invalid by reason of the certificate having been revoked under Section 16, or by reason of the grant of a certificate to a person named in an appellate order under Section 17, or by reason of a certificate having been previously granted, or for any other cause, all payments made or dealings had, as regards debts and securities specified in the suspended or invalid certificate, to or with the holder of that certificate, in ignorance of its supersession or invalidity, shall be held good against claims under any other certificate.

Validation of certain payments made in good faith to holder of invalid certificate.

20. No decision under this Act upon any question of right between any parties shall be held to bar the trial of the same question in any suit or in any other proceeding between the same parties and nothing in this Act shall be construed to affect the liability of any person who may receive the whole or any part of any debt or security, or any interest or dividend on any security to account therefor to the person lawfully entitled thereto.

Effect of decisions under this Act and liability of holder of certificate thereunder.

21. (1) Our Government may, by Notification in the Gazette, invest any Court inferior in grade to a District Court with the functions of a District Court under this Act, and may cancel or vary any such Notification.

Investiture of inferior Courts with jurisdiction of District Court for purposes of this Act.

Sec. 21. The corresponding Sec. 388 of the Indian Act contains two additional Sub-sections. One of them empowers any District Judge to withdraw any proceeding from an inferior Court and dispose it off himself or transfer it to another such competent Court within his jurisdiction. The other Sub-

Sec. reads.—

Any Civil Court which for any of the purposes of any enactment, is subordinate to, or subject to the control of, a District Court shall, for the purposes of this Section, be deemed to be a Court inferior in grade to a District Court.

SEC. 22. THE SUCCESSION CERTIFICATE ACT.

(2) Any inferior Court so invested shall, within the local limits of its jurisdiction, have concurrent jurisdiction with the District Court in the exercise of all the powers conferred by this Act upon the District Court, and the provisions of this Act relating to the District Court shall apply to such inferior Court as if it were a District Court.

Provided that an appeal from any such order of an inferior Court as is mentioned in Sub-section (1) of Section 17, shall lie to the District Court, and not to the High Court, and that the District Court may, if it thinks fit, by its order on the appeal, make any such declaration and direction as that Sub-section authorises the High Court to make by its order on an appeal from an order of a District Court.

(3) An order of a District Court on an appeal from an order of an Inferior Court under the last foregoing Sub-section shall, subject to the provisions of Chapters XLIII and XLIV of the Code of Civil Procedure as applied by Section 584 of that Code, be final.

(4) A Notification under Sub-section (1) may specify any inferior Court specially or any class of such Courts in any local area.

22. The High Court may withdraw any proceedings under this Act from any Court subordinate thereto, and may transfer them to another Court having authority to dispose of the proceedings.

Transfer of proceedings by the High Court.

23. (1) When a certificate under this Act has been superseded or is invalid from any of the causes mentioned in Section 19 the holder thereof shall, on the requisition of the Court which granted it, deliver it up to that Court.

Surrender of superseded and invalid certificates.

(2) If he wilfully and without reasonable cause omits so to deliver it up, he shall be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to three months, or with both.

24. [Our Government may, from time to time, by Notification in Our Government Gazette, reduce or remit, in the whole or in any part of Travancore, the fees leviable under Section 12 of this Act, and may, in like manner cancel or vary such order.]

Sec. 24. This was added by Act V of 1092.

SCH. THE SUCCESSION CERTIFICATE ACT.

SCHEDULE.

FORMS OF CERTIFICATE AND EXTENDED CERTIFICATE.

(See Section 10.)

In the Court of.....
 To A. B.

Whereas you applied on the day of..... for a certificate under the Succession Certificate Act, 1090, in respect of the following debts and securities, namely:—

Debts.

Serial number.	Name of debtor.	Amount of debt including interest on date of application for certificate.	Description and date of instrument, if any, by which the debt is secured.

Securities.

Serial number.	Description.			Market-value of security on date of application for certificate.
	Distinguishing number or letter of security.	Name, title or class of security.	Amount or par value of security.	

This certificate is accordingly granted to you and empowers you to collect those debts [and] [to receive] [interest] [dividends] [on] [to negotiate] [to transfer] [those securities.]

Dated this..... day of

Judge.

In the Court of.....on the application of A. B. made to me on the.....day of.....I hereby extend the certificate to the following debts and securities, namely :—

Debts.

Serial number.	Name of debtor.	Amount of debt including interest on date of application for extension.	Description and date of instrument, if any, by which the debt is secured.

Securities.

Serial number.	Description.			'Market-value of security on date of application for extension.
	Distinguishing number or letter of security.	Name, title or class of security.	Amount or par value of security.	

This extension empowers A, B to collect those debts [and] [to receive] [interest] [dividends] [on] [to negotiate] [to transfer] [those securities.]

Dated this.....day of.....

Judge.

ACT I OF 1091.

AN ACT TO AMEND ACT III OF 1086

*Passed-by His Highness the Maha Raja of Travancore
on the 12th September 1915, corresponding with
the 27th Chingom 1091, under Section 14
of Act V of 1073.*

Whereas it is deemed necessary to amend Act III of 1086; We are pleased to enact as follows :—

1. Delete the title and preamble of Act III of 1086, and substitute the following :—

“An Act relating to the currency of British Coinage in Travancore.”

“Whereas it is expedient to consolidate the law relating to the currency of British Coinage in Travancore.”

2. Insert the following as Section I, Sub-section (1) :—

“This Act shall be called “The British Coinage Act”; and

number the existing Section as Section 1, Sub-section (2), substituting the word ‘it’ for the words ‘this Act’.

3. After Section 3, add the following as Section 3-A:—

“Sovereigns and half-sovereigns, whether coined at His Majesty’s Mint in England or any Mint established in pursuance of a Proclamation of His Majesty as a branch of His Majesty’s Royal Mint, shall be legal tender in payment or on account at the rate of fifteen British rupees for one sovereign :
“Sovereigns and half-sovereigns, whether coined at His Majesty’s Mint in England or any Mint established in pursuance of a Proclamation of His Majesty as a branch of His Majesty’s Royal Mint, shall be legal tender in payment or on account at the rate of fifteen British rupees for one sovereign :
“Sovereigns and half-sovereigns a legal tender”:

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.”

ACT I OF 1091.

4. In Section 9, insert the following as Sub-section (3), and number the existing Sub-section (3) as Sub-section (4):—

“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.”

ACT II OF 1091.

THE LAND CUSTOMS ACT.

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ACT II OF 1091.

AN ACT TO CONSOLIDATE THE LAW RELATING TO THE LEVY OF LAND CUSTOMS DUTIES.

*Passed by His Highness the Maha Raja of Travancore,
on the 3rd February 1916 corresponding with the
21st Makaram 1091, under Section 14 of
Act V of 1073.*

Whereas it is expedient to consolidate the law relating to the levy of Land Customs Duties, etc.; It is enacted as follows :—

Preamble.

Year.	No.	Short title.	Effect of subsequent Legislation.
1091	II	The Land Customs Act.	Amended by Act III of 1093 and Act I of 1107.

Act II of 1091 and the amending Acts were passed direct by the Sovereign.

Interportal trade convention is not affected by the Act. (See sec. 3.) The notifications issued by His Highness the Maha Raja of Travancore, the Resident in Travancore and Cochin and the Cochin Sirkar relating to interportal trade, are given below.

NOTIFICATION.

No. 265.

By His Highness the Maha Raja of Travancore.

Whereas it has been found expedient to revise in communication with the British Indian Government and the Cochin Sirkar the system of duties hitherto levied on the trade of Travancore, it is notified that from and after the 1st of June 1865/20th of Vaikasi 1040, no Customs duties on

account of this Sirkar will be levied on goods imported by land, sea or backwater into Travancore and being the produce or manufacture of British India or of the Territories of the Cochin State, excepting on tobacco, raw and manufactured, salt, opium, spirits, which will be treated as hitherto.

2. The British Indian and Cochin Governments will also give up their Customs duties on all goods imported by land, sea or backwater into Travancore from their territories. The British Indian Government will permit Bombay salt to be exported to Travancore on the same terms as to the British Provinces, such as Malabar and Canara.

3. On imported goods other than those which are the produce or manufacture of British India or the territories

THE LAND CUSTOMS ACT.

of the Cochin State, the Travancore Government will levy the British Indian rates of duty except when they shall have already paid duty to British India or the Cochin State, in which case they will be exempted from duty.

4 The duty that this Government will levy on goods exported from Travancore will be ten per cent. on Timber, 15 Rs. per Candy of 500 English lbs. on pepper and betel nut, and 5 per cent. on all other goods. But Tinnevely Cloths exported from Travancore to British India or to Sirkar Cochin will be free. And also, only a limited number of commodities will be liable to export duty at the Chowkies of Ramaswaramcotal, Bhagavathycotal and Edapally; the said commodities being notified from time to time.

5. Neither the British Indian Government nor the Cochin State will levy any duty on goods imported into their Territories from Travancore, whether by land, sea or backwater, and whether the produce and manufacture of Travancore or foreign goods which have already paid import duty to this State, excepting Salt, Opium, Spirits.

6. This Sirkar will not tax Coimbatore or other British Indian produce passing through the Travancore backwater to British Cochin or to the Cochin State, nor tax the produce of the Territories of the Cochin Sirkar directly proceeding through Travancore to British Cochin or to some other part of the Territories of the Cochin State itself.

7. The British Indian Tariff of valuations will supersede the Tariffs hitherto in force in the Chowkies of this Sirkar;

26th May, 1865.

14th Vycausy, 1040.

[*Published in Gazette Extraordinary dated 1st June 1865; 20th Edavom 1040.*]

NOTIFICATION.

By the British Resident in Travancore and Cochin.

It is hereby notified for general information, that the following arrangements have been made between the British Government and the Native States of Cochin and Travancore, for the removal of fiscal restrictions on trade between British India and these States, and that effect has been given to the same under the sanction of the Government of India.

2. No duties will hereafter be levied, whether by the British Government, or the Travancore or Cochin States, on goods, being the produce or manufacture of British India, on their import, whether by sea or by land, into the Cochin and Travancore Territories, excepting Tobacco, Salt, Opium and Spirits.

3. No duty will hereafter be levied by the British Government on goods, the produce or manufacture of the Cochin and Travancore States, on their import into British Indian Territory, whether by sea or by land, excepting Salt, Opium and Spirits.

ACT II OF 1091.

4. Free import will be allowed by the Cochin State into its Territories of Travancore produce and manufactures, and *vice versa* on the same terms and with the same exceptions as those arranged with the British Government.

5. The Cochin and Travancore States will adopt the British Indian Tariff and rates of Import duty on all *foreign* goods imported into them, tobacco being excepted on import into Travancore.

6. Foreign goods which have already paid duty on import to British India, or to either the Cochin or Travancore State, will be allowed to pass free on further transport to any of these Territories.

7. The Cochin State will adopt the British Indian rates of export duty on articles exported to foreign countries, pepper being excepted and charged at 15 Rupees a candy.

8. The Travancore State will continue for the present to levy export duties, not less than those obtaining in British India, but not more than 5 Rupees per cent. on all ordinary exports, Rupees 10 per cent. on timber, and 15 Rupees a candy on pepper and betelnut *ad valorem*.

9. The export duty at the Travancore Inland Chowkies, *viz.*, those not situated on the backwater, will be confined to principal goods only, which will be notified from time to time.

10. British Indian goods passing from Coimbatore through Travancore to the Cochin Territories or British Cochin will

be exempt from export duty in Travancore. The same exemption will extend to Tinnevelly cloths passing through Travancore.

11. Goods passing from one part of the Cochin State through Travancore Territory to any other part of the former will be exempt from export duty in Travancore.

12. The Travancore and Cochin States will adopt the British Indian Tariff valuations for exports, as well as imports.

13. The Cochin and Travancore States will adopt the British Indian selling price of Salt, the rates at Inland Depots being raised so as to place the Salt of Cochin, Travancore and British India on the same footing in the market.

14. The Cochin and Travancore States will import British Indian Salt on the same terms on which it is imported into British Indian Ports.

15. The Travancore State will levy import duty on Tobacco at rates not exceeding the following:—

On Coimbatore tobacco—40 Rupees a candy.

Tinnevelly tobacco—85 Rupees a candy.

Tinnevelly (Kalamany) tobacco—120 Rupees a candy.

Jaffna tobacco 120 Rupees a candy.

Trivandrum H. Newill,
1st June, 1865, Resident.

[Published in the T. G. G.
dated 6th June 1865, Page 113.]

THE LAND CUSTOMS ACT.

NOTIFICATION.

By the Cochin Sirkar Regarding Interportal Trade.

Notice is hereby given that, with the view of removing the restrictions on the trade of Cochin with the British and Travancore Territories, the following arrangements have been made by the Cochin Sirkar with the British and Travancore Governments.

Arrangements between the British and Cochin Governments:—

I. All goods the produce or manufacture of British India and all goods exported from any Port or place in British India which are exempt from or have paid duty on importation into British India will be admitted into the Territories of His Highness the Raja of Cochin by Sea, Land and Backwater free of all Customs duty, Salt, Opium and Country Spirits excepted.

II. All goods the produce or manufacture of the Cochin State and all goods exported from any Port or place in the Territories of His Highness the Raja of Cochin, which are exempt from or have paid duty on importation into those Territories, will be admitted into British India by Sea, Land and Backwater free of all Customs duty, Salt, Opium, and Country Spirits excepted.

III. The rates of Customs duties and Tariff valuations in force from time to time in British India will be adopted in the Cochin State.

IV. Foreign goods imported direct into any Port belonging to His Highness the Raja of Cochin will be charged with the same duties as they would be liable to if imported into any Port of British India.

V. Goods the produce or manufacture of the Cochin State, on exportation to any foreign Port or place, will be charged with the same duties as they would be liable to, if exported from any Port in British India, pepper excepted.

VI. No drawback will be allowed on goods re-exported from any Port or place in the Cochin State to any Port or place in British India and *vice versa*.

VII. The monopoly price of Salt in the Cochin State will be the same as that in British India, an addition on account of carriage, etc., equal to the cost of conveying Salt from Beypore to Palghaut by Rail being made to that price when the Salt is sold by the Cochin State at the Indian Depots of Chittoor and Nemary.

VIII. The duty at Bombay on Salt intended for the use of the Cochin Government will in future be the same as that levied on Salt exported for the use of the Madras Government.

IX. On pepper a special duty will be levied as provided for in Act III of 1861.

X. The Cochin Sirkar to be at liberty to levy an excise duty, not exceeding 5 per cent. on Coffee grown on its Hill Tracts, where favourable

ACT II OF 1091.

Leases have been granted, the duty being collected before the Coffee leaves the Estates.

XI. A moiety of the net Customs Revenue realized on Imports and Exports at British Cochin, Tobacco, Pepper, Salt and Opium excepted, will be paid over to the Cochin State.

XII. The British Government engages to make good to the Cochin State any deficit between the sum of Rs. 1,00,000 and the aggregate amount of the excise duty on Coffee, of the moiety of the net Customs duties at British Cochin, and of the Customs duties realized at the Cochin Ports and Customs houses.

Arrangements between the Cochin and Travancore Governments.

I. The Cochin Sirkar to remove all the Chowkies between Travancore and Cochin with a view to the freedom of the Trade to and from Travancore, Cochin, etc.,

II. The Travancore Sirkar to allow free entry into Travancore of Goods from Sirkar Cochin on the same terms and with the same exceptions as arranged with the British Government.

III. The Travancore Sirkar to levy at their Inland Chowkies, *viz.*, those which are not situated on the Back-water, export duty only on certain principal goods.

IV. British Indian goods passing from Coimbatore through Travancore to the Cochin Territories or British Cochin will be exempt from

Export duty in Travancore. The same exemption will extend to Tinnevelly cloths passing through Travancore. Goods passing from one part of the Cochin State through Travancore Territory to any other part of the former will be exempt from export duty in Travancore.

2. In connection with the above arrangements the selling price of Salt has been increased to Re. 1 As. 8 per Indian Maund at all the Cochin Depots except those of Chittoor and Nemary where a further increase of 2 annas and 3 pies per Indian Maund has been made to the selling price with the view of putting British and Cochin Salt on the same footing.

3. The Chowkies on the Travancore frontier and those established at Putticaud and Cheroothoorthy for the levy of duty on Tobacco will be abolished from the 1st June 1865, and goods will be allowed to be imported and exported free of duty from that date.

4. From the above mentioned date (1st June 1865) the rates of Customs duties and Tariff valuations in force in British India will be adopted by the Cochin Sirkar.

5. With the exception of Pepper, Salt, Opium and Country Spirits, all goods imported into and exported from any Port in the Cochin Territory will be on the same terms as if they are imported into or exported from any Port in British India, but no drawback

CHAPTER I.

PRELIMINARY.

1. This Act may be called the Travancore Land
Short title. Customs Act of 1091.

It extends to the whole of Travancore, and it shall
Local extent and commencement. come into force on the 1st Meenam
1091.

2. All appointments, Rules, declarations, exemptions
Saving of appointments, etc. and delegations made, powers conferred, Forms and conditions prescribed, values, fees, rates and periods fixed, and Notifications, instructions, directions, prohibitions, passes and licenses issued, before the passing of this Act, shall, if the same are in force at the time this Act comes into force, be deemed to have been respectively made, conferred, prescribed, fixed and issued under this Act in so far as they are consistent herewith.

3. Nothing herein contained shall affect the provisions of the Interportal Trade Convention for the time being in force between Our Government and the Paramount Power.
Interportal Trade Convention not affected by the Act.

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

(a) "Controlling Officer of Customs" denotes the person authorised to exercise, subject to Our Government, the chief control in matters relating to Land Customs :
Controlling Officer of Customs."

will be allowed on goods re-exported from any Port or place in the Cochin State to any Port or place in British India or vice versa.

Huzur Cucherry
Ernacollum in Cochin, } Dewan.
31st May, 1865. }

[Published in the T. G. G. dated 27th June 1865, Page 195.]

By order of His Highness the Raja of Cochin.

(b) "Chief Customs Officer" denotes the chief executive Officer of Land Customs in charge of a Circle, subordinate to the Controlling Officer of Customs, and exercising control over one or more Customs houses :

"Chief Customs Officer."

(c) "Customs Officer" includes every Officer of Land Customs, for the time being in separate charge of a Range or Customs house, or duly authorised to perform all the duties or any special duties of an officer so in charge :

"Customs Officer."

(d) "Vessel" includes anything made for the conveyance by water of human beings or property :

"Vessel."

(e) "Vehicle" includes anything made for the conveyance by land of human beings or property :

"Vehicle"

(f) "Import" means to bring into Travancore by land, by backwater or by sea :

"Import."

(g) "Export" means to take out of Travancore by land, by backwater or by sea :

"Export"

(h) "Customs house" or "Chowkey" shall mean any office or institution, established by Our Government by Notification in the Gazette, in any place in Travancore, for the levy of duties on articles imported or exported by backwater or by land :

"Customs house" or "Chowkey."

(i) "Circle" means a local area, from time to time constituted as such by Our Government, by Notification in the Gazette :

"Circle."

(j) "Range" means a local area, from time to time constituted as such by Our Government, by Notification in the Gazette.

"Range"

5. When any person is expressly or impliedly authorised by the owner of any goods to be his agent in respect of such goods, for all or any of the purposes of this Act, and such authorisation is approved by the Customs Officer, such person shall, for such purposes, be deemed to be the owner of such goods.

Agent of owner of goods to be deemed owner for certain purposes.

CHAPTER II.

APPOINTMENT OF OFFICERS

6. Our Government may appoint such persons as they think fit to be Officers of Land Customs and to exercise all or any of the powers conferred, and to perform all or any of the duties imposed, by this Act, on such Officers. Every person so appointed may be suspended or dismissed by Our Government.

Appointment of Officers, etc.

7. Our Government may delegate to any Officer any of the powers vested in them by Section 6 of this Act. Every person appointed in the exercise of such delegated power may be suspended or dismissed by the Officer who appointed him.

Delegation of powers under Section 6.

CHAPTER III.

POWER TO PRESCRIBE RULES AND DUTIES.

8. Our Government may, by Notification in the Gazette, make Rules for the levy of Customs duty on articles, imported into or exported from Travancore by back-water or by land, and also for the exemption from such duty of any such articles.

Government may make Rules for the levy of Customs duty.

9. Our Government may make Rules, consistent with this Act,

- Power to make Rules. (a) prescribing and limiting the powers and duties of Officers of Customs ;
- (b) prescribing the route or routes through which all or any specified class of goods shall be imported into or exported from Travancore ;
- (c) for the levy of duty on goods which do not correspond either in quality or in quantity with the description in the manifest delivered to the owner of the goods or his agent from the manifest-registering station ;
- (d) prescribing the Customs house or houses to which goods which are the produce of any local area should be taken for levy of duty ;
- (e) for the levy of duty on goods carried by rail, steam boats or any particular vessel or vehicle, or class of vessels or vehicles ;
- (f) for the levy of duty on goods forming part of the luggage of passengers travelling by rail, steam boats, or other vessels or vehicles ;
- (g) for the levy of duty on, or exempting from duty or any portion thereof, any goods imported into the State by land or backwater, and re-exported from it by land, backwater or sea ;
- (h) for the levy of duty on, or exempting from duty or any portion thereof, any goods exported from the State and re-imported into it ;
- (i) [for the bailment, safe custody and preservation of things seized and the disposal of things confiscated under this Act ;]

Sec. 9 (i). This was substituted by Sec. 2, Act I of 1107. The original Clause read :—

“for the disposal of all things confiscated under this Act.”

(j) for payment of rewards to Officers, informers and persons co-operating in a seizure out of the proceeds of fines, penalties and confiscation under this Act; and

(k) for carrying out generally the provisions of this Act.

10. Customs duties shall be levied on such goods and at such rates [and from such dates, whether previous or otherwise] as may be prescribed by Our Government, from time to time, by Notification in the Gazette:

Power to prescribe customs duties-

Provided that no such duties shall be levied on goods belonging to Our Government.

11. Our Government may, from time to time, by Notification in the Gazette, fix, for the purpose of levying duties, the tariff values of any goods exported or imported by backwater or land, on which customs duties are by law imposed, and alter any such values.

Power to fix tariff values.

CHAPTER IV,

PROHIBITIONS AND RESTRICTIONS REGARDING EXPORTATION AND IMPORTATION.

12. No goods subject to customs duty shall be imported into or exported from Travancore unless the duty due thereon has been paid to a Customs Officer or other person duly authorised to receive the same.

No dutiable goods to be imported or exported without payment of duty.

Sec. 10. The bracketed words were inserted by Act III of 1093.

13. Within a distance of one mile from the land frontier of Travancore, no person shall own, erect or maintain any godown or other building or place for the storage of any goods subject to export duty, which such person purchases for subsequent sale, unless he takes out a license for the storage of such goods.

Our Government may, from time to time, make Rules for the grant of such licenses, free of any fee and on such conditions as they may deem fit to prescribe for the storage of such goods.

14. No goods subject to export duty shall be taken to a Customs house for the levy of such duty, unless the same is accompanied by a manifest in such form as may from time to time be prescribed by the Controlling Officer of Customs, signed by the owner of such goods or his agent, and counter signed by an Officer appointed for the purpose of registering manifests intended for delivery to a Customs Officer.

This Section will not apply to—
 (i) goods taken to a Railway Customs house ; or
 (ii) goods carried by passengers for their immediate personal use ; or
 (iii) goods covered by a certificate of Government, authorising their export, free of duty.

15. Each Customs house shall have one or more places or stations for registering manifests. The Controlling Officer of Customs shall, by notice published in the Gazette, specify the places or stations where manifests intended for each Customs house shall be registered.

16. Except for the purpose of the levy of duty on goods intended for the immediate use of passengers, at Customs houses which have been declared by Government. by Notification in the Gazette, to be open between sunset and sunrise for the levy of such duty, no goods subject to export duty shall be taken towards

the frontier beyond a manifest registering station between sunset and sunrise.

17. Except as stated in the last preceding Section, no goods subject to import duty shall be taken from any place outside Travancore to any place within Travancore between sunset and sunrise.

Goods subject to import duty not to be taken between sunset and sunrise.

18. The owner of any goods subject to export duty for which a manifest has been registered, shall produce the goods covered by the manifest to the Customs house specified in the manifest, within twenty-four hours from the time of the delivery of the manifest to such owner from the manifest-registering station. If, after the expiration of the time specified above the owner of such goods produces before the Customs house the manifest and goods answering the description entered therein, he shall pay twice the amount of the duty leviable on such goods, unless he proves to the satisfaction of the Chief Customs Officer that such goods are identical with those specified in the manifest.

Goods for which manifest has been registered to be produced before Customs house in 24 hours.

19. If the owner of any goods subject to export duty for which a manifest has been registered, fails to produce such goods for the levy of customs duty before the Customs house specified in the manifest, within three days from the time of the delivery of the manifest to such owner from the manifest-registering station, he shall be liable to pay into the Customs house three times the amount of the duty leviable on such goods.

Penalty for failure to produce goods before Customs house within 3 days from the issue of the manifest.

20. Customs duties or charges which have been paid, and of which repayment wholly or in part is claimed in consequence of the same having been paid through inadvertence, error or misconstruction, shall be returned, with the sanction of Our Government, if such claim is made within three months from the date of such payment.

No refund of charges erroneously levied or paid unless claimed within three months.

CHAPTER V.

POWERS AND DUTIES OF OFFICERS.

21. Every Officer of Customs and every Officer duly employed for the prevention of smuggling, may stop at or near the frontier, and search for dutiable or prohibited goods, any vessel, vehicle, animal or package.

Power of Customs and Preventive Officers to search.

Every such Officer may also search any person at or near the frontier for such goods: Provided that such Officer believes, in good faith, that such person has dutiable or prohibited goods, secreted about his person.

A female shall not be searched by any but a female.

22. Every Officer of Customs or other Officer duly employed for the prevention of smuggling, may seize, at any place between the manifest-registering station and the frontier, any goods subject to export duty:—

Power of Customs and Preventive Officers to seize goods subject to export duty.

- (a) if such goods are conveyed towards the frontier beyond a manifest-registering station between sunset and sunrise; or
- (b) if, on demand, the person conveying such goods fails to produce a manifest, obtained from the manifest-registering station, for such goods; or
- (c) if such Officer finds such goods at any place between a Customs house and the frontier, and the person conveying the goods fails to produce on demand a certificate showing that the customs duty leviable thereon has been paid in full.

*Explanation:—*Nothing in this Section shall require the production of a manifest in respect of goods exempted under Section 14 of this Act or the production of a certificate of payment of duty in respect of goods mentioned in Clause (iii) of the exceptions to the aforesaid Section.

23. Every Officer of Customs or other Officer duly employed for the prevention of smuggling, may seize any goods subject to import duty,—

Power of Customs and Preventive Officers to seize goods subject to import duty.

(a) if such goods are taken from any place outside Travancore to any place within Travancore between sunset and sunrise ; or

(b) if such goods are taken from any place outside Travancore to any place within Travancore other than a Customs house without payment of duty leviable on such goods.

Nothing in this Section shall apply to —

(i) goods which passengers are permitted to import free of duty by any Rules passed under this Act, provided that the maximum quantity prescribed for such free import by such Rules is not exceeded ;

(ii) goods intended for the immediate use of passengers and taken by them for the levy of duty to Customs houses which have been declared by Government, by Notification in the Gazette, to be open between sunset and sunrise for the levy of such duty ;

(iii) goods covered by a certificate of Government authorising their import free of duty.

24. Any Officer seizing any goods under Section 22 or 23 may arrest the person conveying such goods and also seize the vessels, vehicles, packages and coverings in which such goods are found, and the other contents, if any, of such vessels, vehicles, packages and the animals and conveyance used in carrying such goods.

Officer seizing goods may seize packages, &c. and arrest persons.

25. When anything is seized, or any person is arrested, under this Act, the Officer making such seizure or arrest shall, on demand by the person in charge of the thing so seized, or by the person so arrested, give him a statement in writing certifying to such seizure or arrest.

When seizure or arrest is made, reason in writing to be given.

26. Whenever any seizure or arrest is made under Section 22, 23 or 24, the articles and the animals seized and the persons arrested shall immediately be taken before the Customs Officer in charge of the Range within the limits of which such seizure or arrest was made. The Officer making the arrest or seizure shall also present to such Customs Officer a report of the circumstances under which such arrest or seizure was made.

27. Whenever any person arrested under Section 24 is brought before a Customs Officer in charge of a Range, such Officer shall admit him to bail, if bail is offered, and direct him to appear when summoned before the Chief Customs Officer within the limits of whose jurisdiction the arrest was made, or, in default of bail, shall forward him in custody to such Chief Customs Officer. The Customs Officer in charge of the Range shall hold an enquiry into the circumstances under which the seizure was made and forward a report to the Chief Customs Officer together with the articles and the animals seized.

On receipt of such report, the Chief Customs Officer may hold such enquiry as he may think necessary and may dispose of the case himself, if he is competent to do so under Section 37, or forward the accused and the articles and animals seized, together with a report of the case, to the Magistrate within the limits of whose jurisdiction the seizure or arrest was made. Upon receipt of such report, the Magistrate shall enquire into the case in like manner as if a Police report has been made to him under Section 170 of the Code of Criminal Procedure.

28. Every person arrested under Section 24 shall be released if sufficient bail be tendered for his appearance before a Chief Customs Officer or before a Magistrate, as the case may be.

Sec. 27. Sec. 170 of the Criminal Procedure Code (Act V of 1067) corresponds to Sec. 186 of the Act VIII of 1117.

29. 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 Chief Customs Officer, 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: Provided also that, if such person is not resident in Travancore, the bond shall be secured by a surety or sureties resident in Travancore.

30. Whenever anything seized under the provisions of this Act is of a perishable nature, the Chief Customs Officer may, if he thinks it necessary, sell the same by public auction, or otherwise, and keep the proceeds thereof in safe custody, to be disposed of subsequently in such manner as he may himself order or as may be ordered by the Magistrate who tries the same.

31. Any Chief Customs Officer or Customs Officer in charge of a Range, holding an enquiry under Section 27, may summon any person to appear before himself to give evidence on such enquiry or to produce any document relevant thereto which may be in his possession or under his control.

32. 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.

33. Persons so summoned shall attend as required and shall answer truly all questions relating to such enquiry 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 they shall not be used as evidence in any Criminal proceeding other than a proceeding on a charge of perjury against such persons :

Examination of witnesses by Chief Customs Officers and Customs Officers in charge of Ranges.

Provided that no procecuton for giving false evidence in respect of any statement made under this Section shall be instituted without the previous sanction of Our Government.

34. 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 a Chief Customs Officer or the Customs Officer in charge of a Range, and to any person summoned to appear under the provisions of this Act.

Law relating to Criminal Courts as to summoning witnesses to apply.

CHAPTER VI.

OFFENCES AND PENALTIES.

35. The offences mentioned in the second column of the following Schedule shall be punishable to the extent mentioned in the fourth column of the same with reference to such offences respectively :

Punishment for offences.

the following Schedule shall be punishable to the extent mentioned in the fourth column of the same with reference to such offences respectively :

No.	Offence.	Sections of this Act to which offence has reference.	Penalties.
1	Contravening any Rule made under this Act.	General.	Penalty not exceeding five hundred rupees.
2	Importing into or exporting from Travancore goods subject to import or export duty, without payment of the duty due thereon.	Section 12	Such goods shall be liable to confiscation, and the person conveying such goods shall be liable to a penalty not exceeding one thousand rupees.
3	If any person owns, erects or maintains any godown or other building or place within a distance of one mile from the land frontier of Travancore, for the storage of any goods subject to export duty which such person purchases for subsequent sale, without obtaining a license for such storage.	Section 13	Penalty not exceeding five hundred rupees.
4	If any person takes any goods subject to export duty to a Customs house for the levy of such duty unaccompanied by a manifest obtained from a manifest-registering station.	Section 14	Penalty not exceeding fifty rupees.
5	If any person takes any goods subject to export duty towards the frontier beyond a manifest-registering station between sunset and sunrise.	Section 16	Penalty not exceeding five hundred rupees and such goods shall be liable to confiscation.
6	If any person takes any goods subject to import duty from any place outside Travancore to any place within Travancore between sunset and sunrise.	Section 17	Do.

No.	Offence.	Sections of this Act to which offence has reference.	Penalties.
7	If any person takes any goods subject to export duty towards the frontier beyond a manifest-registering station and if he fails on demand by an Officer of Customs or a Preventive Officer to produce manifest for such goods obtained from the manifest-registering station.	Section 22 (b)	Penalty not exceeding five hundred rupees, and such goods shall be liable to confiscation.
8	If any person takes any goods subject to export duty to any place between a Customs house and the frontier and such person fails to produce on demand by an Officer of Customs or Preventive Officer a certificate showing that the customs duty leviable thereon has been paid in full.	Section 22 (c)	Such person shall be liable to a penalty not exceeding one thousand rupees and such goods shall be liable to confiscation.
9	If any person intentionally obstructs any Officer of Customs or other person duly employed for the prevention of smuggling in the exercise of any powers given under this Act to such Officer or person.	General.	Such person shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding six months, or to a fine not exceeding five hundred rupees, or to both,
10	If any Officer of Customs or other person duly employed for the prevention of smuggling, is guilty of a wilful breach of the provisions of this Act.	General.	Such Officer or person shall, on conviction before a Magistrate, be liable to simple imprisonment for any term not exceeding one year, or to fine, or to both.

No.	Offence.	Sections of this Act to which offence has reference,	Penalties.
11	If any Officer of Customs, or other person duly employed for the prevention of smuggling, practises or attempts to practise any fraud, for the purpose of injuring the Customs revenue, or abets or connives at any such fraud or any attempt to practise any such fraud.	General.	Such Officer or person shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding two years, or to fine, or to both.
12	If any Officer of Customs, or other person duly employed for the prevention of smuggling 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 stops, detains, searches or arrests any person; or in any other way vexatiously exceeds his lawful powers.	Sections 21, 22, 23 and 24	Such person 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.

CHAPTER VII.

CONFISCATION.

36. The confiscation of any goods under this Act shall include any package or covering in which they are found, and all the other contents thereof.

Packages and contents included in confiscation of goods.

Every vessel or vehicle, and every horse or other animal, used in the removal of any goods liable to confiscation under this Act, shall, in like manner, be liable to confiscation.

Also conveyances and animals used in removal.

The confiscation of any vessel under this Act includes her tackle, apparel and furniture.

Tackle, &c., included in confiscation of vessel.

37. In every case except the cases mentioned in Section 35, Nos. 9, 10, 11 and 12 in which under this Act anything is liable to confiscation or to increased rates of duty, or any person is liable to a penalty, such confiscation, increased rate of duty or penalty may be adjudged,—

Adjudication of confiscations and penalties.

- (a) without limit, by the Controlling Officer of Customs ;
- (b) up to confiscation of goods not exceeding two hundred and fifty rupees in value, and imposition of penalty or increased duty not exceeding one hundred rupees, by the Chief Customs Officer.

Our Government may, by Notification in the Gazette, confer on any Customs or other Officer, by name or in virtue of his office, all or any of the powers under this Section,

38. Whenever confiscation is authorised by this Act, the Officer adjudging it shall give the owner of the goods an option to pay, in lieu of confiscation, such fine as the Officer thinks fit.

Option to pay fine in lieu of confiscation.

39. When anything is confiscated under this Act, such thing shall thereupon vest in Our Government. On confiscation, property to vest in Our Government. The Officer adjudging confiscation shall take and hold possession of the thing confiscated; and every Officer of Police, on the requisition of such Officer, shall assist him in taking and holding such possession.

40. The award of any confiscation, penalty or increased rate of duty under this Act, by an Officer of customs, shall not prevent the infliction of any punishment to which the person affected thereby is liable under any other law. Penalty under this Act not to interfere with punishment under any other law.

CHAPTER VIII.

MISCELLANEOUS.

41. All offences against this Act, other than those cognizable under Section 37 by Officers of Customs, may be tried summarily by a Magistrate. Offences not specially provided for how tried.

42. Any person deeming himself aggrieved by any decision or order passed by a Chief Customs Officer under this Act may, within thirty days from the date of such decision or order, appeal therefrom to the Controlling Officer of Customs, who may thereupon make such further enquiry if any, and pass such order, as he thinks fit, confirming, altering or annulling the decision or order appealed against: Provided that no such order shall have the effect of subjecting any person to any greater penalty or rate of duty than has been adjudged against him in the original decision or order. Appeal from Chief Customs Officer to Controlling Officer of Customs.

Every order passed in appeal under this Section shall, subject to the power of revision by Our Government, be final.

43. If, upon consideration of the circumstances under which penalty, increased rate of duty or confiscation has been adjudged under this Act by a Chief Customs Officer, the Controlling Officer of Customs is of opinion that such penalty, increased rate of duty or confiscation ought to be remitted in whole or in part, or commuted, he may remit the same or any portion thereof, or may, with the consent of the owner of any goods ordered to be confiscated, commute the order of confiscation to a penalty not exceeding the value of such goods.

44. When any fine, penalty or increased rate of duty, is leviable under this Act, the goods in respect of which such fine, penalty or rate of duty is leviable, shall not be removed by the owner until such fine, penalty or rate of duty is paid.

If any person has become liable to any such fine, penalty or rate of duty in respect of any goods, the Customs Officer may detain any other goods belonging to such person passing through the Customs house until such fine, penalty or rate of duty is paid.

45. When a penalty or increased rate of duty is adjudged against any person under this Act, by any Officer of Customs, such Officer, if such penalty, or increased rate be not paid, may levy the same by sale of any goods of the said person which may be in his charge or in the charge of any other Officer of Customs.

When an Officer of Customs who has adjudged a penalty or increased rate of duty against any person under this Act is unable to realise the unpaid amount thereof from such goods, such Officer may notify in writing to the Tahsildar within the local limits of whose jurisdiction such person resides or owns property, the name and residence of the said person and the amount of

penalty or increased rate of duty unrecovered, and such Tahsildar shall thereupon recover the said amount as if it were an arrear of land revenue.

46. No owner of goods shall be entitled to claim from any Officer of Customs compensation for any loss or damage occurring to such goods at any time while they remain or are lawfully detained in any Customs house, or under charge of any Officer of Customs, unless it be proved that such loss or damage was occasioned by the culpable neglect or wilful act of such Officer of Customs.

47. No suit or other proceeding shall lie against Our Government or against any Officer of the Government, for any act done, or ordered to be done in good faith, in pursuance of this Act.

No suit or other proceeding shall lie against Our Government, or against any Officer of the Government, for any act done, or ordered to be done, in pursuance of this Act, after the expiry of three months from the accrual of the cause of action.

48. Customs Officers superior in rank to the Officer in charge of a Customs house or Range may exercise the same powers throughout the local area to which they are appointed as may be exercised by such Officer within the limits of his jurisdiction.

49. All Rules made under this Act shall be notified in the Gazette, and shall thereupon have the force of law.

50. Any Notification, made by any authority under powers conferred by this Act, may be cancelled in like manner by same authority.

ACT III OF 1891.

THE BRITISH TELEGRAPH PROTECTION ACT.

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AN ACT FOR THE PROTECTION OF THE BRITISH
TELEGRAPH.

*Passed by His Highness the Maha Raja of Travancore,
on the 15th March 1916 corresponding with the
2nd Meenam 1091, under Section 14
of Act V of 1073.*

Whereas it is expedient to make better provision for
the protection and efficient working
of the British Electric Telegraph in
Travancore ; It is hereby enacted as
follows :—

Preamble.

PART I.

PRELIMINARY.

1. (1) This Act may be called "The British Tele-
graph Protection Act."

Short title, appli-
cation and commen-
cement.

(2) It applies to the whole of
Travancore.

(3) It shall come into force on the
first day of Medom 1091.

2. Act I of 1039 is hereby repealed,

Repeal.

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

Definitions.

(1) 'Telegraph' means an electric, galvanic or
magnetic telegraph, and includes
appliances and apparatus for making,
transmitting or receiving telegraphic
communications by means of electricity, galvanism or
magnetism ;

"Telegraph".

(2) 'Telegraph Officer' means any person em-
ployed either permanently or tem-
porarily in connection with a tele-
graph established, maintained or
worked by the British Government ;

"Telegraph Officer."

Act III of 1091 This Act dated 21-3-1916. This Act is
was passed direct by His based on the lines of the
Highness the Maha Raja and Indian Telegraph Act XIII of
was published in the Gazette 1885.

SEC. 4. BRITISH TELEGRAPH PROTECTION ACT. PART I.

- (3) 'Message' means any communication sent by telegraph, or given to a Telegraph Officer to be sent by telegraph or to be delivered ;
"Message."
- (4) 'Telegraph line' means a wire or wires used for the purpose of a telegraph, with any casing, coating, tube or pipe enclosing the same, and any appliances and apparatus connected therewith for the purpose of fixing or insulating the same;
"Telegraph line."
- (5) 'Post' means a post, pole, standard, stay, strut or other above-ground contrivance for carrying, suspending or supporting a telegraph line;
"Post."
- (6) 'Telegraph authority' means the Director-General of Posts and Telegraphs in British India, and includes any Officer empowered by him to perform all or any of the functions of the telegraph authority under the British Indian Telegraph Act for the time being in force ;
'Telegraph authority."
- (7) 'Local authority' means any Town Improvement Committee or other authority legally entitled to, or entrusted by Our Government with, the control or management of any Town or local fund.
"Local authority "

PART II.

POWER TO PLACE TELEGRAPH LINES AND POSTS

4. The telegraph authority may, from time to time, place and maintain a telegraph line under, over, along or across, and posts in or upon, any immovable property;
Power for telegraph authority to place and maintain Telegraph lines and posts.
Provided that—

- (a) the telegraph authority shall not exercise the powers conferred by this Section except for the purposes of a telegraph established or maintained by the British Government, or to be so established or maintained:

- (b) the British Government shall not acquire any right other than, that of user only in the property under, over, along, across, in or upon which the telegraph authority places any telegraph line or post;
- (c) except as hereinafter provided, the telegraph authority shall not exercise those powers in respect of any property vested in or under the control or management of any local authority, without the permission of that authority; and
- (d) in the exercise of the powers conferred by this Section, the telegraph authority shall do as little damage as possible, and, when it has exercised those powers in respect of any property other than that referred to in Clause (c), shall pay full compensation to all persons interested, for any damage sustained by them by reason of the exercise of those powers.

5. The telegraph authority may, at any time, for the purpose of examining, repairing, altering or removing any telegraph line or post, enter on the property under, over, along, across, in or upon which the line or post has been placed.

Power to enter on property in order to repair or remove telegraph lines or posts.

Provisions applicable to property vested in or under the control or management of local authorities.

6. Any permission given by a local authority under Section 4, Clause (c), may be given

Power for local authority to give permission under Section 4, Clause (c), subject to conditions.

subject to such reasonable conditions as that authority thinks fit to impose, as to the payment of any expenses to which the authority will necessarily be put in consequence of the exercise of the powers conferred by that Section, or as to the time or mode of execution of any work, or as to any other thing connected with or relative to any work undertaken by the telegraph authority under those powers.

SEC. 7. BRITISH TELEGRAPH PROTECTION ACT. PART II.

7. When, under the foregoing provisions of this Act, a telegraph line or post has been placed by the telegraph authority under, over, along, across, in or upon any property vested in or under the control or management of a local authority, and the local authority, having regard to circumstances which have arisen since the telegraph line or post was so placed, considers it expedient that it should be removed or that its position should be altered, the local authority may require the telegraph authority to remove it or alter its position, as the case may be.

Power for local authority to require removal or alteration of telegraph line or post.

8. The telegraph authority may, for the purpose of exercising the powers conferred upon it by this Act in respect of any property vested in or under the control or management of a local authority, alter the position thereunder of any pipe (not being a main) for the supply of gas or water, or of any drain (not being a main drain):

Power to alter position of gas or water pipes or drains.

Provided that—

- (a) when the telegraph authority desires to alter the position of any such pipe or drain, it shall give reasonable notice of its intention to do so, specifying the time at which it will begin to do so, to the local authority, and, when the pipe or drain is not under the control of the local authority, to the person under whose control the pipe or drain is;
- (b) a local authority or person receiving notice under Clause (a) may send a person to superintend the work, and the telegraph authority shall execute the work to the reasonable satisfaction of the person so sent.

9. If any dispute arises between the telegraph authority and a local authority in consequence of the local authority refusing the permission referred to in Section 4, Clause (c), or prescribing any condition under Section 6, or in consequence of the telegraph authority

Disputes between telegraph authority and local authority.

omitting to comply with a requisition made under Section 7, or otherwise in respect of the exercise of the powers conferred by this Act, it shall be determined by Our Government.

Provisions applicable to other property.

10. (1) If the exercise of the powers mentioned in Section 4 in respect of property referred to in Clause (d) of that Section

Exercise of powers conferred by Section 4, and disputes as to compensation, in case of property other than that of a local authority.

is resisted or obstructed, the District Magistrate may, in his discretion, order that the telegraph authority shall be permitted to exercise them.

(2) If, after the making of an order under Sub-section (1), any person resists the exercise of those powers, or having control over the property, does not give all facilities for their being exercised, he shall be deemed to have committed an offence under Section 181 of the Travancore Penal Code.

(3) If any dispute arises concerning the sufficiency of the compensation to be paid under Section 4, Clause (d), it shall, on application for that purpose by either of the disputing parties to the District Judge within whose jurisdiction the property is situate, be determined by him.

(4) If any dispute arises as to the persons entitled to receive compensation, or as to the proportions in which the persons interested are entitled to share in it, the telegraph authority may pay into the Court of the District Judge such amount as he deems sufficient, or, where all the disputing parties have in writing admitted the amount tendered to be sufficient or the amount has been determined under Sub-section (3), that amount; and the District Judge, after giving notice to the parties and hearing such of them as desire to be heard, shall determine the persons entitled to receive the compensation or, as the case may be, the proportions in which the persons interested are entitled to share in it.

(5) Every determination of a dispute by a District Judge under Sub-section (3) or Sub-section (4) shall be final :

SEC. 11. BRITISH TELEGRAPH PROTECTION ACT. PART II

Provided that nothing in this Sub-section shall affect the right of any person to recover by suit the whole or any part of any compensation paid by the telegraph authority from the person who has received the same.

11. (1) When, under the foregoing provisions of this Act, a telegraph line or post has been placed by the telegraph authority under, over, along, across, in or upon any property, not being property vested in or under the control or management of a local authority, and any person entitled to do so desires to deal with that property in such a manner as to render it necessary or convenient that the telegraph line or post should be removed to another part thereof or to a higher or lower level or altered in form, he may require the telegraph authority to remove or alter the line or post accordingly :

Removal or alteration of telegraph line or post on property other than that of a local authority.

Provided that, if compensation has been paid under Section 4 Clause (d), he shall, when making the requisition, tender to the telegraph authority the amount requisite to defray the expense of the removal or alteration, or half of the amount paid as compensation, whichever may be the smaller sum.

(2) If the telegraph authority omits to comply with the requisition, the person making it may apply to the District Magistrate within whose jurisdiction the property is situate to order the removal or alteration.

(3) A District Magistrate receiving an application under Sub-section (2) may, in his discretion; reject the same or make an order, absolutely or subject to conditions, for the removal of the telegraph line or post to any other part of the property or to a higher or lower level or for the alteration of its form ; and the order so made shall be final.

Provisions applicable to all property.

12. (1) If any tree standing or lying near a telegraph line interrupts, or is likely to interrupt, telegraphic communication, a Magistrate of the First or Second Class may, on the application of the telegraph authority, cause the tree to be removed or dealt with in such other way as he deems fit.

Removal of trees interrupting telegraphic communication.

(2) When disposing of an application under Sub-section (1), the Magistrate shall, in the case of any tree in existence before the telegraph line was placed, award to the persons interested in the tree such compensation as he thinks reasonable, and the award shall be final.

13. Every telegraph line or post placed before the passing of this Act under, over, along, across, in or upon any property, for the purposes of a telegraph established or maintained by the British Government, shall be deemed to have been placed in exercise of the powers conferred by, and after observance of all the requirements of, this Act.

Telegraph line and posts placed before the passing of this Act,

14. (1) Any person desiring to deal in the legal exercise of a right with any property in such a manner as is likely to cause damage to a telegraph line or post which has been duly placed in accordance with the provisions of this Act, or to interrupt or interfere with telegraphic communication, shall give not less than one month's notice in writing of the intended exercise of such right to the telegraph authority, or to any Telegraph Officer whom the telegraph authority may empower in this behalf

Person exercising legal right likely to damage telegraph or interfere with telegraphic communication to give notice

(2) If any such person, without having complied with the provisions of Sub section (1), deals with any property in such a manner as is likely to cause damage to any telegraph line or post, or to interrupt or interfere with telegraphic communication, a Magistrate of the First or Second Class may, on the application of the telegraph

SEC. 15 BRITISH TELEGRAPH PROTECTION ACT. PART III

authority, order such person to abstain from dealing with such property in such manner for a period not exceeding one month from the date of his order and forth-with to take such action with regard to such property as may be in the opinion of the Magistrate necessary to remedy or prevent such damage, interruption or interference during such period.

(3) A person dealing with any property in the manner referred to in Sub-section (1), with the *bona fide* intention of averting imminent danger of personal injury to himself or any other human being, shall be deemed to have complied with the provisions of the said Sub-section if he gives such notice of the intended exercise of the right as is in the circumstances possible, or, where no such previous notice can be given without incurring the imminent danger referred to above, if he forthwith gives notice of the actual exercise of such right to the authority or Officer specified in the said Sub-section.

PART III.

PENALTIES.

15. If any person—

Intrusion into signal room, trespass in telegraph office or obstruction.

(a) without permission of competent authority, enters the signal room of a telegraph office of the British Government, or,

(b) enters a fenced enclosure round such a telegraph office in contravention of any rule or notice not to do so, or

(c) refuses to quit such room or enclosure on being requested to do so by any Officer or servant employed therein, or

(d) wilfully obstructs or impedes any such Officer or servant in the performance of his duty,

he shall be punished with fine which may extend to five hundred rupees.

16. If any person does any of the acts mentioned in Section 15 with the intention of unlawfully learning the contents of any message, or of committing any offence punishable under this Act, he may (in addition to the fine with which he is punishable under Section 15) be punished with imprisonment for a term which may extend to one year.

17. If any person, intending—
 Intentionally damaging or tampering with telegraphs. (a) to prevent or obstruct the transmission or delivery of any message, or

(b) to intercept or to acquaint himself with the contents of any message, or

(c) to commit mischief,

damages, removes, tampers with or touches any battery, machinery, telegraph line, post or other thing whatever, being part of or used in or about any telegraph or in the working thereof,

he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

18. If, in any case not provided for by Section 17, any person deals with any property and thereby wilfully or negligently damages any telegraph line or post duly placed on such property in accordance with the provisions of this Act, he shall be liable to pay the telegraph authority such expenses (if any) as may be incurred in making good such damage, and shall also, if the telegraphic communication is by reason of the damage so caused interrupted, be punishable with fine which may extend to one thousand rupees :

Provided that the provisions of this Section shall not apply where such damage or interruption is caused by a person dealing with any property in the legal exercise of a right, if he has complied with the provisions of Section 14, Sub-section (1).

SEC. 19 BRITISH TELEGRAPH PROTECTION ACT. PART III

19. If any Telegraph Officer, or any person not being a Telegraph Officer but having official duties connected with any office which is used as a telegraph office—
Telegraph Officer or other Official making away with or altering or unlawfully intercepting or disclosing messages, or divulging purport of signals.

(a) wilfully secretes, makes away with or alters any message which he has received for transmission or delivery, or

(b) wilfully and otherwise than in obedience to an order of the Governor-General in Council, or a Local Government in India, or of an Officer specially authorised by the Governor-General in Council to make the order, omits to transmit, or intercepts or detains, any message or any part thereof, or otherwise than in pursuance of his official duty or in obedience to the direction of a competent Court, discloses the contents or any part of the contents of any message, to any person not entitled to receive the same, or

(c) divulges the purport of any telegraphic signal to any person not entitled to become acquainted with the same,

he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

20. If any Telegraph Officer transmits by telegraph any message on which the charge prescribed by the Government of India has not been paid, intending thereby to defraud the Government, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.
Telegraph Officer fraudulently sending messages without payment.

21. If any Telegraph Officer, or any person not being a Telegraph Officer but having official duties connected with any office which is used as a telegraph office, is guilty of any act of drunkenness, carelessness or other misconduct whereby the correct transmission or the delivery of any message is impeded or delayed,
Misconduct.

or if any Telegraph Officer loiters or delays in the transmission or delivery of any message,

he shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

22. If any person transmits or causes to be transmitted by telegraph a message which he knows to be false or fabricated, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

Sending fabricated messages.

23. If any person, without due authority,—

(a) makes or issues any document of a nature reasonably calculated to cause it to be believed that the document has been issued by, or under the authority of the Director-General of Posts and Telegraphs in British India, or

Making or issuing unauthorised and false document.

(b) makes on any document any mark in imitation of, or similar to, or purporting to be, any stamp or mark of any telegraph office under the Director-General of Posts and Telegraphs, or a mark of a nature reasonably calculated to cause it to be believed that the document so marked has been issued by, or under the authority of, the Director-General of Posts and Telegraphs.

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

24. If any person fraudulently retains, or wilfully secretes, makes away with or detains a message which ought to have been delivered to some other person, or, being required by a Telegraph Officer to deliver up any such message, neglects or refuses to do so, he shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

Retaining a message delivered by mistake.

SEC. 25. BRITISH TELEGRAPH PROTECTION. PART III.

25. A Telegraph Officer shall be deemed a public servant within the meaning of Sections 153, 154, 155 156 and 157 of the Travancore Penal Code, and in the definition of "legal remuneration" contained in the said Section 153.

26. Whoever attempts to commit any offence punishable under this Act shall be punished with the punishment herein provided for the offence.

Attempts to com-
mit offences.

PROCLAMATION

*by His Highness the Maha Raja of Travancore
issued under date the 30th Mithunom 1091
corresponding with the 13th July 1916.*

Whereas instances of unauthorised conversion of Kandukrishi wet lauds into gardens and building sites as well as other acts causing deterioration of the lands or diminution of their letting value by the holders thereof have been brought to Our notice ;

And whereas such conversions and acts are deemed objectionable and incompatible with the nature of Kandukrishi lands and the conditions of their tenure and holding ;

We are pleased to declare as follows :—

1. No holder of any Kandukrishi *wet* land shall convert such land or any portion thereof into a garden or a building site or a dry land, without the sanction of Our Government in writing previously obtained.

2. No holder of any Kandukrishi land, whether wet garden or dry, shall do any act which directly causes or is likely to cause the deterioration of the land, or diminishes its letting value.

3. If the holder of any Kandukrishi land does any act in contravention of the provisions of the two preceding Sections, it shall be competent to Our Government to impose on the land such prohibitory assessment as Our Government may consider proper, or resume it from the holder and re-lease it to any other person, or to deal with it in any other manner.

4. This Proclamation does not apply to conversions of Kandukrishi *wet* lands made prior to and recognised at the last Revenue Settlement. But every case of unauthorised conversion or deterioration of Kandukrishi land or

The Proclamation was published in the Gazette dated
18th July 1916.

PROCLAMATION.

diminution of its letting value directly or indirectly brought about by the holders thereof subsequent to the Settlement, shall be enquired into and reported to Our Government by the Division Peishkars of the several Divisions with the necessary particulars and it shall be competent to Our Government to deal with such cases in any manner mentioned in the preceding Sections.

5. No Civil suit shall lie against Our Government in respect of anything done in pursuance of this Proclamation.

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LAND CONSERVANCY ACT.

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LAND CONSERVANCY ACT.

AN ACT TO AMEND THE GOVERNMENT LAND CONSERVANCY ACT II OF 1067, AS AMENDED BY ACT I OF 1075 AND II OF 1085.

*Passed by His Highness the Maha Raja of Travancore
on the 24th July 1916 corresponding with the
9th Karkadakom 1091, under Section 13 of
Act V of 1073.*

Whereas it is expedient to consolidate and amend
the law checking the unauthorised
occupation of Government lands ; It
is hereby enacted as follows :—

Year	No.	Short title.	Effect of subsequent legislation
1091	IV	Land Conser- vancy Act.	Amended by Acts V of 1105 and X: IV of 1116.

The earliest legislation on the subject is Act II of 1067. The circumstances that led to the enactment of this law is stated as follows in the Land Revenue Manual, Vol. I Pp. 135-136. "This Regulation was the outcome of certain suggestions made by the Resident and the Madras Government in reviewing the Administration Report for 1063. In para 234 of the report, it was observed:—

"234. According to the established usage of the country, any native may take up a piece of waste land, enclose and plant it, and enjoy the fruits thereof till such time as its reclamation is discovered by the local Revenue officials, or failing them, by the Survey and Settlement Officers. On the discovery being made, enquiries are instituted among the neighbours and assessment

levied at the usual Payattupattom rate, *i. e.*, about a quarter of a rupee per acre, from the time he entered upon possession, and at the free rate from the time the taxable trees came into bearing. * * Many persons seek registry in their names, either before or immediately after taking possession, as by this means they avoid the risk of contesting claims being advanced at a future time and also the liability to pay down in a lump the accumulated arrears of tax. But many again are not so prudent and trust to the chances of the years that may elapse before a discovery is made."

The Resident condemned this system and remarked:—"The system should be at once checked ; nothing but an extraordinary lax conduct of business amongst the Taluk officials

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could admit of the continuance of such a method, and such laxity should not be tolerated, much less encouraged.

There is no necessity that lands should be put up to auction, but prior to occupation the would-be occupant should be compelled to put in an application, and it should be ascertained whether there is any objection to granting permission. If it is feared that the Revenue official staff is not equal to meeting promptly all such applications, some tentative system of granting a provisional permission might be devised."

The Madras Government endorsed this view and said:—"The Government consider that the existing system should be altered, and that a system of application to occupy waste before its occupation is permitted should be substituted for it, as suggested by the Resident."

In pursuance of these suggestions, a Bill was drafted and introduced into the Legislative Council. The mover of the Bill said in his statement of Objects and Reasons:—"There is at present no law regulating the occupancy of waste lands. *This system of unrestricted squatting, while it doubtless facilitates and stimulates the reclamation of waste lands, is nevertheless open to objection as tending to the destruction of valuable trees and giving a premium as it were for deception and fraud. Instances are not wanting of the destruction of valuable forests for purposes

of *malavarom* or hill cultivation. The object of this Bill is to check such mischief without creating any unnecessary difficulty in the way of turning to useful purposes cultivable waste lands which now lie fallow. "

This bill became law as Act II of 1067. It was amended by Acts I of 1075 and II of 1085. By the amendments Government was empowered to authorise any officer by name or by virtue of office to exercise all or any of the powers conferred on a Division Peishkar under the Act and provision was also made with regard to the conservancy of Sreepadom Lands and lands intended for public use maintained by Government lying within private estates and Edavagais. All these were repealed by Act IV of 1091.

Act IV of 1091. Objects and Reasons—(1) "1. The existing Land Conservancy Regulation was passed more than 23 years ago, and though since then there have been two amending Regulations, the Regulation is found to be defective and difficulty is experienced in the practical working of the same.

"2. Government lands are defined to be 'lands at the disposal of Government and which are not registered in the names of private individuals.' 'Lands at the disposal of Government' have not been defined and the negative portion of the definition is not sufficiently exhaustive.

"3. Under the existing Regulation, there is no power of assessment for the whole period

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of occupation and in the case of Poramboke it is doubted whether prohibitory assessment and eviction can both be ordered. Further, the right of Government to refuse registry and to evict the occupant is restricted to cases where the lands are required for Government purposes. This is an unnecessary restriction upon the discretion of Government. These defects have to be cured. It is therefore thought desirable to revise the whole Regulation. * * * S O. & R. T. G. G. dated 25-5-1915.

In introducing the Bill the member in charge explained the scope of the Bill as follows:—“Considerable difficulties having been experienced in the practical working of the Regulation, the opinions of all officers having anything to do with the working of the Land Conservancy Regulation were invited, and their suggestions have as far as possible been adopted. Though the Statement of Objects and Reasons and the notes on the various Clauses explain the nature and scope of the amendments proposed in the Bill, I shall make a few observations on some of the important points connected with the Bill.

“It is at the outset necessary to have a clear idea of what Government lands are. “Government lands” have been defined to mean and include “lands at the disposal of Government.” This expression has not been defined in the Regulation itself; but its meaning is intended to be conveyed by the latter half of the defini-

tion. *viz.*, that they are lands “which are not registered in the name of a private individual.” A private individual does not include a corporation or a company, public or private, incorporated or unincorporated. Registered companies with limited or unlimited liabilities and the Town Improvement Committees are instances of bodies capable of holding properties. The definition as it stands is not therefore exhaustive. The expression “lands at the disposal of the Government” has been more clearly defined in the Forest Regulation. Under that Regulation, they do not include lands which are “the property of landholders such as Jenmis, Devaswoms, or holders of Inam lands and also all holdings of land in any way subject to the payment of land revenue direct to Government” “all other registered holdings of land in proprietary right.” Even this definition does not appear to be very satisfactory. As ordinarily understood, Devaswoms are Jenmis, and there is no reason why Devaswoms should be separately mentioned. Further, it is found that all Edavagais are not jenmom lands as ordinarily understood and they differ from jenmom lands with respect to their origin and incidence (*Vide* Mr. Mahadeva Aiyar's Revenue Manual, Vol. I, Introduction, page xxviii). Again, in the words of the late Mr. Shungrasubba Aiyar, the system of land tenure in Travancore “is based on the Ryotwari principle, *viz.*, the principle of direct settlement with individual ryots.” All

taxes are paid direct to Government and not through intermediate land-holders such as Zemindars in British India. There is therefore no force in the expression "paying land revenue *direct* to Government." There may no doubt be an assignment of revenue by the Government, e, g., Thiruppuvaram payable to others. It cannot be suggested that the definition is intended to cover such cases, for the lands whose revenue is assigned are *subject* to the payment of revenue to Government, and further, such lands should not be omitted from the negative portion of the definition as the Government have no right over such lands. Lastly, the definition in the Forest Regulation does not reserve all rights, of way and other public rights, and natural and other easement rights of other land-owners over Government lands.

"For the reasons stated above it has been found necessary to have a more satisfactory definition of 'Government lands'. The expression "property of Government" was first defined in the Bombay Act V of 1879. and has been subsequently adopted in the Madras Land Encroachment Act, III of 1905. The same has been approved by Our High Court in 20 T. L. R., page 24 at 27. Though the various properties belonging to Government are enumerated in the British Indian Act, the term, "Poramboke" has not been defined in the same. A distinction between Government lands which are Poramboke and those which are not Poramboke has all

along been maintained in Travancore and it has been kept up in the last Settlement. The various properties mentioned in the British Indian Acts are more or less Porambokes. It has therefore been thought desirable to give a general definition of Government lands, following that of "Government property" in the Bombay and Madras Acts, and to enumerate the Porambokes. The definition of "Government lands" is, I believe, a satisfactory one. If there are still any defects in the definition, they may be cured during the further stages of the Bill.

"Again, doubts have arisen as to whether the definition includes what are called Niruthal lands and lands held by right of escheat, purchase, resumption or acquisition. An explanation has therefore been added to Sub-section (1) of Section 3. It is always an important duty of Government to preserve from encroachment the communal lands used or reserved for the purposes or convenience of the villagers. It was with that view that the provisions of the Land Conservancy Regulation were made applicable by Section 15—A of the Regulation to such lands even in private estates. But the limitation to the Section, *viz*, that Government could interfere under the Regulation only if such lands are maintained by the Government, renders the provision inoperative and thus the very object of the Section is defeated. There may be many properties in private estates and Edavagais used or reserved for public purposes and

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yet not maintained by Government. Burning and burial grounds, threshing floors, bathing ghauts, and lanes may not be maintained by Government, and it cannot be denied that it is at the same time absolutely necessary to prevent encroachment on such lands. There may be unscrupulous members of a community who, in utter disregard of the rights of the community and with a view to attain their own advantages at the expense of others, may encroach on such communal lands. This evil practice has existed from the earliest times, and Yajnavalkya lays down that "whoever appropriates what belongs to the community shall be made to forfeit his property and be banished from the realm." The limitation that Government may interfere only if such lands are maintained by the Government is therefore undesirable and unnecessary and the same has been omitted in Sub-section (2) of Section 3 which is only a reproduction of Section 15-A.

"Incorporated Devaswoms have all along been treated as Sirkar property. As doubts may arise on account of the separation of these Devaswom lands from Sirkar Ayacut, consequent on the recent proceedings of the Government and as it is absolutely necessary that occupation of such unassigned Devaswom lands should be dealt with under the Regulation, these lands have also been included under Sub-section (2). Lastly, under the existing Towns Conservancy and Improvement Regulation,

roads, streets, tanks and other properties do not vest in the Town Improvement Committees. A provision will have to be made vesting such properties in the Committees. They have therefore been included in Sub-section (2).

"Passing on to Porambokes, we find in the existing Regulation the expression "connected with public works." The expression "public works" is nowhere defined, and it is not necessary to have the same as distinct from "public purposes." The main test of a Poramboke is that it should be one used or reserved for public purposes. For the reasons already stated, communal lands have been included within the definition of Poramboke. It is not possible to enumerate exhaustively all the Porambokes. Power has therefore been given to the Government to declare any property to be Poramboke for the purposes of this Regulation.

"Considerable difficulty has been experienced in the working of Sections 4 and 5 of the existing Regulation.

"In the first place, there is no provision for the assessment of a Government land for past occupation.

"Secondly, if eviction in the case of a Government land other than Poramboke is thought necessary, it could be done only if it is wanted for Government purposes. Once it is admitted that the property is a Government land, the Government should have power to refuse registry and evict the occupant without assigning any

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reason. There does not, therefore, seem to be any necessity to restrict the rights of Government in dealing with their own property.

"Thirdly, it is doubted whether, in the case of Porambokes, if prohibitory assessment is levied, eviction could also be ordered. In practice, either prohibitory assessment or eviction is ordered, but not both. Prohibitory assessment in the case of Porambokes is only intended as an additional penalty for unauthorised occupation of a Poramboke. The ordinary assessment in such cases may be very little and the levy of the same may not act as a deterrent. This ought not to prevent the Government from evicting the occupant if necessary. These defects are intended to be remedied by Sections 6, 7 and 9. A tenant of Government land unauthorisedly holding over after his term of lease is declared liable under Sections 6, 7 and 9. No doubt a lessee of a land is not a mere licensee but also a grantee for the period covered by the lease. But, if the period of lease expires, he becomes a tenant by sufferance and ceases to be a grantee (*Vide* 24 T. L. R., page 127 at page 130). Though under the British Indian law a private owner, will have to eject such a tenant through a Civil Court, in England the landlord can enter, provided he applies no force. Even in the case of a forcible entry there could only be a criminal prosecution, but not a civil remedy. While thus the English law gives the right of entry to a

private landlord, there is no reason why the Government should not have the right of eviction in such cases. In Halsbury's *Laws of England* it is stated that there can be no tenancy at sufferance against the Crown and that in such a case the person holding over is a mere trespasser. For the above reasons, an explanation has been added to Section 6 declaring the unauthorised occupation of tenants holding over to be liable to penalty under Section 6.

"The Division Peishkar is under Section 9 empowered, in cases of continued obstruction or resistance, to commit the obstructor to custody. This is a new provision. This power is given to the Collector in the Madras Land Encroachment Act. Further, if in execution of a decree the judgment-debtor obstructs delivery, the Court is empowered under the Civil Procedure Code to commit the debtor to custody, as otherwise eviction may not be possible.

"Sections 14 to 16 deal with appeals. Under the existing Regulation all appeals lie to the Dewan. Almost all the Tahsildars have been given the powers of a Division Peishkar under the Regulation, and it is undesirable that appeals from the decision of Tahsildars should lie directly to the Dewan. The Government are therefore empowered to declare that an appeal from the decision of any Officer empowered under the Regulation should lie to the Division Peishkar. There is no second appeal from the decision of the

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Division Peishkar, but the Dewan has a right of revision.

"To sum up, the main features of the new Bill are :—

(1) all property which does not belong to anybody else is Government property ;

(2) Niruthal and other lands held by right of escheat or otherwise have been declared to be Government lands ;

(3) lands used or reserved for communal purposes within the limits of private estates, even though they are not maintained by Government, are declared to be Poramboke;

(4) the Government have been given the power to declare any Government land as Poramboke ;

(5) Kuthakapattom and other tenants holding over may be evicted ;

(6) the Division Peishkar has the power to fine in all cases of unauthorised occupation ;

(7) he can levy assessment or prohibitory assessment for the whole period of occupation in the case of Government land or Poramboke ;

(8) he can evict the occupant even though assessment or prohibitory assessment is levied ;

(9) he can commit an occupant to custody in case of continued obstruction or resistance ;

(10) the Government have the power to frame Rules under the Regulation ;

(11) if Officers other than Division Peishkars are empowered to take action under the Regulation, the Government

have the power to direct that appeals from their decisions shall lie to the Division Peishkar ; and

(12) there is no second appeal from the Peishkar's decision, the right of the Dewan to revise such proceedings, if necessary, being reserved." L. C. P. dated 21-6-1915.

The Report of the Select Committee was published on 24-8-1915.

For legislative proceedings see *T. G. G. dated 6-7-1915 ; 5-10-1915 and 18-7-1916.*

The Act was published in *T. G. G. dated 1-8-1916.*

Act v of 1105. Objects and Reasons,—"The office of the Land Revenue and Income-Tax Commissioner has been in existence now for some time. It is now proposed to give the holder of that office appellate and revisional authority in respect of decisions and orders of officers subordinate to him. This is only fitting considering his position as the Head of the Land Revenue and Income-Tax Departments and would bring him into line as regards powers with Heads of Departments and will at the same time reduce the number of appeals and revision petitions that go up to the Dewan for disposal. The revisional powers of the Dewan are, however, proposed to be retained so as to enable him to interfere and give the ultimate decision when such interference seems called for. With this object amendments to Section 14 of the Regulation are proposed by this Bill, and advantage taken of the occasion to re-

1, (1) This Act shall be called the "Land Conservancy Act of 1091."

Short title, extent and commencement.

(2) It applies to the whole of Travancore.

(3) It shall come into force on the 1st Chingom 1092.

2. Act II of 1067, as amended by Act I of 1075 and by Act II of 1085, is hereby repealed.

Repeal and saving. But such repeal shall not affect any right or privilege acquired or liability incurred under the said Acts.

3. (1) All public roads, streets, lands and paths, the bridges, ditches, dykes, and fences
"Property of Government" defined. on or beside the same ;

the bed of the sea and of harbours and creeks below high-water mark ;

the beds and banks of rivers, streams, irrigation and drainage channels, canals, tanks, lakes, back-waters and water-courses ;

all standing and flowing water :

and all lands, wheresoever situated ;

save in so far as the same are the property of—

(a) proprietors of Edavagais or Jennis or holders of Inams or any person claiming through or holding under any of them ; or

(b) all holders of lands in any way subject to the payment of land revenue to Government ; or

(c) any other registered holder of land in proprietary right ; or

arrange and number the several sub-Sections and paragraphs of that Section."—S. O. & R., T. G. G. dated 23-4-1929.

For Report of the Select Committee see T. G. G. dated 23-7-1929.

For legislative proceedings see L. C. P. Vol. XIV Pp. 474-475, Vol. XVI Pp. 22 and 532.

The Act was published in T. G. G. dated 10-6-1913.

Act XXIV of 1116. This was passed direct by His Highness the Maha Raja consequent on the abolition of the office of the Land Revenue and Income-tax Commissioner. The Act was published in T. G. G. dated 15-7-1941.

- (d) any person holding land under grant from Government otherwise than by way of license ;

are, and are hereby declared to be, the property of Government, except as may be otherwise provided by any law for the time being in force, subject to all rights of way and other public rights and to the natural and easement rights of other land-owners and to all customary rights legally subsisting.

Explanation I—Lands once registered in the name of a person but subsequently abandoned or relinquished, and all lands held by right of escheat, purchase, resumption, reversion or acquisition under Act XI of 1089, are the property of Government within the meaning of the Section.

Explanation II—In this Section, the expression high water mark means the highest point reached by the ordinary spring tide at any season of the year.

Explanation III—Land in excess of the registered measurement or extent, but lying within the specified boundaries of a registered land, does not fall within this definition.

(2) All unassessed lands within the limits of Edavagais and private estates used or reserved for public purposes or for the communal use of villagers, all unassigned lands belonging to an incorporated Devaswom and all public roads and streets which may become vested in any local authority, shall for the purpose of this Act be deemed to be the property of Government.

4. (1) "Poramboke" shall mean and include unassessed lands, which are the property of Government under Section 3 (1) or (2), used or reserved for public purposes or for the communal use of villagers, such as,—

(a) all public roads, streets, lanes, pathways, the bridges, ditches, dykes and fences on or beside the same ;

(b) the beds and banks of rivers, irrigation and drainage channels, traffic canals, tanks, lakes, backwaters and watercourses;

- (c) markets, burial grounds, landing ghauts, and
- (d) all other property which Our Government may, for the purpose of this Act, from time to time, declare to be Poramboke

(2) 'Occupant shall mean a person actually in possession of a land which is the property of Government.

"Occupant" defined.

5. From and after the commencement of this Act, it shall not be lawful for any person to occupy a land which is the property of Government, whether a Poramboke or not, without permission from Our Government or such Officer of Government as may be empowered in this behalf.

Land which is the property of Government not to be occupied without permission.

6. Whoever occupies a land which is the property of Government, whether Poramboke or not, contrary to Section 5, shall be liable to pay such fine not exceeding two hundred rupees as may be imposed by the Division Peishkar.

Punishment for unauthorisedly occupying a land which is the property of Government.

Explanation—A tenant unauthorisedly holding over after the expiry of his term of lease is liable to a fine within the meaning of this Section.

7. (1) Any person unauthorisedly occupying a land which is the property of Government other than a Poramboke and liable to pay a fine under Section 6 shall, in addition, be liable to pay by way of assessment for the whole period of his occupation such amount

Levy of assessment on lands which are the property of Government unauthorisedly occupied.

as may be fixed by the Division Peishkar in accordance with the rate that may be prescribed by the Government from time to time in this behalf.

(2) Any person unauthorisedly occupying a Poramboke and liable to pay a fine under Section 6 shall, in addition, be liable to pay such prohibitory assessment for the whole period of occupation as may be imposed by the Division Peishkar.

Levy of prohibitory assessment on Poramboke unauthorisedly occupied.

Payment of assessment under Sub-section (1) or prohibitory assessment under Sub-section (2) shall not confer any right of occupancy, and the liability to pay such assessment shall cease from the date on which the land concerned is relinquished.

8. Any person unauthorisedly occupying any land which is the property of Government, whether a Poramboke or not, and liable to a fine under Section 6, shall, in addition to the assessment or prohibitory assessment to which he may be liable under Section 7, be liable for the value, as adjudged by the Division Peishkar, of any useful tree destroyed or appropriated by him.

Liability of unauthorised occupant for trees destroyed or appropriated.

9. Any person unauthorisedly occupying any land for which he is liable to pay a fine under Section 6 and an assessment or prohibitory assessment under Section 7, may be summarily evicted by the Division Peishkar, and any crop or other product raised on the land shall be liable to forfeiture and any building or other structure erected or anything deposited thereon shall also, if not removed by him after such written notice as the Division Peishkar may deem reasonable, be liable to

Liability of unauthorised occupant to summary eviction, forfeiture of crops, etc.

Sec. 9. In regard to the vesting of power to commit the obstructor to prison the Notes on clauses says as follows:—

“In case of continued resistance or obstruction, the Division Peishkar is empowered to commit the occupant to custody. This provision is found in all

the British Indian Acts. Further, in execution of civil decrees, if the judgment debtor obstructs delivery of possession the Court is empowered to commit him to custody. It is but desirable that the Division Peishkar should have a similar power.” S. O. & R.

forfeiture. Forfeiture under this Section shall be adjudged by the Division Peishkar and any property so forfeited shall be disposed of as the Division Peishkar may direct.

An eviction under the Section shall be made in the following manner, namely:—By serving a notice on a person reputed to be in occupation or his agent, requiring him, within such time as the Division Peishkar may deem reasonable after receipt of the said notice to vacate the land, and if such notice is not obeyed, by removing or deputing a subordinate to remove any person who may refuse to vacate the same, and, if the Officer removing any such person shall be resisted or obstructed by any person, the Division Peishkar shall hold a summary enquiry into the facts of the case and, if satisfied that the resistance or obstruction still continues, may issue a warrant for the arrest of the said person, and on his appearance may send him with a warrant in the form of the Schedule for imprisonment in the Civil Jail of the District for such period not exceeding 30 days as may be necessary to prevent the continuance of such obstruction or resistance :

Provided that no person so committed or imprisoned under this Section shall be liable to be prosecuted under Sections 179, 179 and 181 of the Travancore Penal Code, in respect of the same facts.

10. The Division Peishkar shall, before passing an order under this Act, give notice to the occupant or other person likely to be affected by the order, and record any statement which such occupant or person may make and any evidence which he may adduce within a reasonable time; and all orders passed by a Division Peishkar under this Act shall be in writing and under his hand.

The Division Peishkar may require any subordinate Officer not below the rank of a Deputy Tahsildar to hold the enquiry as prescribed in Para I of this Section and submit the record to him. On such record the Division Peishkar may pass orders.

For the purpose of Section 193 of the Penal Code, the proceedings taken by a Division Peishkar under this Section shall be deemed to be judicial proceedings.

11. Our Government may make Rules or orders, either generally or in any particular instance.—
 Power to make Rules.

- (a) regulating the rates of assessment under Section 7 (1) ;
- (b) regulating the imposition of prohibitory assessment under Section 7 (2) ;
- (c) declaring that any particular land or class of lands shall not be open to occupation ;
- (d) regulating the service of notices under this Act ; and
- (e) generally to carry out the provisions of this Act.

Such general Rules or orders shall be made only after previous publication in Our Government Gazette.

12. All fines, assessments and prohibitory assessments, damages for trees destroyed or appropriated, and all costs of eviction and removal of encroachments, shall be recovered as arrears of land revenue under the provisions of the Revenue Recovery Act for the time being in force.
 Recovery of fines, assessment etc. as arrears of land revenue.

13. Our Government may, by Notification in Our Government Gazette, authorise any Officer by name or by virtue of his office to exercise all or any of the powers conferred on a Division Peishkar under this Act.
 Officers to exercise powers of division Peishkar.

[14.] [* * *]

Sec. 14. Section 2 Act V of 1105 substituted the section. As originally enacted the section read, as follows:—

“ 14. *Appeal and revision.*
 (1) An appeal shall lie to the Dewan from any decision or order of a Division Peishkar passed under this Regulation.

[(1)] Our Government may, by Notification in Our Government Gazette, direct that Appeal and revision. an appeal from the decision or order of any officer empowered under Section 13 shall lie to the Division Peishkar.

[(2)] No order shall be passed in appeal without previous notice to the party to be affected by such order.

[(3)] There shall be no appeal against the decision or order passed in appeal [* * *] by the Division Peishkar.

[(4)] It shall be lawful for the Dewan [* * *] to revise any decision or order passed by any subordinate officer under this Act :

Provided that no order setting aside or modifying the subordinate officer's decision or order shall be passed without giving previous notice to the party to be affected thereby.

Explanation. [* * *]

[(5)] Pending disposal of any appeal or revision petition under this Act the appellate authority or the

Our Government may direct that an appeal from the decision of any Officer empowered under Section 13 shall lie to the Division Peishkar :

Provided, however, that there shall be no appeal to the Dewan from the decision or order of a Division Peishkar passed on appeal :

Provided also that it shall be lawful for the Dewan to revise such appellate decision or order if he thinks fit.

(2) Pending disposal of any appeal under this Regulation, the appellate authority may suspend the execution of the order appealed against.

(3) No order shall be passed in appeal or revision without previous notice to the party to be affected by such order."

In the section so substituted, Sec. 2, Act XXIV of 1116 made the following amendments.

(1) Sub-section (1) *viz.*, " An appeal shall lie to the Land Revenue and Income-Tax Commissioner from any decision or order of a Division Peishkar passed under this Regulation " was deleted and Sub-sections (2) to (6) were re-numbered as Sub-sections (1) to (5) respectively.

(2) In Sub-clause [(3)] the words " by the Land Revenue or Income Tax Commissioner or " were deleted.

(3) In Sub-clause [(4)] the words " or the Land Revenue or Income-Tax Commissioner " as also the explanation *viz.*, " Any decision or order of the Land Revenue and Income-Tax Commissioner also may be revised by the Dewan " were deleted.

SEC. 15. LAND CONSERVANCY ACT.

revisional authority, as the case may be, may suspend the execution of the order appealed or petitioned against.]

15. No appeal shall be brought after the expiration of 60 days from the date of the decision or order complained of, provided that, in computing the period of 60 days, the time required to obtain a copy of the decision or order appealed against shall be excluded, but the appeal may be admitted after the period hereby prescribed when the appellant satisfies the authority to whom he appeals that he had sufficient cause for not preferring the appeal within the period prescribed.

16. Every petition of appeal under this Act shall be accompanied by the decision or order appealed against or by an authenticated copy of the same.

17. Nothing contained in this Act shall be construed as exempting any person unauthorisedly occupying land from liability to be proceeded against under any other law for the time being in force :

Provided that, if any penalty has been levied under Section 6 or 7 of this Act, no similar penalty shall be levied from him under any other law in respect of such obligation.

18. No suit against Government shall be entertained in any of Our Civil Courts in respect of any order passed under this Act except upon the ground that the land in respect of which such order has been passed is not a land which is the property of Government whether a Poramboke or not :

Provided that Civil Courts shall not take cognizance of any such suit unless it shall be instituted within one year from the date on which the cause of action arose.

Sec. 17. With regard to this the Notes on clauses says "An unauthorised occupant may be liable under the Forest Regulation also. Hence the necessity for the clause."

SCHEDULE.

Form of warrant to be issued by the Division Peishkar under Section 9.



To

The Officer in charge of the Civil Jail at.....

Whereas A. B. of.....has resisted or obstructed C. D. in removing E. F. (or himself that is, the said A. B.) from certain land in the Pakuthi of.....in the.....Taluk, and whereas it is necessary, in order to prevent the continuance of such obstruction or resistance, to commit the said A. B. to close custody; You are hereby required under the provisions of Section 9 of the Government Land Conservancy Act, IV of 1091, to receive the said A. B. into the Jail under your charge and there to keep him in safe custody for.....days.

Dated this.....day of.....

(Signature of Division Peishkar.)

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ACT V OF 1091.

GLANDERS AND FARCY ACT.

CONTENTS.

Preamble.

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The figures on the right refer to the corresponding Sections of the Indian Glanders and Farcy Act XIII of 1899.

AN ACT PROVIDE FOR THE PREVENTION OF GLANDERS
AND FARCY AMONG HORSES.

*Passed by His Highness the Maha Raja of Travancore
under date the 24th July 1916 corresponding
with the 9th Karkatakam 1091, under
Section 13 of Act V of 1073.*

Whereas it is expedient to provide for the prevention
of glanders and farcy among horses ;
Preamble. It is hereby enacted as follows :—

1. (1) This Act may be called the "Glanders and
Farcy Act of 1091"

Short title, extent
and commencement. (2) It extends to the whole of Travancore.

(3) It shall come into force on the
1st Chingom 1092.

2. (1) In this Act, unless there is anything repugnant
in the subject or context, "Diseased"
Definition of means affected with glanders or farcy
"Diseased." or any other dangerous epidemic
disease among horses which Our

Government may, by Notification in Our Government
Gazette, specify in this behalf.

The first enactment on the
subject was Act I of 1081.
Being passed as an emergent
measure under Section 15 of
the Legislative Council Act V
of 1073, it was in force only for
a period of six months Act V
1091. This modelled on the
lines of the Indian Act XIII of
1899. *Objects and Reasons.*
"In the existing state of
knowledge, the disease of glan-
ders and farcy is considered
to be incurable. The animals
that are subject to it are not
only a source of danger to other
animals but are also capable of
transmitting the disease to
human beings. It is thought

desirable to provide for the con-
trol of such a contagious dise-
ase. A Bill on the lines of the
Glanders and Farcy Act of 1899
has therefore been drafted"—
S. O. & R., T. G. G. dated
10-8-1915.

The Select Committee Re-
port was published on 2-11-1915.

For legislative proceedings
see T. G. G. dated 5-10-1915.
13-12-1915 and 18-7-1916.

The Act was published in
T. G. G. dated 1-8-1916.

Sec, 2. The Indian Act
makes the provisions of the Act
applicable to camels asses and
mules.

(2) The provisions of this Act relating to horses shall apply also to asses, mules and jennets

3. Our Government may, by Notification in Our Government Gazette, apply this Act or any provision of this Act, so far as all or any of the diseases mentioned in, or specified in a Notification under Section 2, Sub-Section (1), are concerned, to any local area, to be specified in such Notification, within Travancore.

Application of Act to local areas by Government.

4. (1) When this Act has been so applied to a local area, Our Government may, by Notification in Our Government Gazette, appoint such persons as they think fit to be Inspectors under this Act and to exercise and perform, within the whole of the local area or such portions thereof as they may prescribe, the powers conferred and the duties imposed by this Act on such Officers.

Government to appoint Inspectors.

(2) Every person so appointed shall be deemed to be a public servant within the meaning of the Penal Code (Act I of 1074)

5. Within the local limits for which he is so appointed, any such Inspector as aforesaid may, subject to such Rules as Our Government may make in this behalf, enter and search any field, building or other place for the purpose of ascertaining whether there is therein any horse which is diseased.

Power of entry and search.

6. Within such limits as aforesaid, the Inspector may seize any horse which he has reason to believe to be diseased.

Power of seizure.

7. (1) On any such seizure as aforesaid, the Inspector shall cause the horse seized to be examined as soon as possible by such Veterinary Practitioner as Our Government may appoint in this behalf:

Horse to be examined by Veterinary Practitioner.

Provided that, when the Inspector is also a Veterinary Practitioner so appointed, he may make the examination himself.

(2) For the purposes of the examination, the Veterinary Practitioner may submit the horse to any test or tests which Our Government may prescribe.

8. (1) If the Veterinary Practitioner certifies in writing that the horse is diseased, the Inspector shall cause the same to be immediately destroyed :
 Horse to be destroyed if found diseased : Otherwise restored.
 Provided that, in the case of any disease other than glanders, or farcy, horses certified to be diseased as aforesaid may, subject to any Rules which Our Government may make in this behalf, be either destroyed or otherwise treated or dealt with as the Veterinary Practitioner may deem necessary.

(2) If, after completing the examination, the Veterinary Practitioner does not certify that the horse is diseased, the Inspector shall at once deliver the same to the person entitled to the possession thereof.

9. (1) When any diseased horse has been in any building, shed or other enclosed place, or in any open lines, the Inspector may issue a notice to the owner of the building, shed, place or lines, or to the person in charge thereof, directing him to have the same disinfected and the internal fittings thereof or such other things found therein or near thereto as Our Government may by Rules prescribe, destroyed.

(2) On the failure or neglect of such owner or other person as aforesaid to comply with the notice within a reasonable time, the Inspector shall cause the building, shed, place or lines to be disinfected and the fittings or other things to be destroyed, and the expense, if any, thereby incurred may be recovered from the owner or other person, as if it were a fine.

10. The owner or any person in charge of a diseased horse shall give immediate information of the horse being diseased to the Inspector or to such authority as Our Government may appoint in this behalf.

Owner or person in charge of diseased horse to give notice.

11. No person in charge of any horse which has been in the same field, building or place as, or in contact with, a diseased horse, shall remove such horse except in good faith for the purpose of preventing infection, or under a license to be granted by the Inspector and subject to the conditions of the license.

Prohibition against removal, without license, of horse which has been with diseased horse.

12. (1) Whoever, being an Inspector appointed under this Act, vexatiously and unnecessarily enters or searches any field, building or other place, or seizes or detains any horse on the pretence that it is diseased, 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.

Vexatious entries, searches and seizures.

(2) No prosecution under this Section shall be instituted after the expiry of three months from the date on which the offence has been committed.

13. Whoever refuses or neglects to comply with any notice issued by the Inspector under Section 9, or removes any horse in contravention of Section 11, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Penalty for refusing to comply with notice under Section 9, or for removing horse contrary to Section 11.

14. (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 as aforesaid may—

(a) regulate entries, searches and seizures by Inspectors under this Act;

- (b) regulate the use of tests and the isolation of horses subjected thereto, and provide for recovering the expenses of detaining, isolating and testing horses from the owners or persons in charge thereof as if it were a fine ;
- (c) regulate the destruction or treatment, as the case may be, of horses certified under Section 8 to be diseased, and the disposal of the carcasses of diseased horses ;
- (d) regulate the disinfecting of buildings and places in which diseased horses have been, and prescribe what things found therein or near thereto shall be destroyed ; and
- (e) regulate the grant of licenses under Section 11 and the conditions on which those licenses shall be granted.

(3) All Rules under this Section shall be published in Our Government Gazette, and, on such publication, shall have effect as if enacted by this Act.

(4) In making any Rule under this Section, Our Government may direct that a breach of it shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

15. Any Veterinary Practitioner may be appointed by Our Government to be both Inspector and Veterinary Practitioner for all or any of the purposes of this Act or of any Rule thereunder.

Appointment of same person to be both Inspector and Veterinary Practitioner.

16. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Protection to persons acting under Act.

Act VI OF 1091

AN ACT TO AMEND THE GAME AND FISH PROTECTION ACT, XII OF 1089.

*Passed by His Highness the Maha Raja of
Travancore, on the 24th July 1916 corresponding
with the 9th Karkatakam 1091, under Section 13
of Act V of 1073.*

Whereas it is expedient to amend the Game and Fish Protection Act, XII of 1089; It is hereby enacted as follows:—

1. Section 9, Sub-section (a).

Add 'or by any other person authorised in this behalf, by name or in virtue of his office, by Our Government' after 'Forest Officer.'

2. Section 10, Sub-section (b).

Add 'or by any other person authorised in this behalf, by name or in virtue of his office, by Our Government' after 'Ranger'.

3. Section 17, line 4.

Insert 'by name or in virtue of his office' between 'behalf' and 'by'.

4. Section 18, Sub-section (1), line 6.

Insert 'by name or in virtue of his office' between 'behalf' and 'by'.

ACT II OF 1092.

CHRISTIAN SUCCESSION ACT.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. This Act to constitute the law of Travancore in all cases of intestate succession among Indian Christians.
3. Succession to property of Marumakkathayam Christians and certain intestacies not affected.
4. (1) Power of Government to exempt from the operation of the whole or any part of this Act any individual or the members of any sect, race or tribe.
(2) Power of Government to extend the operation of the whole or any part of this Act to any individual or the members of any sect, race or tribe.
(3) Power to revoke any such order or orders of exemption or extension.
5. Interpretation-Clause.
 "will."
 "Streedhanom."
 "Son" "Daughter" and other words expressing relationship.
6. Interests and powers not acquired nor lost by marriage.
7. Law regulating succession to deceased person's immovable and movable property.
8. "Kindred" or "Consanguinity."
9. "Lineal consanguinity."
10. "Collateral consanguinity."
11. Mode of computing degrees of kindred.
12. Persons held for the purpose of succession to be similarly related to the deceased.
13. No distinction between self-acquisition and ancestral property or between man's property and woman's property.
14. As to what property deceased considered to have died intestate.

CHRISTIAN SUCCESSION ACT.

SECTIONS.

15. Devolution of such property.
 16. Widow co-existing with deceased's children.
 17. Widow co-existing with the intestate's father or mother or paternal grand-father or any lineal descendants of his father or such grandfather.
 18. Other cases.
 19. Right of widower and widow.
 20. Mother with the intestate's descendants or his father.
 21. Mother co existing with intestate's father's descendants.
 22. Mother co-existing with intestate's grandfather or his descendants.
 23. Mother co-existing with more distant kindred.
 24. Widow or mother has only a life-interest terminable at death or re-marriage over any immovable property to which she may become entitled under Sections 16, 17, 21 and 22.
 25. Order of succession.
 26. The lineal descendants of a deceased heir are allowed to represent such heir.
 27. Males to take equally among themselves and females to take equally among themselves.
 28. The shares of sons in group (1) of Section 25.
Daughter's Streedhanom and its value.
Female heirs who were paid Streedhanom to be ordinarily left out of consideration.
 29. Certain other female heirs to take only in the absence of male heirs in the respective groups.
 30. Sections 24, 28 and 29 not applicable to certain classes of Roman Catholic and Protestant Christians.
 31. Mode of distribution in the absence of the widow, mother or the kindred enumerated in Section 25.
 32. Escheat.
 33. Children's advancement not brought into hotch-pot.
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ACT II OF 1092.

AN ACT, TO CONSOLIDATE AND AMEND THE RULES OF LAW APPLICABLE TO INTESTATE SUCCESSION AMONG INDIAN CHRISTIANS IN TRAVANCORE.

*Passed by His Highness the Maha Raja of Travancore
on the 21st December 1916 corresponding with the
7th Dhanu 1092, under Section 13 of
Act V of 1073.*

Whereas it is expedient to consolidate and amend
the rules of law applicable to inte-
state succession among Indian
Christians in Travancore: We are
pleased to enact as follows:—

1. This Act may be called "The Christian Succession
Short title. Act".

Act II of 1092.—Objects and Reasons. "The law of intestate succession among the various sections of Indian Christians in Travancore is vague and unsettled. The High Court have been complaining about the unsatisfactory state of the law among Christians. Repeated representations were made by Christian representatives about the desirability of enacting a law of succession. The necessity for legislation has therefore long been felt.

"The usages of the various sections of the Christian community do not agree in all respects. Separate legislation for the various sections of Christians is neither desirable nor practicable and is likely to lead to much litigation and trouble. It is therefore thought necessary to enact a common law for all the various sections of Indian Christians.

"There are some Christians in the State who are Maru-

makkathayees. These are excluded from the operation of this Bill.

"The Bill is drafted on the lines of the Indian Succession Act with such alterations as are considered necessary in the interests of the various sections of Indian Christians in Travancore.

"The various alterations and the necessity therefor are stated at length in the Report of the Christian Committee and it is therefore unnecessary to detail them here." S. O. & R., T. G. G. dated 15-4-1913.

The report of the Christian Committee above referred to was published in T. G. G. dated 27-8-1912.

For legislative Proceedings See T. G. G. dated 4-4-1913; 17-6-1913; 6-7-1915, 1-2-1916 and 23-1-1917.

The Act was published in T. G. G. dated 26-12-1916-

2. Except as provided in this Act, or by any other law for the time being in force, the

This Act, to constitute the law of Travancore in all cases of intestate succession among Indian Christians.

rules herein contained shall constitute the law of Travancore applicable to all cases of intestate succession among the members of the Indian Christian community.

3. The provisions of this Act shall not apply to intestate succession to the property of

Succession to property of Marumakkathayam Christians and certain intestacies not affected.

such members of the Indian Christian community as follow the Marumakkavazhi system of inheritance: nor shall they apply to any intestacy occurring before the date on which

this Act comes into force.

4. Our Government shall, from time to time, have power, by an order, either retrospectively from the passing of this Act or prospectively.—

(1) to exempt from the operation of the whole or any part of this Act any individual or

Power of Government to exempt from the operation of the whole or any part of this Act, any individual or the members of any sect, race or tribe.

the members of any sect, race or tribe, to whom Our Government may consider it undesirable or inexpedient to apply the provisions of this Act or part of this Act mentioned in the order ;

(2) to extend the operation of the whole or any part of this Act to any individual or the

Power of Government to extend the operation of the whole or any part of this Act to any individual or the members of any sect, race or tribe.

members of any sect, race or tribe, to whom Our Government may consider it desirable or expedient to apply the provisions of this Act or the part of this Act mentioned in the order ; and

(3) to revoke such order or orders, but not so that the revocation shall have any retrospective effect.

Power to revoke any such order or orders of exemption or extension.

All orders made under this Section shall be published in the Government Gazette.

5. 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, and includes a codicil :

“Streedhanom” means and includes any money or ornaments, or, in lieu of money or ornaments, any property, movable or immovable, given or promised to be given to a female or, on her behalf, to her husband or to his parent or guardian by her father or mother, or after the death of either or both of them, by any one who claims under such father or mother, in satisfaction of her claim against the estate of the father or mother :

The terms “Son”, “Daughter”, “Brother”, “Sister”, “Lineal descendant” or any other word expressing relationship must be understood only as denoting a legitimate relative.

When owing to any physical defect or deformity it is not possible to ascertain the sex of any of the heirs to an intestate, such heir shall, for the purposes of this Act, be treated as a female.

6. No person shall, by marriage, acquire any interest in the property of the person whom he or she marries, nor become incapable of doing any act in respect of his or her own property which he or she could have done, if unmarried.

7. Succession to the immovable property situated in Travancore and belonging to a member of the Indian Christian community is regulated by this Act, wherever he may have had his domicile at the time of his death.

Law regulating succession to deceased person's immovable and movable property.

Succession to the movable property of a person deceased is regulated by the law of the country in which he had his domicile at the time of his death.

SEC. 8. CHRISTIAN SUCCESSION ACT.

8. "Kindred" or "Consanguinity" is the connection or relation of persons descended from the same stock or common ancestor.

"Kindred" or "Consanguinity."

9. "Lineal consanguinity" is that which subsists between two persons, one of whom is descended in a direct line from the other, as between a man and his father, grandfather and great-grandfather, and so upwards in the direct ascending line, or between a man, his son, grandson, great-grandson and so downwards in the direct descending line.

Every generation constitutes a degree, either ascending or descending.

A man's father is related to him in the first degree, and so likewise is his son; his grand-father and grandson, in the second degree, his great-grandfather and great-grandson, in the third.

10. "Collateral consanguinity" is that which subsists between two persons who are descended from the same stock or ancestor, but neither of whom is descended in a direct line from the other.

"Collateral consanguinity."

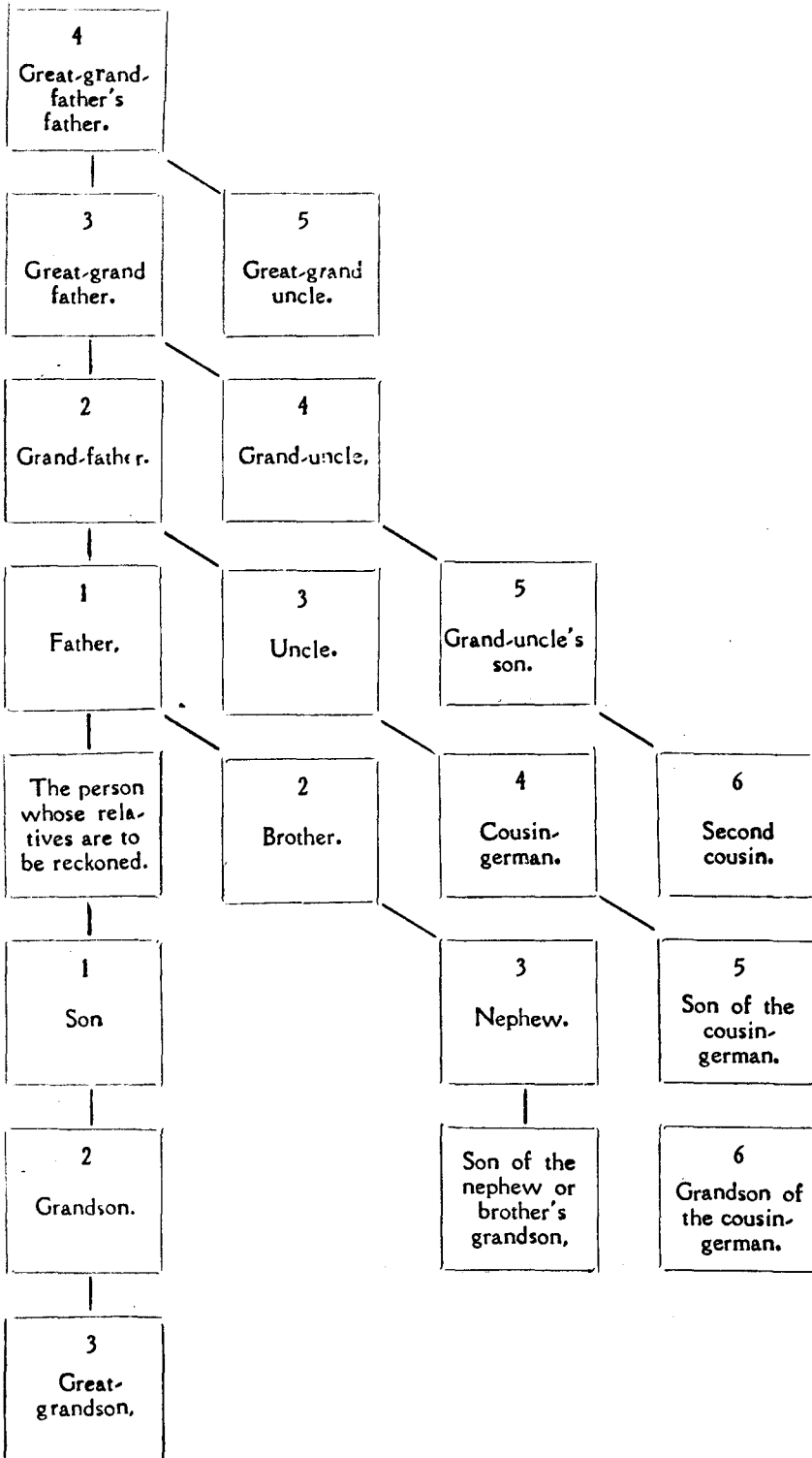
For the purpose of ascertaining in what degree of kindred any collateral relative stands to a person deceased, the reckoning shall be made upwards from the person deceased to the common stock or ancestor, and then downwards to the collateral relative allowing a degree for each person both ascending and descending.

11. In the annexed Table of kindred, the degrees are computed as far as the sixth and are marked by numeral figures. The person whose relatives are to be reckoned and his cousin-german or first cousin are as shown in the Table, related in the fourth degree, there being one degree of ascent to the father and another to the common ancestor, the grandfather, and from him one of descent to his uncle and another to the cousin-german, making in all four degrees.

A grand-uncle's son and a great-grand-uncle are of the same degree, being each five degrees removed.

ACT II OF 1092.

TABLE OF CONSANGUINITY



SEC. 12. CHRISTIAN SUCCESSION ACT.

12. For the purpose of succession, there is no distinction between those who have been or are actually born at the time of the deceased person's death, and those who, at the time of his death, were only conceived but who have subsequently been born alive. Nor is there, except when otherwise expressly provided for, any distinction between those who are related to him by the full-blood and those who are related to him by the half-blood.

13. For the purpose of succession, there is no distinction between self-acquired property and ancestral property, or between the property of a male and that of a female.

No distinction between self-acquisition and ancestral property or between man's property and woman's property.

14. A man is considered to die intestate in respect of all property of which he has not made a testamentary disposition which is capable of taking effect.

As to what property deceased considered to have died intestate.

Illustrations.

- (a) A has left no Will. He has died intestate in respect of the whole of his property.
- (b) A has left a Will whereby he has appointed B his executor; but the Will contains no other provisions. A has died intestate in respect of the distribution of his property.
- (c) A has bequeathed his whole property for an illegal purpose. A has died intestate in respect of the distribution of his property.
- (d) A has bequeathed Rs. 1,000 to B and Rs. 1,000 to the eldest son of C and has made no other bequest; and has died leaving the sum of Rs. 2,000 and no other property. C died before A without having ever had a son. A has died intestate in respect of the distribution of Rs. 1,000.

15. Such property devolves upon the wife or husband or upon those who are of the kindred of the deceased in the order and according to the rules herein prescribed.

Devolution of such property.

16. Where the intestate has left a widow, if he has also left lineal descendants, a share equal to that of a son shall be allotted to her :

Widow co existing with the deceased's children.

Provided, however, when the lineal descendants of the deceased consist only of his daughters or the descendants of any deceased daughter or daughters, the widow's share shall be equal to that of a daughter.

17. If the intestate has left no lineal descendants, but has left his father or mother, or paternal grandfather or any lineal descendants of his father or such grandfather, one-half of the intestate's property shall be allotted to his widow.

Widow co existing with the intestate's father or mother or paternal grandfather or any lineal descendants of his father or such grandfather.

18. If the intestate has left none of the kindred referred to in Sections 16 and 17, his widow shall be entitled to the whole of his property.

Other cases

19. The husband surviving his wife has the same rights in respect of her property if she dies intestate, as the widow has in respect of her husband's property if he dies intestate

Right of widower and widow.

20. When the intestate has left his mother, if he has also left any lineal descendants or father, the mother shall not be entitled to any share in the deceased's property.

Mother with the intestate's descendants or his father-

21. When the intestate has left neither lineal descendants, nor father, but has left lineal descendants of the father, a share equal to that of a brother of the intestate shall be allotted to his mother :

Mother co-existing with intestate's father's descendants.

Provided, however, that when the lineal descendants of the intestate's father consist only of daughters or the lineal descendants of a deceased daughter or daughters, the mother's share shall be equal to that of a daughter.

SEC. 22. CHRISTIAN SUCCESSION ACT.

22. When the intestate has left none of the kindred referred to in Sections 20 and 21, but has left his paternal grandfather, or any lineal descendants of such grandfather, one-half of the intestate's property shall be allotted to his mother.

Mother co-existing with intestate's grandfather or his descendants.

23. When the intestate has left none of the kindred mentioned in Sections 20, 21, and 22, his entire estate, or if he has left a widow, the residue after deducting her share shall belong to his mother.

Mother co-existing with more distant kindred.

24. Over any immovable property to which a widow or mother becomes entitled under Sections 16, 17, 21 and 22, she will have only a life-interest terminable at death or re-marriage.

Widow or mother has only a life interest terminable at death or re-marriage over any immovable property to which she may become entitled under Sections 16, 17, 21 and 22.

On the determination of the limited estate of the widow or the mother, the property over which she has such limited interest shall be distributed among the heirs of the original intestate, as if the holder of the life-estate had not survived the intestate.

25. When a person dies intestate his next of kin in the order set forth below shall be entitled to succeed to the residue, if any, of his property that may be left after deducting the widow's share, if he has left a widow, and also the mother's share, if he has left a mother, under circumstances which will, according to Sections 21 to 23, entitle her to any share. The next of kin mentioned in the first group shall always be preferred to those standing second, the second to the third, and so on, in succession.

Order of succession.

Group (1). Sons and daughters and the lineal descendants of such sons or daughters as shall have predeceased the intestate.

Group (2). Father.

Group (3). Brothers and sisters (whether of the full-blood or by the same father only) and the lineal descendants of such of them as shall have predeceased the intestate.

Group (4). Paternal grandfather.

Group (5). Paternal grandmother and paternal grandfather's children including such of the latter as shall have predeceased the intestate, leaving lineal descendants.

Group (6). Brothers and sisters of the half-blood on the mother's side and the lineal descendants of such of them as shall have died in the intestate's life-time.

Group (7). Maternal grandfather.

Group (8). Maternal grandmother and the maternal grandfather's children including the lineal descendants of such of them as shall have died in the intestate's life-time.

26. If a son, or a daughter, or a brother, or a sister, or a nephew, or a niece, or an uncle, or an aunt, or a first cousin, of an intestate, who, if alive at the time of the intestate's death, would have been an heir, shall have died in his life-time, the lineal descendant or descendants of such heir, shall solely or jointly take the share which they would have taken if living at the intestate's death and in such manner as if such deceased heir had died immediately after the intestate's death.

27. Subject to the provisions of Sections 26, the male heirs mentioned in groups (1), (3), (5), (6) and (8) in Section 25, shall, among themselves, have equal shares, and the female heirs mentioned in the said groups shall, among themselves have equal shares.

28. Without prejudice to the provisions of Section 16, the male heirs mentioned in group (1) of Section 25 shall be entitled to have the whole of the intestate's property divided equally among themselves, subject to the claims of the daughter for Streedhanou.

The Streedhanom due to a daughter shall be fixed at one-fourth the value of the share of a son, or Rs. 5,000 whichever is less:

Daughter's Streedhanom and its value.

Provided that any female heir of an intestate, to whom Streedhanom was paid or promised by the intestate, or in the intestate's lifetime either by such intestate's wife or husband, or after the death of such wife or husband by her or his heirs, shall not be entitled to have any further claim in the property of the intestate when any of her brothers (whether of the full-blood or of the half-blood by the same father) or the lineal descendants of any such deceased brother shall survive-the intestate.

Female heirs who were paid Streedhanom to be ordinarily left out of consideration.

Any Streedhanom promised, but not paid by the intestate, shall be a charge upon his property.

Illustrations.

- (1) Joseph is the son, and Sarah the daughter, of John and Mary. Sarah is given Streedhanom by John. Sarah will not have any more claim upon John's estate after his death.
- (2) Joseph is the son, and Sarah the daughter, of John and Mary. Sarah is given Streedhanom by Mary in John's lifetime. Sarah has no claim upon John's property after his death.
- (3) Joseph is the son, and Sarah the daughter, of John and Mary. After Mary's death but in John's lifetime Streedhanom is given to Sarah by Mary's heirs. Sarah has no claim upon John's property after his death.
- (4) Joseph is the son, and Sarah the daughter, of John and Mary. Sarah is given Streedhanom by Mary. Sarah will not have any more claim upon Mary's estate after Mary's death.
- (5) Joseph is the son, and Sarah the daughter, of John and Mary. Sarah is given Streedhanom by John in Mary's lifetime. Sarah has no claim upon Mary's property after Mary's death.
- (6) Joseph is the son, and Sarah the daughter, of John and Mary. After John's death but in Mary's lifetime Streedhanom is given to Sarah by John's heirs. Sarah has no claim upon Mary's property after Mary's death.

29. The female heirs or the descendants of the deceased female heirs mentioned in

Certain other female heirs to take only in the absence of male heirs in the respective groups.

groups (3), (5), (6) and (8) in Section 25, will be entitled to share in the intestate's property only in the absence of the male heirs mentioned in the respective groups or of the

lineal descendants, if any, of such male heirs who may have predeceased the intestate.

30. Sections 24, 28 and 29 shall not be applicable to

Sections 24, 28 and 29 not applicable to certain classes of Roman Catholic and Protestant Christians. certain classes of the Roman Catholic Christians of the Latin Rite and also to certain Protestant Christians living in Karunagapally, Quilon, Chirayinkil, Trivandrum, Neyyatinkara, and other Taluks, according

to the customary usage among whom the male and female heirs of an intestate share equally in the property of the intestate.

So far as those Christians are concerned, nothing in the aforesaid Sections shall be deemed to affect the said custom obtaining among them.

31. Where the deceased has left neither widow, nor

Mode of distribution in the absence of the widow, mother or the kindred enumerated in Section 25.

mother, nor any of the kindred enumerated in Section 25, his property shall be divided equally among those of his relatives who are in the nearest degree of kindred to him.

32. If the deceased has left neither a widow nor any

Escheat.

kindred his property shall go to the Sirkar.

33. Where a distributive share in the property of a

Children's advancement not brought into hotch-pot.

person who has died intestate shall be claimed by a child or any descendant of a child of such person, no money or other property which the

intestate may, during his lifetime, have paid, given, or

CHRISTIAN SUCCESSION ACT.

settled, to or for the advancement of the child by whom or by whose descendant the claim is made, shall be taken into account in estimating such distributive share :

Provided, however, that, subject to the provisions of para 3 of Section 28, any Streedhanom paid to a female shall be taken into account in estimating her share, but not so as to compel her to refund anything already received as Streedhanom.

ACT III OF 1092.

**AN ACT TO FURTHER AMEND THE HINDU RELIGIOUS
ENDOWMENTS ACT, III OF 1079, AS AMENDED
BY ACT VI OF 1088.**

*Passed by His Highness the Maha Raja of Travancore,
on the 28th March 1917, corresponding with the
15th Meenom 1092, under Section 13 of
Act V of 1073.*

Whereas it is expedient to further amend the Hindu Religious Endowments Act, III of 1079, as amended by Act VI of 1088 ; It is hereby enacted as follows :—

1. Section 3, Clause (b), line 8.

Delete "already under the direct management of the Sirkar or."

The words "but shall not include any Hindu religious institution under the sole management of a single family or single person in virtue of hereditary succession" shall form a separate paragraph along with the Proviso.

2 Section 15, lines 2 and 3.

Substitute "Hindu religious endowment" for "endowment falling within the provisions of this Act."

Proviso (a). Insert "whether before or" between "Sirkar" and "under".

ACT IV OF 1092.

AN ACT TO AMEND THE WEIGHTS AND MEASURES ACT VI OF 1085.

*Passed by his Highness the Maha Raja of Travancore
on the 28th March 1917 corresponding with the
15th Meenom 1092, under Section 13
of Act V of 1073.*

Whereas it is expedient to amend the Weights and Measures Act, VI of 1085; It is hereby enacted as follows:—

Section 10, line 2. Between “uses” and “any”, *delete* the words “as authorised and certified” and *insert* the words “in any market, bazaar, shop or other place where any goods, food, drink, drug or other articles are exposed for sale.”

ACT V OF 1092.

AN ACT TO AMEND THE SUCCESSION CERTIFICATE ACT, IX OF 1090.

*Passed by His Highness the Maha Raja of Travancore
on the 28th March 1917 corresponding with the
15th Meenom 1092, under Section 13
of Act V of 1073.*

Whereas it is expedient to amend the Succession Certificate Act, IX of 1090; It is hereby enacted as follows:—

Add as Section 24 the following:—

“Our Government may, from time to time, by Notification in Our Government Gazette,
Power to reduce or remit the fees. reduce or remit, in the whole or in any part of Travancore, the fees leviable under Section 12 of this Act,
and may, in like manner cancel or vary such order.

PROCLAMATION.

ENEMY TRADING PROCLAMATION.

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This Proclamation was published in the Gazette dated 10th July 1917.

ENEMY. TRADING PROCLAMATION.

*By His Highness the Maha Raja of Travancore,
issued under date the 5th July 1917 cor-
responding with the 22nd Mithunam 1092.*

Whereas it is expedient to provide facilities for the
payment to a public authority of
Preamble. certain moneys the payment of
which is, or may be, prohibited by,
or under the provision of, any Proclamation or Order
in Council of His Majesty for the time being in force,
relating to trading, commercial intercourse, or other deal-
ings with subjects of States at war with His Majesty;
And Whereas it is expedient to prohibit or control trad-
ing by hostile foreigners and hostile firms ;

We are pleased to command as follows :—

1. (1) This Proclamation may be called the Enemy
trading Proclamation.
Short title and ex- (2) It extends to the whole of
tent. Travancore.

2. In this Proclamation,—

Definitions.

“Custodian” means a custodian of enemy property
appointed under this Proclamation :

“Enemy Trading Proclamation” means any Procla-
mation or Order in Council of His Majesty for the time
being in force, relating to trading, commercial inter-
course, or other dealings with subjects of States at war
with His Majesty :

“Company” means any company, firm or association,
or body of individuals whether incorporated or not :

“Hostile foreigner” means a subject of a State for the
time being at war with His Majesty, and includes any
company constituted according to the laws of such State,
and the Ruler or Government of any such State :

ENEMY TRADING PROCLAMATION.

“Hostile firm” means any of the following, namely:—

- (a) any hostile foreigner who has, or at any date subsequent to the 3rd day of August 1914, had an office, agency or place of business in Travancore ;
- (b) any Company of which any member or officer is a hostile foreigner, or of which a hostile foreigner was a member or officer on the 3rd day of August 1914, and which has or has had since that date an office, agency or place of business in Travancore ;
- (c) any person, or company who or which has, at any time since the 3rd day of August 1914, carried on business in Travancore, and whose business is or was, in the opinion of Our Government, either by reason of its nature or the persons who carry or carried it on, or for any other cause whatsoever, carried on either under the control whether direct or indirect of any hostile foreigner, or carried on wholly or mainly for the benefit of hostile foreigners generally, or any class of hostile foreigners or any individual hostile foreigner : and

“Prescribed” means prescribed by Rules made under this Proclamation.

3. (1) Our Government shall appoint so many persons as they think fit, to act as custodians for the whole or any part of Travancore for the purpose of receiving, holding and dealing with such money as may be paid to them in pursuance of this Proclamation.

Constitution of the office of custodian of enemy property.

(2) Custodians shall, subject to the provisions of this Proclamation, have such powers and duties, with respect to the money held by them in their capacity as custodians, as may be prescribed.

(3) If any question arises as to the custodian to whom any money may be paid under this Proclamation, the question shall be determined by Our Government.

ENEMY TRADING PROCLAMATION.

4. (1) Any sum, by way of dividends, interest or share of profits, the payment of which to or for the benefit of, any person is prohibited by or under any Enemy Trading Proclamation may, subject to the provisions of Section 6, be paid by the person by whom it would have been payable, if a state of war had not existed, to the custodian to hold subject to the provisions of this Proclamation.

(2) Where, before the commencement of this Proclamation, any such sum has been paid into any account with a bank, or has been paid to any other person in trust, the bank or other person may pay the same to the custodian to hold as aforesaid.

(3) On such payment, the bank or other person shall be exempt from all liability in respect of such payment.

5. Any person paying money to a custodian under the provisions of Section 4 shall, at the same time, furnish such particulars in regard to the payment as the custodian, subject to any Rules prescribed in this behalf, may require; until such particulars have been furnished to the satisfaction of the custodian, the custodian shall not grant a receipt for such money.

6. (1) The custodian may refuse to receive any money on the ground that it is not money to which the foregoing provisions of this Proclamation apply or, with the sanction of Our Government, for any other reason.

(2) In the event of any question arising as to whether any money is money to which the foregoing provisions of this Proclamation apply, the decision of the custodian on the question shall be final.

7. Where any money is paid to a custodian under the foregoing provisions of this Proclamation, the receipt of such custodian, or any person duly authorised by him to sign receipts on his behalf

Power to pay to custodian certain prohibited payment.

Particulars of payment to be furnished to custodian.

Power to refuse payments, and decide whether payment is one to which the Proclamation applies.

Receipt of the custodian to be good discharge.

ENEMY TRADING PROCLAMATION. SEC. 11.

for any such money, shall be a good discharge to the person paying the same as against the person in respect of whom the money was paid to the custodian.

8. (1) The custodian shall hold and deal with any money paid to him under this Proclamation in accordance with such directions as he may receive from Our Government.

Holdings of money by custodian.

(2) Money held by the custodian under this Proclamation shall not, save as may be otherwise prescribed, be liable to be attached or otherwise taken in execution of a decree.

(3) The custodian shall keep a register of all money held by him under this Proclamation, which register shall be open to public inspection at such reasonable times as he may direct.

9. Our Government may, by Notification in Our Government Gazette, direct that the provisions of Section 4 of this Proclamation, enabling certain moneys to be paid to custodians, shall apply to any payments, the making of which is prohibited by or under any Enemy Trading Proclamation and which are not provided for by that Section; and upon such Notification, the Proclamation shall be read and construed as if such payments had been included in Section 4.

Power to extend provisions of Proclamation to other prohibited payments.

10. Section 3 of the Commercial Intercourse with Enemies Proclamation, 1090, shall be read and construed as if after the word "contravenes" the words "attempts or directly or indirectly offers, proposes or agrees, or has, since the 29th March 1915, attempted or directly or indirectly offered, proposed or agreed, to do any act in contravention of" were inserted.

Amendment of Section 3 of the Commercial Intercourse with Enemies Proclamation, 1090.

11. (1) Our Government may, by general or special order appoint Inspectors for the purpose of determining whether any business is or was carried on by a hostile firm within the meaning of this Proclamation.

Power to appoint Inspectors.

SEC. 12. ENEMY TRADING PROCLAMATION.

(2) The Inspector may summon before him any person whom he believes to be capable of giving information concerning the trade, dealings, affairs or property of such business and of the antecedents and nationality of those by whom it is or was carried on or controlled.

(3) The Inspector may examine such person on oath concerning the same, and may reduce his answers to writing, and require him to sign them.

(4) The Inspector may require such person to produce any documents in his custody or power in any way relating to such business or to the persons by whom it is or was carried on or controlled.

(5) If any person so summoned refuses to come before the Inspector at the time appointed, the Inspector may cause him to be apprehended and brought before him for examination.

(6) If any person refuses to answer any question or to produce any document which under this Section the Inspector is empowered to ask or require production of, such person shall be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

12. (1) Our Government may make an order either—
Power to prohibit or restrict, or wind-up hostile firms. (a) prohibiting any hostile firm from carrying on business, except for the purposes and subject to the conditions, if any, specified in the order ; or

(b) requiring the business of such firm to be wound up ; and may, in any case, where they have made an order prohibiting or limiting the carrying on of the business, at any time, if they think it expedient, substitute for that order an order requiring the business to be wound up.

(2) Every order made under Sub-section (1) shall be published by Notification in Our Government Gazette.

(3) If any person contravenes the provisions of any order made under this Section, he shall be punishable with imprisonment which may extend to one year, and shall also be liable to fine.

(4) An order made under this Section shall continue in force, notwithstanding the termination of the present war, until, determined by order of Our Government.

13. (1) Where Our Government makes an order under this Proclamation requiring any business to be wound up, the order shall, on Notification in Our Government Gazette, have effect as if it were a winding-up order made by a Court under the Travancore Companies Act, I of 1092, and the provisions of the Act relating to winding-up by the Court and the Rules made thereunder, subject to such exceptions, restrictions, extensions, modifications and adaptations as Our Government may, by general or special order, prescribe, or such other Rules as may be prescribed by them, shall apply to the winding-up of the business :

Provided that, for the purposes of any winding-up order under this Proclamation, all powers exercisable by the Court under the said Travancore Companies Act shall be exercisable by Our Government, or by such other authority as they may appoint either generally or specially in that behalf :

Provided also that the assets of the business and any money resulting from the realisation of any part thereof shall be dealt with in accordance with such Rules as Our Government may make in that behalf.

(2) Where an order has been made under this Proclamation directing the winding of the business of a hostile firm, the hostile firm shall not, nor shall any other person, commence or initiate, whilst that order remains in force, any other proceedings of a like nature or calculated in any way to interfere with the carrying out of such order.

14. (1) Where it appears to Our Government that a contract entered into before or during the war, or a transfer of property, movable or immovable, made during the war, with or by a hostile foreigner or a hostile firm is injurious to the public interest, or was made with the object of evading any provision of the

Contracts or transfers against the public interest.

SEC. 15. ENEMY TRADING PROCLAMATION.

law, Our Government may by order cancel or determine such contract, either unconditionally or upon such conditions as they think fit, or declare such transfer to be void either in whole or in part, or may impose such conditions on the transferee as they think fit.

(2) The powers conferred by Sub-section (1) in respect of transfers of property shall be exercisable also in respect of any subsequent transfer or sub-transfer which, in the opinion of Our Government, is injurious to the public interest or was made with the object of evading the law.

(3) On the making of an order under this Section declaring any transfer or subsequent transfer or sub-transfer to be void, all property, the transfer of which is declared void by such order, shall, with effect from the date of the order, be deemed to be re-vested in the original transferor or if a winding-up order has been made under Section 12 (1) (b), in the liquidator.

15. (1) Our Government, in any case where it appears to them to be expedient to do so, may, by order, vest in any custodian appointed under this Proclamation any property movable or immovable belonging to or deemed to be vested in or managed or held whether in trust or otherwise for, or on behalf of a hostile foreigner, a hostile firm, or any person or company residing in, or carrying on business in the dominions of, a State at war with His Majesty, or the right to transfer that property, and may by any such order or any subsequent order confer on the custodian such powers of selling, managing and otherwise dealing with the property, as to Our Government may seem proper.

Power of Government to vest property in custodian.

(2) A vesting order under this Section shall, notwithstanding the provisions of any other law to the contrary, be sufficient to vest in the custodian any property or the right to transfer any property as provided by the order without the necessity of any further document.

(3) Where, in the exercise of the powers conferred on him by Our Government, the custodian proposes to sell any shares or stock forming part of the capital of any

company or any securities issued by the company in respect of which a vesting order under this Proclamation has been made, the company may, with the consent of Our Government, purchase the shares, stock or securities, notwithstanding anything to the contrary in any law or in any regulation of the company, and any shares, stock or securities so purchased may, from time to time, be re-issued by the company.

(4) The transfer by the custodian of any property shall be conclusive evidence in favour of the transferee and of the custodian that the requirements of this Section have been complied with.

(5) All property vested in the custodian under this Section and the proceeds of the sale of, or money arising from, any such property, shall be dealt with by him in accordance with such directions as he may receive from Our Government ; and no such property or money shall be liable to be attached or otherwise taken in execution.

16. Where a vesting order has been made under this Proclamation as respects any property belonging to or held or managed for, or on behalf of, a person who appeared to Our Government, to be a person to whom the provisions of Section 15 were applicable, the order shall not, nor shall any proceedings thereunder or in consequence thereof, be invalidated or affected by reason only of such person having, prior to the date of the order, died or ceased to be a person to whom the said provisions were applicable or subsequently dying or ceasing to be such a person or by reason of its being subsequently ascertained that he was not such a person as the case may be.

17. Where the custodian executes a transfer of any shares, stock or securities which he is empowered to transfer by a vesting order made under this Proclamation, the company in whose books the shares, stock or securities are registered shall, upon the receipt of the transfer so executed by the custodian, and upon being required by him so to do, register the shares, stock or securities in the name of

SEC. 18. ENEMY TRADING PROCLAMATION.

the custodian or other transferee, notwithstanding any regulation or stipulation of the company, and notwithstanding that the custodian is not in possession of the certificate, scrip, or other document of title relating to the shares, stock or securities transferred; but such registration shall be without prejudice to any lien or charge in favour of the company or to any other lien or charge of which the custodian has express notice.

18. (1) Our Government may make Rules for all or
Power to make any of the following purposes
Rules. namely—

- (a) providing for the powers and duties of a custodian;
- (b) the particulars to be furnished to custodians by persons making payments to them;
- (c) the payment of money in the hands of the custodian in satisfaction of decrees and debts;
- (d) providing for the distribution or disposal of any assets, or any money resulting from the realisation of part thereof, of any business in respect of which a winding-up order has been made under this Proclamation;
- (e) prescribing that hostile foreigners and hostile firms or any class of hostile foreigners or hostile firms shall, when required by the custodian, furnish to him such particulars as he may require of all or any movable or immovable property in their possession, or under their control whether direct or indirect;
- (f) requiring persons in Travancore to furnish to the custodian such particulars as he may require of all or any class of debts or other property due by them to any person to whom the provisions of Section 15 are or may be applicable;

ENEMY TRADING PROCLAMATION. SEC. 20.

- (g) prescribing the remuneration payable to the custodian in respect of his duties under this Proclamation, the fund from which it shall be paid, and the method of collecting the same ; and
- (h) generally for carrying out the purposes of this Proclamation.

(2) In making any rule under this Section, Our Government may direct that a breach of it shall be punishable with imprisonment which may extend to a term not exceeding six months, or with fine which may extend to one thousand rupees, or with both.

19. Every license for the time being in force granted under the Commercial Intercourse with Enemies Proclamation, 1090, permitting the licensee to trade or carry on business subject to conditions or restrictions shall be deemed to be an order made under Section 12 (1) (a), and this Proclamation shall have effect accordingly.

20. (1) Our Government may, by Notification in Our Government Gazette, declare that the powers conferred by Section 15 in regard to the property, movable or immovable, of the persons referred to therein shall extend to the property, movable or immovable in Travancore, of any company specified in such Notification of which any member is a hostile foreigner, or of which a hostile foreigner was a member or officer on the 3rd day of August 1914, notwithstanding that such company is not a company trading in Travancore.

(2) On the publication of a Notification under Subsection (1), the company shall be deemed to be a person referred to in Section 15 of this Proclamation, and this Proclamation shall have effect accordingly.

SEC. 21. ENEMY TRADING PROCLAMATION.

21. No suit or other proceedings shall lie against a custodian for any thing done, or intended to be done, in good faith under this Proclamation or any Rule made thereunder.

Protection of custodians.

22. Any act done after the 3rd day of August 1914, by or under the orders of, any Officer of Government in respect of the property, movable or immovable, of any hostile foreigner or hostile firm which, if this Proclamation had been in force, could have been validly done in the exercise of the powers conferred thereby, or which could have been conferred thereunder, is hereby validated.

Validation of past action,

ACT VI OF 1092.

AN ACT TO AMEND THE TRAVANCORE CIVIL COURTS ACT, II OF 1084.

Passed by His Highness the Maha Raja of Travancore, on the 4th August 1917, corresponding with the 20th Karkatakam 1092, under Section 13 of Act V of 1073.

Whereas it is expedient to amend "The Travancore Civil Courts Act, II of 1084": It is hereby enacted as follows :—

At the end of the Section 12, add the following :—

"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."

ACT VII OF 1092.

THE TRAVANCORE MARKETS ACT.

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THE MARKETS ACT.

AN ACT TO DEFINE AND AMEND THE LAW RELATING
TO THE HOLDING OF MARKETS IN TRAVANCORE.

Passed by His Highness the Maha Raja of Travancore, on the 4th August 1917 corresponding with the 20th Karkatagom 1092, under Section 13 of Act V of 1073.

Whereas it is deemed necessary to define and amend the law relating to the holding of Markets in Travancore; It is hereby enacted as follows :—

Year.	No.	Short title.	Effect of subsequent legislation.
1092	VII	Markets Act.	Partly repealed and amended by Act VI of 1109. Amended by Act XIV of 1114 and XXVI of 1116.

Act VII of 1092. *Objects and Reasons.* The markets in 'Towns' constituted under Regulation III of 1076 are governed by that Regulation. There is however no definite law to regulate markets in places other than 'Towns.' The right to open a new market is a franchise to be granted by the Crown or acquired by prescription. In Travancore new markets have from time immemorial been opened only with the previous sanction of the Government. Of late, however, an instance has been brought to the notice of the Government that a new market has been opened in a place not approved by Government and to the prejudice of existing markets in the neighbourhood. It is also feared that the holding of such unauthorised markets is likely to cause a disturbance of the public peace. It is therefore thought necessary to define and

amend the law regarding markets situate in places other than Towns. The Bill is drafted mainly on the lines of the new Municipal Bill amending the T. C. and i. Regulation.

In the case of public markets constructed, repaired or maintained by the Government, stallages, rents and fees may be charged by the Government and the same may be leased or farmed if necessary. Clauses 5 to 9 deal with public markets. Clauses 10 to 18 deal with private markets. The provisions of Regulation III of 1076 have been mainly adopted in the Bill. Clauses 19 to 21 deal with entry into and inspection of markets. These Clauses provide for the inspection of articles and animals intended for human consumption and also the weights and measures used in such markets. Clauses 22 and 23 deal with prosecution and the compounding of the

ACT VII OF 1092.

same. The Division Peishkars are empowered to have control over markets subject to such Rules as may be framed by the Government in this behalf. But any other Officer may be empowered to exercise the powers of the Division Peishkar under the Regulation. Appeals lie to the Dewan from the order of Division Peishkars, but if other Officers are empowered to exercise the powers of a Division Peishkar, appeals from their orders may be directed to lie to Division Peishkars.—

S. O. & R., T. G. G. dated 9-5-1916.

For report of the Select Committee See T. G. G. dated 21-11-1916.

For legislative proceedings see T. G. G. dated 18-7-1916, 23-1-1917 and 7-8-1917.

The Act was published in T. G. G. dated 7-8-1917

Act VI of 1109. *Objects and reasons*, 'The Travancore Markets Regulation, as it stands, has no definition of the term "market." Further Section 4 of the Regulation which enables Government to declare a place to be a market has been interpreted to mean that there can be no "markets" unless there be such a Government declaration relating thereto. These have given rise to practical difficulties in the working of the Regulation. It is proposed by this Bill, therefore, to enact a definition of the term "market" and also to provide that a declaration by the Government that a place is a market shall be conclusive of the fact that the place is a market" S. O. & R., T. G. G. dated 31-5-1932.

For Report of the Select Committee see T. G. G. dated 24-4-1934.

For legislative proceedings see A. P. Vol. II, Pp. 321, 105, to 707; C. P. Vol. II, Pp. 309, 310.

The Act was published in T. G. G. dated 26-6-1934.

Act XIV of 1114. *Objects and Reasons*. "Under Section 28 of the Markets Act an appeal shall lie to the Dewan from any order of a Division Peishkar under that Act. Provision was so made because the post of the Land Revenue and Income Tax Commissioner was not in existence at the time of the passing of Markets Act. Now that the post of the Land Revenue and Income Tax Commissioner has been in existence for the past several years it is proposed to confer upon him the appellate authority in respect of decisions and orders of Dewan Peishkars. This is only proper considering his position as the head of the Land Revenue and Income Tax Department. He hears and decides appeals against the decisions of Division Peishkar under the Revenue Recovery Act and the Land Conservancy Act. As in the above matters, he will be in a better position to dispose of appeals under the Markets Act more expeditiously. The revisional powers of the Dewan are, however, proposed to be retained. The proposed amendments to Section 28 are intended to carry out this object. Advantage is also taken of the occasion to rearrange and number the several sub-sections of Section 28" S. O. & R., T. G. G. dated 29-11-1938.

SEC. 1.

THE MARKETS ACT.

1. (1) This Act may be called "The Travancore Markets Act of 1092."
Short title, extent and commencement.

(2) It extends to the whole of Travancore.

(3) It shall come into force on the 1st Chingom 1093.

2. Nothing contained in this Act shall apply to markets within the limits of 'Towns' constituted under Act III of 1076.
Saving.

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

(1) 'Public market' means any market constructed, repaired or maintained by Our Government :

(2) 'Private market' means any other market :

(3) 'Division Peishkar' means the Peishkar or Commissioner of the Division within whose jurisdiction the market is situate.

[(4) 'Market' means any place set apart, or ordinarily or periodically used, for the assembling of persons for the sale or purchase of grain, fruit, vegetables, meat, fish or other perishable articles of food or for the sale or purchase of livestock or poultry, or of any agricultural or industrial produce or any raw or manufactured products or any other articles or commodity necessary for the convenience of life :

Provided that a single shop or a group of shops not being more than six in number shall not be deemed a market.

Explanation :—A declaration by Our Government that any place used for the sale of any articles is a market shall be conclusive proof of the place being a market for the purposes of this Act :

For legislative proceedings see A. P. Vol. XIII, Pp. 43-44; C. P. Vol. XIII, Pp. 27-31.

The Act was published in T. G. G. dated 21-3-1939.

Act XXVI of 1116. This was passed direct by His Highness the Maha Raja and was enacted

in consequence of the abolition of the office of the Land Revenue and Income tax Commissioner. The Act was published in T. G. G. dated 15-7-1941.

Sec. 3. Subsection (4) was added by Sec. 2 Act. VI of 1109.

Provided that no such declaration shall be made in respect of any single shop or of any group of shops not being more than six in number and that any such declaration may at any time be cancelled by Our Government.]

4. [Government may declare a place to be a market] Repealed by Section 3. Act VI of 1109.

PUBLIC MARKETS.

5. (1) Our Government may provide places for use as public markets and for such purposes acquire any land under Act XI of 1089 or by purchase, lease or otherwise.

Provision of Public markets.

(2) The Division Peishkar may, subject to the sanction of Our Government, charge rents and fees for the use of, or right to expose goods for sale in, public markets and for the use of shops, stalls, sheds, pens and standings therein, and may with the like sanction let on lease or farm the stallages, rents and fees leviable thereon as aforesaid or any portion thereof.

6. The lessee or farmer and all persons employed by him in the management and collection of stallages, rents and fees referred to under Sub-section (2) of the last foregoing Section shall in respect thereof—

Powers and duties of lessee or farmer.

(a) be bound by any orders made by the Division Peishkar for their guidance ;

(b) have such powers exercisable by Officers of Our Government under this Act as Our Government may from time to time confer upon them ; and

Sec. 4. This was omitted by Sec. 3 of Act VI of 1109. The omitted section read as follows:—

"4. Government may declare a place to be a market. Our Government may declare any place ordinarily or periodically used for the sale of meat, fish fruit, grain, vegetables or other perishable articles of food, or for the sale of live-stock or

poultry or of any article or commodity necessary for the convenience of life, to be a market. :

Provided that no such declaration shall be made in respect of any single shop or any group of shops not being more than six in number, and that any such declaration may, at any time, be cancelled by Our Government."

(c) be entitled to the same remedies and be subject to the same responsibilities as if they were employed by Our Government for the management and collection of the said stallages, rents and fees.

7. Our Government may close any public market or any part thereof.

Power to close public markets.

8. The Division Peishkar or any person authorised by him in writing in this behalf may

Power to expel persons convicted of disobeying Rules and to determine lease.

expel from any such market any person who, or whose servants, may be convicted of disobeying any Rules made for the regulation and control of such market, and may prevent such person, by himself or his servants, from further carrying on any trade or business in such market, or occupying any stall, shop or other place therein, and may determine any lease or tenure which such person may have in any such stall, shop or other place.

9, Whoever, without the permission of the Division Peishkar, sells or exposes for sale

Penalty for selling in public market without permission,

any article within a public market shall be liable to a fine not exceeding twenty rupees for each offence.

PRIVATE MARKETS.

10. No place shall be used as a private market without a license from the Division Peishkar.

Private markets to be licensed.

11. Applications for licenses to open newly or to

Applications for licenses to be made when.

continue to use private markets shall be made to the Division Peishkar by the owners thereof not less than sixty days before they open them or before the commencement of the official year during which they intend to continue to use them. Such applications shall specify—

(a) the name of the place at which it is proposed to establish a new market or to continue an existing one ;

Contents of the application.

- (b) the days on which it is to be held ;
- (c) the name of the place where the nearest existing market is held and the days on which it is held ;
- (d) the distance in English miles between the two places ; and
- (e) in the case of a new market, the reasons of the applicant for desiring to establish the same.

12. If the application be for the establishment of a new market, the Division Peishkar shall issue a Notification in Our Government Gazette stating the desire of the applicant to establish a market at the place named by him

Procedure on application for the establishment of a new market.

and the days on which it is proposed to be held, and calling upon any person who may have any objection to the establishment of the market to state his objection, in writing, within four weeks from the date of publication of the Notification

The Notification shall be fixed in a conspicuous place in the village or town in or near to which it is proposed that the new market shall be held and a copy of the same shall be affixed at the Taluk Cutcherry within the jurisdiction of which the village or town is situated, and in the Division Peishkar's office.

If it shall appear that any existing market is held within a distance of three miles from the place where it is proposed that the new market shall be established, the Division Peishkar shall cause a notice, to the effect of the Notification, to be served upon the owner of the land where such existing market is held.

Notice to land-owner of neighbouring market.

The Notification and notice (if any) shall be issued and served at the expense of the applicant.

If, within the time specified, any objection is preferred, the Division Peishkar shall inquire into the objection and pass such order as may appear proper in the circumstances of the case.

13. () The Division Peishkar may at his discretion grant any license applied for under Section 11 either unconditionally or subject to such restrictions and conditions as he thinks proper; or he may refuse to grant any such license. Every license shall be given under the signature of the Division Peishkar.

(2) Any license granted under this Act may at any time be suspended or revoked by the Division Peishkar, if any of its restrictions or conditions is infringed or evaded by the person to whom the same has been granted or if the said person is convicted of an infringement of any of the provisions of this Act or Rule made thereunder in any matter to which such license relates.

(3) When a license to open a market is granted or when a license is refused, suspended or revoked, under this Section, the Division Peishkar shall cause a notice of such grant, refusal, suspension or revocation, in English and the Vernacular language of the Taluk, to be posted in some conspicuous place at or near the entrance to the place in respect of which the license was sought.

(4) Every license granted under this Section shall expire at the end of the official year in which the market in respect of which the license has been issued is newly opened, or at the end of the official year for which it has been granted, as the case may be.

(5) If the Division Peishkar neglects to pass orders upon an application for a license under this Section and to communicate the same to the applicant within sixty days after the receipt of the application, the applicant may open the place in respect of which the application was made, or, as the case may be, continue to use such place during the official year for which the license was sought; and the said place shall be held to be duly licensed for the official year during which

it was opened or for which the license was sought, as the case may be :

Provided that nothing in this Sub section shall exempt the applicant from payment of license fee to which he may be otherwise liable :

Provided further that nothing in this Sub-section shall be construed to authorise any person to act in contravention of any Rule made under this Act.

(6) When any such license is suspended or revoked, or, when the period for which the same was granted has expired, the person to whom the same was granted shall, for all purposes of this Act, be deemed to be without a license, until the order for suspending or revoking the license is cancelled, or until the license is renewed, as the case may be.

Effect of suspension, revocation or expiry of the period of license.

the same was granted has expired, the person to whom the same was granted shall, for all purposes of this Act, be deemed to be without a

(7) Every person to whom any such license has been granted shall, at all reasonable times, while such license remains in force, if so required by the Division Peishkar or any person authorised by him in this behalf, produce such license.

Power to demand production of license.

while such license remains in force, if so required by the Division Peishkar or any person authorised

14. It shall be lawful for Our Government, in cases where they may deem it necessary, to direct the levy of such fees, as they may deem fit, for the issue of licenses under this Act.

Levy of fees for the issue of license.

where they may deem it necessary, to direct the levy of such fees, as they may deem fit, for the issue of

15. (1) Whoever keeps open a private market without a license or otherwise than in conformity with the terms of a license shall be liable to a fine not exceeding fifty rupees.

Penalty for keeping open a private market without license.

conformity with the terms of a license shall be liable to a fine not exceeding fifty rupees.

(2) Whcever sells or exposes for sale any article in an unlicensed private market shall be liable to a fine not exceeding twenty rupees.

Penalty for selling in unlicensed private market.

in an unlicensed private market shall be liable to a fine not exceeding twenty rupees.

Explanation.—A market is unlicensed within the meaning of this Section, if the license for the use thereof has expired or has been cancelled or suspended.

16. Every owner, farmer or occupier of any private market shall—

Private markets to be properly drained, etc. (a) construct such approaches, entrances, passages, gates, drains and cess-pits therein,

(b) cause such market to be roofed and paved with such materials and in such manner,

(c) provide for such supply of water to such market, and

(d) make such alterations in the stalls, passages, shops, doors, or other parts of the said market or place,

as the Division Peishkar may in each case direct.

17. (1) If such owner, farmer or occupier, after notice given to him by the Division Peishkar directing him to carry out, within a period to be specified in the notice, or within such further period as the Division Peishkar may allow, any of the measures provided in the last preceding Section, fails to comply with such notice, the Division Peishkar may suspend, with-hold or refuse the license until the notice shall have been complied with; and any person opening or keeping open any such market after such with-holding, suspension or refusal shall be liable to a fine not exceeding twenty rupees for every day on which he is convicted of having opened or kept open such market or place.

(2) Any owner, farmer, occupier, agent or manager in charge of any such market, or of any shop, stall, shed or other place therein, who keeps the same so that it is a nuisance, or who does not cause anything that is a nuisance to be at once removed to a place to be notified by the Division Peishkar, shall be liable to a fine not exceeding twenty rupees for each offence.

18. The Division Peishkar may close any private market in respect of which no license has been applied for, or any private market the license for which has been refused, suspended or revoked.

Power to close private market.

OF ENTRY AND INSPECTION.

19. (1) Any Magistrate or any person authorised by the Division Peishkar in writing in this behalf may at all reasonable times and without notice enter into a market or shop, stall or other place therein and inspect any article of food or drink intended for human consumption therein.

Powers of entry for inspection of articles of food, etc.

(2) If the inspection is made by a Magistrate and he finds such article of food or drink therein intended for human consumption is unfit therefor, he may order the same to be destroyed or so disposed of as to prevent its being exposed for sale or used for human consumption.

(3) i. If, however, the inspection is made by any other person authorised under Sub-section (1) and if any article of food or drink therein appears to be intended for human consumption and unfit therefor, he may seize and after giving receipt therefor remove the same and cause the same to be produced before a Magistrate.

ii. If such Magistrate finds that the articles produced before him are fit for human consumption, he may make an order directing the return of such articles or such portion thereof as may be in good condition to the owner or to the person in whose possession such articles were found and providing for the payment by Our Government of such reasonable amount as the Magistrate considers will compensate such owner or person for any loss or depreciation that may have been caused by such detention.

20. (1) Any Magistrate or any person authorised by the Division Peishkar in writing in this behalf may, at all reasonable times, and without notice, enter into any market or any stall, shop or other place therein used for the sale of any goods, food or drink, and may inspect any instruments for weighing, weights or measures found therein

Inspection of weights and measures and seizure of false weights, etc.

and test the same, and may seize any such instrument for weighing, weight or measure, which such Magistrate or the person so authorised reasonably believes to be false or not in accordance with the provisions of Act VI of 1085 or any Rule framed by Our Government thereunder, and may take the same to be examined or tested by the Officer appointed for the purpose.

(2) Every person for the time being in charge of or employed in such market, stall, shop or place shall, if so requested by the person making such inspection, produce for such inspection and comparison, all instruments for weighing, weights and measures kept therein.

21. Whoever in contravention of the provisions of this Act refuses to suffer inspection of any article of food or drink intended for human consumption or any weights or measures or any instruments for weighing therein, or in contravention of the provisions of this Act refuses to produce any weight, measure or instrument for weighing to which he has access, shall be liable to a fine which may extend to one hundred rupees.

Penalty for refusal to suffer inspection, etc.

this Act refuses to suffer inspection of any article of food or drink intended for human consumption or any weights or measures or any instruments for weighing therein, or in contravention of the provisions of this Act refuses to produce any weight, measure or instrument for weighing to which he has access, shall be liable to a fine which may extend to one hundred rupees.

OF PROSECUTIONS.

22. (1) Unless otherwise expressly provided, no Court shall take cognizance of any offence punishable under this Act or any Rule thereunder, except on the complaint of, or upon information in writing received from, the Division Peishkar or some person authorised by him in writing in this behalf.

Authority for prosecutions.

shall take cognizance of any offence punishable under this Act or any Rule thereunder, except on the complaint of, or upon information in writing received from, the Division Peishkar or some person authorised by him in writing in this behalf.

(2) The Division Peishkar may authorise any person under Sub-section (1) to make complaints or give information without previous reference to him, either generally in regard to all offences against this Act and the Rules thereunder or particularly in regard only to specified offence or offences of a specified class, and may at any time withdraw such authorisation.

23. (1) The Division Peishkar may accept from any person, against whom a reasonable suspicion exists that he has committed an offence against this Act

Power to compound offences.

or any Rule, a sum of money by way of composition for such offence.

(2) On payment of such sum of money, no further proceedings shall be taken against such person in regard to the offence so compounded.

Rules.

24. (1) Our Government may, by Notification in Our Government Gazette, make Rules
 Power to make consistent with this Act.
 Rules.

- (a) prescribing the terms and conditions subject to which the stallages, rents and fees leviable in public markets may be leased or farmed ;
- (b) providing for the grant of licenses and the particulars and conditions to be contained therein ;
- (c) providing for the inspection and proper regulation of markets ;
- (d) preventing persons suffering from any loathsome disease, from keeping stalls in, or being employed in preparing or selling articles of food in, any market, or from entering any market, or touching any article brought there for sale, and for authorising the expulsion of such persons from any market ; and
- (e) generally for the purposes of this Act.

(2) In making any Rule under Sub-section (1), Our Government may direct that a breach or an abetment of a breach of it shall be punishable with fine which may extend to fifty rupees, and when the breach is a continuing one with a further fine which may extend to five rupees for every day after the first during which the breach continues.

MISCELLANEOUS.

25. Whoever in any market begs importunately for alms or exposes or exhibits with the
 Begging for alms, object of exciting charity any de-
 etc., in market. formity or disease or any offensive
 sore or wound shall be punishable
 with fine which may extend to twenty rupees.

26. All moneys, other than fines and penalties recoverable under this Act shall be, treated as arrears of public revenue within the meaning of Act I of 1068, and be recovered as such.

27. Our Government may, by Notification in Our Government Gazette, authorise any Officer by name or by virtue of his office to exercise all or any of the powers conferred on a Division Peishkar under this Act.

28. (1) An appeal shall lie to the [Dewan] from any order of a Division Peishkar passed under this Act.

(2) Our Government may direct that an appeal from the order of any Officer empowered under Section 27 shall lie to the Division Peishkar.

[* * *]

[(3). There shall be no appeal from the decision or order passed in appeal [* * *] by the Division Peishkar.

(4) It shall be lawful for the Dewan to revise any decision or order passed by any subordinate officer under this Act].

Sec. 28 The word Dewan in sub-section (1) was substituted for the word "Land Revenue and Income Tax Commissioner" by Sec. 2, Act XXVI of 1116. As originally enacted the word 'Dewan' occurred there. This was substituted by the words "Land Revenue and Income Tax Commissioner" by Sec. 2, Act XIV of 1114. The effect of both the amendments is to leave the sub-section as it was enacted,

The provisos to sub-section (2) were deleted by Sec. 2 Act XIV of 1114. They read as follow:—

"Provided however that there shall be no appeal to the Dewan from the order of a Division Peishkar passed on appeal :

Provided also that it shall be lawful for the Dewan to revise such appellate order if he thinks fit.

Sub-section (3) was inserted by Sec. 2, Act XIV of 1114. The words 'by the Land Revenue and Income-tax Commissioner or' which occurred within the brackets were deleted by Sec. 2, Act XXVI of 1116.

Sub-section (4) was inserted by Sec. 2, Act XIV of 1114.

[(5)]. Pending disposal of any appeal or revision under this Act, the appellate or revisional authority may suspend the execution of the order complained against.

[[6]]. No order shall be passed in appeal or revision without previous notice to the party to be affected by such order.

29. No appeal shall be brought after the expiration from the date of the receipt of the notice communicating the order appealed against, provided that, in computing the period of thirty days, the time required to obtain a copy of the order appealed against shall be excluded, but the appeal may be admitted after the period hereby prescribed when the appellant satisfies the authority to whom he appeals that he had sufficient cause for not preferring the appeal within the period prescribed.

30. No action shall lie against Our Government or against any Officer in respect of any order passed or act *bona fide* done or orderd to be done under this Act.

Bar of Suit for anything done in good faith.

Sub-sections (5) and (6) were sub-section (3) and (4) in the Act as originally enacted.

The renumbering was made by Sec. 2, Act XIV of 1114.

ACT VIII OF 1892.

THE COPYRIGHT ACT.

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THE COPYRIGHT ACT.

AN ACT TO DEFINE AND AMEND THE LAW RELATING TO COPYRIGHT

*Passed by His Highness the Maha Raja of Travancore,
on the 4th August 1917 corresponding with the 20th
Karkatakam 1092 under Section 13 of
Act V of 1073.*

Whereas it is expedient to define and amend the law relating to the Copyright in literary and other works published in Travancore ; It is hereby enacted as follows :—

Preamble.

Act VIII of 1092. Objects and Reasons.—(1) The existing Copyright Regulation was passed in 1039 and is now more than half a century old. Regulation II of 1039 is based on the British Indian Act, XX of 1847. In pursuance to the recommendations of an International Convention held at Berlin in 1908 and to those of the Imperial Conference of 1910, an Imperial Copyright Law was passed by the English Parliament in 1911. (1 and 2 George V, Chapter 46) This Imperial Act was brought into force in British India by Proclamation in the Gazette of India dated the 31st October 1912. Under Section 27 of the English Act, the Government of India are empowered to make such modifications to the English Act as they may deem necessary. The necessary modifications to the English Act were made by Act III of 1914 of the Supreme Legislative Council. The present Bill has been drafted on the lines of the English Act as modified by

Act III of 1914. The existing Regulation does not provide for copyright in translations, photographs, sculpture and works of art generally, and it is therefore necessary that it should be brought into conformity with modern requirements. The important changes in the new Bill are :—

- (a) the extension of the term of copyright to 50 years ;
- (b) the abolition of the formality of registration ; and
- (c) the extension of copyright to translations and works of art generally.—

S. O & R.,

T. G. G. dated 2-11-1915.

The Report of the Select Committee Was published on 21-3-1916.

For legislative proceedings See T. G. G. dated 1-2-1916; 7-11-1916 ; and 7-8-1917.

The Act was published in T. G. G. dated 7-8-1917.

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called "The Travancore Copyright Act, 1092".

Short-title, extent and commencement. (2) It extends to the whole of Travancore.

(3) It shall come into force on the 1st Chingom 1093.

2. The enactment mentioned in the Schedule is hereby repealed to the extent mentioned in the fourth column thereof.

3. (1) In this Act, unless there is anything repugnant in the subject or context,—

Interpretation.

"Literary work" includes maps, charts, tables and compilations :

"Dramatic work" includes any piece of recitation, choreographic work or entertainment in dumb show, the scenic arrangement or acting form of which is fixed in writing or otherwise and any cinematograph production where the arrangement or acting form or the combination of incidents represented gives the work an original character.

"Musical work" includes any combination of melody and harmony, or either of them which has been reduced to writing :

"Artistic work" includes works of painting, drawing, sculpture and artistic craftsmanship and engravings and photographs :

"Work of sculpture" includes casts and models :

"Engravings" include etchings, lithographs, woodcuts, prints and other similar works not being photographs :

"Photograph" includes photo-lithograph and any work produced by any process analogous to photography :

"Cinematograph" includes any work produced by any process analogous to cinematography :

"Collective work" means—

(a) an encyclopaedia, dictionary, year-book or similar work :

- (b) a newspaper, review, magazine or similar periodical; and
- (c) any work written in distinct parts by different authors, or in which works or parts of works of different authors are incorporated :

“Infringing”, when applied to a copy of a work in which copy-right subsists, means any copy, including any colourable imitation, made or imported in contravention of the provisions of this Act.

“Performance” means any acoustic representation of a work and any visual representation of any dramatic action in a work, including such a representation made by means of any mechanical instrument :

“Delivery”, in relation to a lecture, includes delivery by means of any mechanical instrument :

“Plate” includes any stereotype or other plate, stone, block, mould, matrix, transfer or negative used or intended to be used for printing or reproducing copies of any work, and any matrix or other appliance by which records, perforated rolls or other contrivances for the acoustic representation of the work are or are intended to be made :

“Lecture” includes address, speech and sermon.

(2) For the purposes of this Act (other than those relating to infringements of copyright), a work shall not be deemed to be published or performed in public, and a lecture shall not be deemed to be delivered in public, if published, performed in public, or delivered in public, without the consent or acquiescence of the author, his executors, administrators or assigns.

(3) For the purposes of this Act, a work shall be deemed to be first published within any part of Travancore, notwithstanding that it has been published simultaneously in some other place, unless the publication in such part of Travancore as aforesaid is colourable only and is not intended to satisfy the reasonable requirements of the public, and a work shall be deemed to be published simultaneously in two places if the time between the publication in one such place and the publication in the other place does not exceed fourteen days.

(4) Where, in the case of an unpublished work, the making of a work has extended over a considerable period, the conditions of this Act conferring copyright shall be deemed to have been complied with, if the author was, during any substantial part of that period, a subject of, or a resident within Travancore.

(5) For the purposes of the provisions of this Act as to residence, an author of a work shall be deemed to be a resident within any part of Travancore if he is domiciled in such part.

CHAPTER II.

COPYRIGHTS.

1. *Rights.*

4. (1) Subject to the provisions of this Act, copyright shall subsist throughout Travancore for the term hereinafter mentioned in every original literary, dramatic, musical and artistic work, if—

(a) in the case of a published work, the work was first published in Travancore; and

(b) in the case of an unpublished work, the author was at the date of the making of the work a Travancore subject or resident in any part of Travancore.

(2) For the purposes of this Act, "copyright" means the sole right to produce or reproduce the work or any substantial part thereof in any material form whatsoever, to perform, or in the case of a lecture to deliver, the work or any substantial part thereof in public; if the work is unpublished, to publish the work or any substantial part thereof; and shall include the sole right—

(a) to produce, reproduce, perform or publish any translation of the work;

(b) in the case of a dramatic work, to convert it into a novel or other non-dramatic work;

(c) in the case of a novel or other non-dramatic work, or of an artistic work, to convert it into a dramatic work, by way of performance in public or otherwise ;

(d) in the case of a literary, dramatic or musical work, to make any record, perforated roll, cinematograph film, or other contrivance by means of which the work may be mechanically performed or delivered ;

and to authorise any such acts as aforesaid.

(3) For the purposes of this Act, publication, in relation to any work, means the issue of copies of the work to the public, and does not include the performance in public of a dramatic or musical work, the delivery in public of a lecture, or the exhibition in public of an artistic work, but, for the purpose of this provision, the issue of photographs and engravings of works of sculpture shall not be deemed to be publication of such works.

5. (1) Copyright in a work shall be deemed to be infringed by any person who, without the consent of the owner of the copyright, does anything the sole right to do which is by this Act conferred on the owner of the copy right: Provided that the following acts shall not constitute an infringement of copy-right :—

Infringement of
copyright.

- (i) any fair dealing with any work for the purposes of private study, research, criticism, review or newspaper summary ;
- (ii) where the author of an artistic work is not the owner of the copyright therein, the use by the author of any mould, cast, sketch, plan, model or study made by him for the purposes of the work, provided that he does not thereby repeat or imitate the main design of that work ;
- (iii) the making or publishing of paintings, drawings, engravings, or photographs of a work of sculpture or artistic craftsmanship, if permanently situate in a public place or building ;

- (iv) the publication in a collection, mainly composed of non-copyright matter, *bona fide* intended for the use of schools, and so described in the title and in any advertisements issued by the publisher, of short passages from published literary works not themselves published for the use of schools in which copyright subsists: Provided that not more than two of such passages from works by the same author are published by the same publisher within five years, and that the source, from which such passages are taken is acknowledged;
- (v) the publication in a newspaper of a report of a lecture delivered in public, unless the report is prohibited by conspicuous written or printed notice affixed before and maintained during the lecture at or about the main entrance of the building in which the lecture is given, and, except whilst the building is being used for public worship, in a position near the lecturer; but nothing in this paragraph shall affect the provisions in paragraph (i) as to newspaper summaries;
- (vi) the reading or recitation in public by one person of any reasonable extract from any published work.

(2) Copyright in a work shall also be deemed to be infringed by any person who —

- (a) sells or lets for hire, or by way of trade exposes or offers for sale or hire; or
- (b) distributes either for the purposes of trade or to such an extent as to affect prejudicially the owner of the copyright; or
- (c) by way of trade exhibits in public; or

(d) imports for sale or hire into any part of Travancore, any work which to his knowledge infringes copyright or, would infringe copyright, if it had been made within such part of Travancore in or into which the sale or hiring, exposure, offering for sale or hire, distribution, exhibition, or importation took place.

(3) Copyright in a work shall also be deemed to be infringed by any person who for his private profit permits a theatre or other place of entertainment to be used for the performance in public of the work without the consent of the owner of the copyright, unless he was not aware, and had no reasonable ground for suspecting, that the performance would be an infringement of copyright.

6. The term for which copyright shall subsist shall, except as otherwise expressly provided by this Act, be the life of the author and a period of fifty years after his death:

Term of copyright.

Provided that, at any time after the expiration of twenty-five years or in the case of a work in which copyright subsists at the passing of this Act, thirty years from the death of the author of a published work, copyright in the work shall not be deemed to be infringed by the reproduction of the work for sale if the person reproducing the work proves that he has given the prescribed notice in writing of his intention to reproduce the work, and that he has paid in the prescribed manner to, or for the benefit of, the owner of the copyright, royalties in respect of all copies of the work sold by him calculated at the rate of ten per cent. on the price at which he publishes the work; and, for the purposes of this Proviso, Our Government may make Rules prescribing the mode in which notices are to be given, and the particulars to be given in such notices, and the mode, time and frequency of the payment of royalties including (if they think fit) Rules requiring payment in advance or otherwise securing the payment of royalties.

7. If, at any time after the death of the author of a literary, dramatic or musical work which has been published or performed in public, a complaint is made to

Compulsory licenses.

Our Government that the owner of the copyright in the work has refused to republish or to allow the republication of the work or has refused to allow the performance in public of the work, and that by reason of such refusal the work is withheld from the public, the owner of the copyright may be ordered to grant a license to reproduce the work or perform the work in public, as the case may be, on such terms and subject to such conditions as Our Government may think fit.

8. (1) Subject to the provisions of this Act, the author of a work shall be the first owner of the copyright therein :
 Ownership of copy-right, etc. Provided that—

(a) where, in the case of an engraving, photograph or portrait, the plate or other original was ordered by some other person and was made for valuable consideration in pursuance of that order, then, in the absence of any agreement to the contrary, the person by whom such plate or other original was ordered shall be the first owner of the copyright.

(b) where the author was in the employment of some other person under a contract of service or apprenticeship and the work was made in the course of his employment by that person, the person by whom the author was employed shall, in the absence of any agreement to the contrary, be the first owner of the copyright, but where the work is an article or other contribution to a newspaper, magazine or similar periodical, there shall, in the absence of any agreement to the contrary, be deemed to be reserved to the author a right to restrain the publication of the work, otherwise than as part of a newspaper, magazine or similar periodical.

(2) The owner of the copyright in any work may assign the right, either wholly or partially, and either generally or subject to limitations to any part of Travancore and either for the whole term of the copyright or for any part thereof and may grant any interest in the right by

license, but no such assignment or grant shall be valid unless it is in writing signed by the owner of the right in respect of which the assignment or grant is made or by his duly authorised agent.

Provided that, where the author of a work is the first owner of the copyright therein, no assignment of the copyright, and no grant of any interest therein, made by him (otherwise than by Will) after the passing of this Act, shall be operative to vest in the assignee or grantee any rights with respect to the copyright in the work beyond the expiration of twenty-five years from the death of the author, and the reversionary interest in the copyright expectant on the termination of the period shall, on the death of the author, notwithstanding any agreement to the contrary, devolve on his legal representatives as part of his estate, and any agreement entered into by him as to the disposition of such reversionary interest shall be null and void, but nothing in this Proviso shall be construed as applying to the assignment of the copyright in a collective work or a license to publish a work or part of a work as part of a collective work.

(3) Where, under any partial assignment of copyright, the assignee becomes entitled to any right comprised in copyright, the assignee, as respects the right so assigned, and the assignor, as respects the rights not assigned, shall be treated for the purposes of this Act as the owners of the copyright, and the provisions of this Act shall have effect accordingly.

2. *Civil Remedies.*

9. (1) Where copyright in any work has been infringed, the owner of the copyright shall, except as otherwise provided by this Act, be entitled to all such remedies by way of injunction or interdict, damages, accounts, and otherwise, as are or may be conferred by law for the infringement of a right.

Civil remedies for infringement of copyright.

(2) The costs of all parties in any proceedings in respect of the infringement of copyright shall be in the absolute discretion of the Court.

(3) In any action for infringement of copyright in any work, the work shall be presumed to be a work in which copyright subsists and the plaintiff shall be presumed to be the owner of the copyright, unless the defendant puts in issue the existence of the copyright, or, as the case may be, the title of the plaintiff, and where any such question is in issue, then—

(a) If a name purporting to be that of the author of the work is printed or otherwise indicated thereon in the usual manner, the person whose name is so printed or indicated shall, unless the contrary is proved, be presumed to be the author of the work ;

(b) if no name is so printed or indicated, or if the name so printed or indicated is not the author's true name or the name by which he is commonly known, and a name, purporting to be that of the publisher or proprietor of the work is printed or otherwise indicated thereon in the usual manner, the person whose name is so printed or indicated shall, unless the contrary is proved, be presumed to be the owner of the copyright in the work for the purposes of proceedings in respect of the infringement of copyright therein.

10. All infringing copies of any work in which copyright subsists, or of any substantial part thereof, and all plates used or intended to be used for the production of such infringing copies, shall be deemed to be the property of the owner of the copyright, who accordingly may take proceedings for the recovery of the possession thereof or in respect of the conversion thereof.

11. Where proceedings are taken in respect of the infringement of the copyright in any work and the defendant in his defence alleges that he was not aware of the existence of the copyright in the work, the plaintiff shall not be entitled to any remedy other than an injunction or interdict in respect of the infringement if the defendant proves

Rights of owner against persons possessing or dealing with infringing copies, etc.

Exemption of innocent infringer from liability to pay damages, etc.

that at the date of the infringement he was not aware and had no reasonable ground for suspecting that copyright subsisted in the work

12. An action in respect of infringement of copyright shall not be commenced after the expiration of three years next after the infringement.

Limitation of actions.

3. *Importation of Copies.*

13. (1) Copies made out of Travancore of any work in which copyright subsists, which if made in Travancore would infringe copyright, and as to which the owner of the copyright gives notice in writing by himself or his agent to the Controlling Officer of Customs, as defined in the Sea Customs Act V of 1088, that he is desirous that such copies should not be imported into Travancore, shall not be so imported, and shall, subject to the provisions of this Section, be deemed to be prohibited imports within the meaning of Section 17 of the Sea Customs Act, V of 1088.

Importation of copies.

(2) Before detaining any such copies or taking any further proceedings with a view to the confiscation thereof, such Controlling Officer of Customs, the Chief Customs Officer or the Customs Inspector, or any other Officer appointed by Our Government in this behalf, may require the Rules under this Section, whether as to information, security, conditions or other matters, to be complied with, and may satisfy himself, in accordance with those Rules, that the copies are such as are prohibited by this Section to be imported.

(3) Our Government may, by Notification in Our Government Gazette, make Rules, either general or special, respecting the detention and confiscation of copies the importation of which is prohibited by this Section, and the conditions, if any, to be fulfilled before such detention and confiscation; and may, by such Rules, determine the information, notices and security to be given, and the evidence requisite for any of the purposes of this Section, and the mode of verification of such evidence

(4) Such Rules may apply to copies of all works the importation of copies of which is prohibited by this Section, or different Rules may be made respecting different classes of such works.

(5) The Rules may provide for the informant reimbursing any Public Officer and Our Government all expenses and damages incurred in respect of any detention made on his information, and of any proceedings consequent on such detention.

4. *Delivery of books.*

14. (1) The publisher of every book published in Travancore shall, within one month after the publication, deliver, at his own expense, a copy of the book to the Huzur Library, and the Chief Secretary to Our Government shall give a written receipt for it.

(2) The copy so delivered shall be a copy of the whole book with all maps and illustrations belonging thereto, finished and coloured in the same manner as the best copies of the book are published, and shall be bound, sewed or stitched together, and on the best paper on which the book is printed.

(3) If a publisher fails to comply with this Section he shall be liable to a fine not exceeding fifty rupees and the value of the book.

(4) For the purposes of this Section, the expression "book" includes every part or division of a book, pamphlet, sheet of letter-press, sheet of music, map, plan chart or table separately published, but shall not include any second or subsequent edition of a book unless such edition contains additions or alterations either in the letter-press or in the maps, prints, or other engravings belonging thereto,

5. *Special Provisions as to certain Works.*

15. (1) In the case of a work of joint authorship, copyright shall subsist during the life of the author who first dies and for a term of fifty years after his death, or during the life of the author who dies last, whichever period is the longer, and

Works of joint authorship.

references in the Act to the period after the expiration of any specified number of years from the death of the author shall be construed as references to the period after the expiration of the like number of years from the death of the author who dies first or after the death of the author who dies last, whichever period may be the shorter, and in the provisions of this Act with respect to the grant of compulsory licenses a reference to the date of the death of the author who dies last shall be substituted for the reference to the date of the death of the author.

(2) Where, in the case of a work of joint authorship, some one or more of the joint authors do not satisfy the conditions conferring copyright laid down by this Act, the work shall be treated for the purposes of this Act as if the other author or authors had been the sole author or authors thereof :

Provided that the term of the copyright shall be the same as it would have been if all the authors had satisfied such conditions as aforesaid.

(3) For the purposes of this Act, "a work of joint authorship" means a work produced by the collaboration of two or more authors in which the contribution of one author is not distinct from the contribution of the other author or authors.

(4) Where a married woman and her husband are joint authors of a work, the interest of such married woman therein shall be her separate property.

16. (1) In the case of a literary, dramatic or musical work, or an engraving, in which
 Posthumous works. copyright subsists at the date of the death of the author or, in the case of a work of joint authorship, at or immediately before the date of the death of the author who dies last, but which has not been published, nor, in the case of a dramatic or musical work, been performed in public, nor, in the case of a lecture, been delivered in public, before that date, copyright shall subsist till publication, or performance or delivery in public, whichever may first happen, and for a term of fifty years thereafter, and the Proviso to Section 6 of this Act shall, in the case of such a work, apply as if the author had died at the date of such publication or performance or delivery in public as aforesaid.

(2) The ownership of an author's manuscript after his death, where such ownership has been acquired under a testamentary disposition made by the author and the manuscript is of a work which has not been published nor performed in public nor delivered in public, shall be *prima facie* proof of the copyright being with the owner of the manuscript.

17. Without prejudice to the rights or privileges of Our Government, where any work has whether before or after the commencement of this Act, been prepared or published by or under the direction or control of Our Government or any Department of Our Government, the copyright in the work shall, subject to any agreement with the author, belong to Our Government, and in such case shall continue for a period of fifty years from the date of the first publication of the work.

Provisions as to Government publications.

18. (1) In the case of works first published in Travancore, copyright shall be subject to the sole right to produce, reproduce, perform or publish a translation of the work shall subsist only for a period of ten years from the date of the first publication of the work:

Modification of copyright as regards translation of work first published in Travancore.

Provided, if within the said period, the author, or any person to whom he has granted permission so to do, publishes a translation of any such work in any language, copyright in such work as regards the sole right to produce, reproduce, perform or publish a translation in that language shall not be subject to the limitation prescribed in this Section.

(2) For the purposes of Sub-section (1), the expression "author" includes the legal representative of a deceased author.

19. (1) Copyright shall subsist in records, perforated rolls, and other contrivances by means of which sounds may be mechanically reproduced, in like manner as if such contrivances were musical works, but the term of copyright shall be fifty years from

Provisions as to mechanical instruments.

the making of the original plate from which the contrivance was directly or indirectly derived, and the person who was the owner of such original plate at the time when such plate was made shall be deemed to be the author of the work, and, where such owner is a body corporate, the body corporate shall be deemed for the purposes of this Act to reside within Travancore, if it has established a place of business within any part thereof.

(2) It shall not be deemed to be an infringement of copyright in any musical work for any person to make, within Travancore, records, perforated rolls, or other contrivances by means of which the work may be mechanically performed, if such person proves—

(a) that such contrivances have previously been made by, or with the consent or acquiescence of, the owner of the copyright in the work; and

(b) that he has given the prescribed notice of his intention to make the contrivances, and has paid, in the prescribed manner to, or for the benefit of, the owner of the copyright in the work, royalties in respect of all such contrivances sold by him, calculated at the rate hereinafter mentioned :

Provided that—

(i) nothing in this provision shall authorise any alterations in, or omissions from, the work reproduced, unless contrivances reproducing the work subject to similar alterations and omissions have been previously made by, or with the consent or acquiescence of, the owner of the copyright, or unless such alterations or omissions are reasonably necessary for the adaptation of the work to the contrivances in question; and

(ii) for the purposes of this provision, a musical work shall be deemed to include any works so closely associated therewith as to form part of the same work, but shall not be deemed to include a contrivance by means of which sounds may be mechanically reproduced.

(3) The rate at which such royalties as aforesaid are to be calculated shall,—

(a) in the case of contrivances sold within two years after the commencement of this Act by the person making the same, be two and one-half per cent, and

(b) in the case of contrivances sold as aforesaid after the expiration of that period, be five per cent,

on the ordinary retail selling price of the contrivance calculated in the prescribed manner, so however that the royalty payable in respect of a contrivance shall, in no case, be less than one chuckram for each separate musical work in which copyright subsists reproduced thereon, and where the royalty calculated as aforesaid includes a fraction of half a chuckram, such fraction shall be reckoned as half a chuckram:

Provided that, if, at any time after the expiration of seven years from the commencement of this Act, it appears to Our Government that such rate as aforesaid is no longer equitable, Our Government may, after holding a public inquiry, make an order either decreasing or increasing that rate to such extent as under the circumstances may seem just:

Provided also that, where an order revising the rate has been so made, no further revision shall be made before the expiration of fourteen years from the date of the last revision.

(4) If any such contrivance is made reproducing two or more different works in which copyright subsists and the owners of the copyright therein are different persons, the sums payable by way of royalties under this Section shall be apportioned amongst the several owners of the copyright in such proportions as, failing agreement, may be determined by arbitration in accordance with the law for the time being in force in Travancore.

(5) When any such contrivances by means of which a musical work may be mechanically performed have been made, then, for the purposes of this Section, the owner of the copyright in the work shall, in relation to any person

who makes the prescribed inquiries, be deemed to have given his consent to the making of such contrivances if he fails to reply to such inquiries within the prescribed time.

(6) For the purposes of this Section, Our Government may make Rules prescribing anything which under this Section is to be prescribed, and prescribing the mode in which notices are to be given and the particulars to be given in such notices, and the mode, time and frequency of the payment of royalties, and any such Rules may if Our Government think fit, include Rules requiring payment in advance or otherwise securing the payment of royalties.

(7) In the case of musical work published before the commencement of this Act, the foregoing provisions shall have effect subject to the following modifications and additions:—

- (a) The conditions as to the previous making by or with the consent or acquiescence of, the owner of the copyright in the work, and the restrictions as to alterations in or omissions from the work, shall not apply.
- (b) The rate of two and one-half per cent shall be substituted for the rate of five per cent as the rate at which royalties are to be calculated, but no royalties shall be payable in respect of contrivances sold before the first day of Chingom 1093, if contrivances reproducing the same work had been lawfully made, or placed on sale, within Travancore before the first day of Chingom 1093.
- (c) Notwithstanding any assignment made before the passing of this Act of the copyright in a musical work, any rights conferred by this Act in respect of the making, or authorising the making, of contrivances by means of which the work may be mechanically performed shall belong to the author or his legal representatives and not to the assignees and the royalties aforesaid shall be payable to, and for the benefit of, the author of the work or his legal representatives.

(d) The saving contained in this Act of the rights and interests arising from, or in connection with, action taken before the commencement of this Act shall not be construed as authorising any person who has made contrivances by means of which the work may be mechanically performed to sell any such contrivances whether made before or after the passing of this Act, except on the terms and subject to the conditions laid down in this Section.

(8) Notwithstanding anything in this Act, where a record, perforated roll, or other contrivance by means of which sounds may be mechanically reproduced has been made before the commencement of this Act, copyright shall, as from the commencement of this Act, subsist therein in like manner and for the like term as if this Act had been in force at the date of the making of the original plate from which the contrivance was directly or indirectly derived :

Provided that—

- (i) the person who, at the commencement of this Act, is the owner of such original plate shall be the first owner of such copyright ; and
- (ii) nothing in this provision shall be construed as conferring copyright in any such contrivance, if the making thereof would have infringed copyright in some other such contrivance, if this provision had been in force at the time of the making of the first-mentioned contrivance.

20. Notwithstanding anything in this Act, it shall not be an infringement of copyright in Provisions as to political speeches. an address of a political nature delivered at a public meeting to publish a report thereof in a newspaper.

21. The term for which copyright shall subsist in Provisions as to photographs. photographs shall be fifty years from the making of the original negative from which the photograph was directly or indirectly derived, and the person who was owner of such negative at the time

when such negative was made shall be deemed to be the author of the work, and, where such owner is a body corporate, the body corporate shall be deemed for the purpose of this Act to reside within Travancore, if it has established a place of business within any part thereof.

22. (1) This Act shall not apply to designs capable of being registered under the Patents and Designs Act X of 1090, except designs which, though capable of being so registered are not used, or intended to be used as models or patterns to be multiplied by any industrial process.

Provisions as to designs registerable under the Patents and Designs Act.

(2) General Rules under Section 73 of the Patents and Designs Act X of 1090, may be made for determining the conditions under which a design shall be deemed to be used for such purposes as aforesaid.

23. (1) Where any person is immediately before the commencement of this Act entitled to any copyright in any work under Act II of 1039, or to any interest in such right, he shall, as from that date, be entitled to the copyright as defined in this Act, or to the same interest in such right and to no other right or interest, and such right shall subsist for the term for which it would have subsisted if this Act had been in force at the date when the work was made and the work had been one entitled to copyright thereunder ;

Provided that—

(a) if the author of any work in which any copyright under Act II of 1039 subsists at the commencement of this Act has, before that date, assigned the right or granted any interest therein for the whole term of the right, then at the date when, but for the passing of this Act, the right would have expired, the right conferred by this Section shall, in the absence of express agreement, pass to the author of the work, and any interest therein created before the commencement of this Act and then subsisting shall determine ; but the person who immediately before the date at which the right would so have expired was the owner of the right or interest shall be entitled at his option either —

- (i) on giving such notice as hereinafter mentioned, to an assignment of the right or the grant of a similar interest therein for the remainder of the term of the right for such consideration as, failing agreement, may be determined by arbitration in accordance with the law for the time being in force in Travancore ; or
- (ii) without any such assignment or grant, to continue to reproduce or perform the work in like manner as theretofore subject to the payment, if demanded by the author within three years after the date at which the right would have so expired, of such royalties to author as, failing agreement, may be determined by arbitration in accordance with the law for the time being in force in Travancore, or, where the work is incorporated in a collective work and the owner of the right or interest in the proprietor of that collective work, without any such payment :

The notice above referred to must be given not more than one year nor less than six months before the date at which the right would have so expired, and must be sent by registered Post or Anchal to the author, or, if he cannot with reasonable diligence be found, advertised in Our Government Gazette ;

(b) where any person has, before the date on which this Act comes into force, taken any action whereby he has incurred any expenditure or liability in connection with the reproduction or performance of any work in a manner which at the time was lawful, or for the purpose of or with a view to the reproduction or performance of a work at a time when such reproduction or performance would, but for the passing of this Act have been lawful, nothing in this Section shall diminish or prejudice any rights or interest arising from or in connection with such action which are subsisting and valuable at the said date, unless the person who by virtue of this Section becomes entitled to restrain such reproduction or performance agrees to pay such compensation as, failing agreement, may be determined by arbitration in accordance with the law for the time being in force in Travancore.

(2) For the purpose of this Section, the expression "author" includes the legal representatives of a deceased author.

(3) Subject to the provisions of Section 19, Subsections (7) and (8), copyright shall not subsist in any work made before the commencement of this Act otherwise than under, and in accordance with the provisions of this Section.

CHAPTER III.

PENALTIES.

24. If any person knowingly,

(a) makes for sale or hire any infringing copy of a work in which copyright subsists; or

(b) sells or lets for hire, or by way of trade exposes or offers for sale or hire, any infringing copy of any such work; or

(c) distributes infringing copies of any such work, either for the purposes of trade or to such an extent as to affect prejudicially the owner of the copyright; or

(d) by way of trade exhibits in public any infringing copy of any such work; or

(e) imports for sale or hire into Travancore any infringing copy of any such work; he shall be punishable with fine which may extend to twenty rupees for every copy dealt with in contravention of this Section, but not exceeding five hundred rupees in respect of the same transaction.

25. If any person knowingly makes, or has in his possession, any plate for the purpose of making infringing copies of any work in which copyright subsists, or knowingly and for his private profit causes any such work to be performed in public without the consent of the owner of the copyright, he shall be punishable with fine which may extend to five hundred rupees.

26. If any person, after having been previously convicted of an offence punishable under Section 24 or Section 25 is subsequently convicted of an offence punishable under either of those Sections, he shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both.

27. (1) The Court before which any offence under this Chapter is tried may, whether the alleged offender is convicted or not, order that all copies of the work or all plates in the possession of the alleged offender, which appear to it to be infringing copies, or plates for the purpose of making infringing copies, be destroyed or delivered up to the owner of the copyright, or otherwise dealt with as the Court may think fit.

(2) Any person affected by an order under Sub-section (1) may, within thirty days of the date of such order, appeal to the Court to which appeals from the Court making the order ordinarily lie; and such Appellate Court may direct the execution of the order be stayed pending consideration of the appeal.

28. No Court inferior to that of a Magistrate of the First Class shall try any offence against this Act.

29. No complaint regarding the infringement of copyright shall be received and acted upon in any Court unless it is preferred within one year next after such infringement

CHAPTER IV.

SUPPLEMENTAL PROVISIONS.

30. No person shall be entitled to copyright or any similar right in any literary, dramatic, musical or artistic work, whether published or unpublished, otherwise than under and in accordance with the

SCH

THE COPYRIGHT ACT.

SCHEDULE.

REPEAL OF ENACTMENT.

(See Section 2.)

Year.	No.	Short-title.	Extent of repeal.
1039	II	An Act for securing copy-right to authors of books in Travancore.	The whole.

PROCLAMATION

*Passed by His Highness the Maha Raja of Travancore,
issued under date the 11th Chingom 1093 cor-
responding with the 27th August 1917.*

Whereas, owing to the abolition of the tax in kind and the consequent reduction of the number of granaries in the State, Our Government resolved to pay from the Kandukrishi granaries of the State certain allowances payable in kind to Jenmis ;

And Whereas, it has been represented to Us that some of the Jenmis find it inconvenient and expensive to receive such payments from the said granaries ;

And Whereas, with a view to facilitate the payment of such allowances by Our Government and to remove the source of hardship to Jenmis, it is thought desirable to give an option to the Jenmis of receiving such allowances in kind or in money ;

We are pleased to command as follows :—

1. (i) All allowances known as *Jenmibhogam*, *Michavaram*, *Arthapalisa* or otherwise and payable in kind to Jenmis by Our Government shall be payable only from, and shall be received at any of the Kandukrishi granaries of the State.
- (ii) The Jenmi to whom the allowances referred to in Sub-section (i) are due shall be at liberty to choose the granary from which the payments shall be made :

Provided, however, that the granary once chosen shall not be changed without the previous sanction of Our Government.

This Proclamation was published in the Gazette dated 4th September 1917.

PROCLAMATION.

*By His Highness the Maha Raja of Travancore
issued under the date the 8th October 1917
corresponding with the 22nd Kanni 1093.*

Whereas an emergency has arisen which makes it
expedient to prohibit the landing at,
Preamble. or embarking from, the Ports within
Travancore, of persons without pas-
ports: We are pleased to command as follows:—

1. This Proclamation shall be called the Travancore
Passport Proclamation, 1093, and
Short title. shall supersede the Proclamation
dated the 20th May 1917/7th Edavom
1092.

2. In this Proclamation, unless there is anything re-
pugnant in the subject or context,—
Definitions.

“Passport” means a passport for the time being
in force issued or renewed not more
“Passport.” than two years previously by or on be-
half of the Government of the country
of which the person to whom it relates is a subject and,
in the case of a person coming to Travancore from any
country other than the United Kingdom or a British Pos-
session, issued or *vised* by the British Ambassador or a
British Consul in that country, to which passport there is
attached a photograph of the person to whom it relates:

“Competent authority” means any person
authorised by order in writing by
“Competent
authority.” the Governor-General of India in
Council or by a Local Government in
British India or by Our Government
to exercise the powers of a competent authority under
this Proclamation.

This Proclamation was published in the Gazette dated 16th
October 1917.

3. No person coming from, or intending to proceed to, any place out of India shall, save as otherwise provided in this Proclamation, land or embark at any Port in Travancore unless he has in his possession a passport.

Landing or embarking in Travancore without passport prohibited.

4. The Governor-General of India in Council or a Local Government in British India or Our Government may by order in writing exempt, either absolutely or on conditions as may be specified in the order, any person or class of persons from any of the provisions of this Proclamation, and a competent authority may by like order and under like conditions exempt any person from any of the said provisions

Power to exempt persons from the operation of the Proclamation.

5. Any person who—

(a) lands or embarks at any Port in Travancore in contravention of Section 3;

Penalties.

(b) having been conditionally exempted from any of the provisions of this Proclamation, does any act in contravention of any condition specified in the order of exemption ;

(c) for the purpose of obtaining a passport or an order of exemption from any provision of this Proclamation, or for the purpose of obtaining the renewal or variation of a passport or order, either for himself or for any other person, makes a false statement or false representation ;

shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

6. Any person who voluntarily obstructs or offers any resistance to, or impedes, or otherwise interferes with, a competent authority, or any Officer or other person who is carrying out the orders of such authority or who is otherwise acting in accordance with his duty under any

Penalty for obstruction to authority acting under this Proclamation.

SEC. 7. PASSPORT PROCLAMATION

of the provisions of this Proclamation, shall be punishable with imprisonment for a term which may extend to one month, or with fine, or with both.

7. Any person who attempts to commit, or abets or Attempts. attempts to abet the commission of, any act punishable under this Proclamation, shall be punishable in like manner as if he had committed the act.

8. (1) A competent authority or any Officer of the Police or of the Customs Department empowered by general or special order by Our Government in this behalf may arrest without a warrant any person against whom a reasonable suspicion exists of his being concerned in an offence punishable under this Proclamation.

(2) Every authority or Officer making an arrest under this Proclamation shall, without unnecessary delay, take or send the person arrested before a Magistrate having jurisdiction in the case, or to the Officer in charge of the nearest Police station.

9. Nothing in this Proclamation shall apply to—

Exceptions. (a) any person whose age is, or appears to a competent authority, to be, less than fifteen years;

(b) any member of His Majesty's naval or military forces or of the Indian Marine Service or of Our Body Guard or Nair Brigade entering or leaving Travancore on duty;

(c) any member of the crew of any vessel who has been lawfully engaged as such in any country outside Travancore and who leaves Travancore in continuation of the same voyage in the same vessel, or any member of the crew of any vessel who has been lawfully engaged in Travancore for an oversea voyage who satisfies a competent authority that he is by occupation a seafaring man;

(e) any *bona fide* labourer proceeding to, or returning from, the Malay States or Ceylon;

(f) any *bona fide* Mahomedan pilgrim proceeding to, or returning from, Jeddah or Basra.

ACT I OF 1093

AN ACT TO AMEND THE TRAVANCORE PRESS ACT, II OF 1079.

*Passed by His Highness the Maha Raja of Travancore
on the 31st October 1917 corresponding with the
15th Thulam 1093, under Section 13 of Act V
of 1073.*

Whereas it is expedient to amend "The Travancore Press Act, II of 1079"; It is hereby enacted as follows :

1. Part III. Add 'and Newspapers' to the heading 'Delivery of Books'.

2. Between Section 12 and Section 13, add as Section 12-A the following :—

"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".

3. Section 13. Between "is" and "delivered" in line 1, insert "or copies of newspapers are", and substitute "Section 12 or Section 12-A" for the words "the last foregoing Section."

4. Add as Section 21-A the following :—

"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".

ACT II OF 1093.

AN ACT TO AMEND THE CATTLE TRESPASS ACT, IV OF 1086, AS AMENDED BY ACT VII OF 1090.

Passed by His Highness the Maha Raja of Travancore on the 5th May 1918 corresponding with the 23rd Medom 1093, under Section 13 of Act V of 1073.

Whereas it is necessary to further amend the law relating to trespass by cattle; It is hereby enacted as follows :-

1. Add the following definitions to Section 3 :-

'Local authority' means a Town Improvement Committee or any other body of persons for 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 management of a local authority.

2. Section 1, Line 3. Insert 'and of Town Improvement Committees' after 'Police'.

3. Substitute the following for Paragraph 2 in Section 12 :—

"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."

4. After the word 'made' in Paragraph I of Section 17, substitute "shall send to the Magistrate of the District the fines so deducted" for "shall pay the fines so deducted to the credit of the 'Cattle Pound Fund' of the District."

5. Paragraph 3 of Section 17. For the words 'credit the same to the Cattle Pound Fund of the District', substitute the words 'dispose of them as hereinafter provided'.

6. Section 18, Paragraph I. For the words 'Out of the Cattle Pound Fund of the District', substitute the words 'Out of the sums received on account of fines and the unclaimed proceeds of the sale of cattle'.

7. Add the following new Chapter :—

"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."

EXTRADITION BETWEEN TRAVANCORE AND COCHIN PROCLAMATION.

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PROCLAMATION..

*By His Highness the Maha Raja of Travancore,
issued under date the 4th Karkatakam 1093
corresponding with the 19th July 1918*

Whereas it is expedient to make better provision for the surrender, to the State of Cochin, of persons accused or convicted of certain crimes within the jurisdiction of such State ; We are pleased to command as follows :—

Preamble.

CHAPTER I.

PRELIMINARY.

1. In this Proclamation, unless there is anything repugnant in the subject or context,—

Definitions.

(a) "Extradition offence" means any such offence as is described in the Schedule :

(b) "Offence" includes any act which would, if committed in Travancore, constitute an offence :

(c) "Rules" include prescribed forms.

CHAPTER II.

SURRENDER OF ACCUSED PERSONS.

2. (1) Where an extradition offence has been committed or is supposed to have been

Requisition for
surrender.

committed by a person in the State of Cochin, and such person escapes into or is in the State of Travancore,

and the Dewan of Cochin makes a requisition [* *] to Our Dewan for the arrest and surrender of such

Extradition between Travancore and Cochin Proclamation.

This Proclamation has been issued on a basis of reciprocity between Cochin and Travancore, the corresponding Act in Cochin being Act X of 1093.

The Proclamation was published in *T. G. G. dated 23-7-1918*. It has been amended by adding to the Schedule by Proclamations (i) dated 30-1-1939

(ii) dated 26-5-1944 and published in *T. G. G. dated 30-5-1944* and (iii) dated 23-3-1945 and published in *T. G. G. dated 27-3-1945*.

The Proclamation has been further amended by Proclamation dated 21-10-1947 and published in *T.G.G. dated 28-10-1947*.

Sec. 2. The words "through the British Resident" which

SEC. 3. EXTRADITION BETWEEN TRAVANCORE
AND COCHIN

person, Our Dewan, on being satisfied that there is a *prima facie* case against him, shall issue orders to the District Magistrate having jurisdiction over the place where the criminal for the time being is believed to be, for his arrest and delivery at a place and to a person or authority as mentioned in the requisition.

(2) On receipt of Our Dewan's orders, such Magistrate shall issue a warrant for the arrest and delivery of that person at the place and to the person or authority indicated therein, and such warrant shall be executed in the manner provided by the law for the time being in force with reference to the execution of warrants, and the accused person, when arrested, shall, unless released in accordance with the provisions of this Proclamation, be forwarded to the place and delivered to the person or authority indicated in the warrant.

(3) The provisions of the Code of Criminal Procedure, for the time being in force, in relation to proclamation and attachment in the case of persons absconding, shall apply to warrants issued under this Proclamation.

3. (1) Where the offence is a bailable one or where the Dewan of Cochin has so requested in the letter of requisition, the person whose surrender is required may be released on executing a bond with sufficient sureties for his attendance before a person or authority mentioned in the letter of requisition at a specified time and place.

(2) When security is taken under this Section, the Magistrate shall report the fact to Our Dewan and shall retain the bond. Our Dewan shall thereupon certify the fact to the Dewan of Cochin. [* * *]

occurred within brackets were omitted by Proclamation dated 21-10-1947.

the British Resident" which occurred within brackets were omitted by Proclamation dated 21-10-1947.

Sec. 3 (2) The words "through

(3) If the person bound by any such bond does not appear at the time and place specified therein, and the Dewan of Cochin informs Our Dewan of such default and requests the re-arrest and surrender of the defaulter, Our Dewan shall, on being satisfied of such default, require the District Magistrate having jurisdiction over the place where the criminal is believed to be to issue a warrant directing that the defaulter be re-arrested and delivered at a place and to a person or authority as mentioned in the requisition.

(4) In the case of any bond executed under this Section, the Magistrate may exercise the powers conferred by the Criminal Procedure Code for the time being in force in relation to taking a deposit in lieu of the execution of a bond and with respect to the forfeiture of bonds and the discharge of sureties.

4. (1) If it appears to any District Magistrate that a person within the local limits of his jurisdiction is accused or suspected of having committed an extradition offence in the Cochin State, he 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 who will communicate the fact to the Dewan of Cochin.

[* * *]

(3) A person arrested on a warrant issued under this Section shall not, without the special sanction of Our Dewan, be detained more than two months, unless within that period the Magistrate receives an order to issue a warrant under Section 2.

Sec 4. (2) The words "through the British Resident" which occurred within the brackets were omitted by Proclamation dated 21-10 1947.

SEC. 5 EXTRADITION BETWEEN TRAVANCORE CHAP. II.
AND COCHIN.

(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.

5. (1) A person accused of an offence committed in Travancore, not being the offence for which his surrender is asked or undergoing sentence under any conviction in Travancore, shall not be surrendered in compliance with a requisition made on behalf of the Cochin State under Section 2 except on the condition that such person be re-surrendered to Travancore on the termination of his trial for the offence for which his surrender has been asked: 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 date of his surrender.

(3) Such person shall be returned to the authorities of the Travancore State as soon as his trial in Cochin is over, and the sentence, if any, except that of death passed on him by the Court of Cochin, will take effect only after he is re-delivered by the Travancore State and after he has undergone in a Travancore Jail the unexpired portion of the sentence passed upon him by the Travancore Court.

6. The provisions of this Chapter with reference to accused persons shall, with any necessary modifications, apply to the case of a person who, having been convicted in the State of Cochin, has escaped into or is in the State of Travancore before his sentence has expired.

7. Every person who is accused or convicted of abetting or attempting to commit any offence shall be deemed, for the purposes of this Proclamation, to be accused or convicted of having committed such offence, and shall be liable to be arrested and surrendered accordingly.

8. It shall be lawful for any person to whom a warrant is directed in pursuance of the provisions of this Chapter to receive, hold in custody and convey the person mentioned in the warrant, to the place named in the warrant, and, if such person escapes out of any custody to which he may be delivered in pursuance of such warrant, he may be re-taken as a person accused of any offence against the law of Travancore may be re-taken upon an escape.

CHAPTER III.

SUPPLEMENTARY.

9. (1) Our Government may make Rules to carry out the purposes of this Proclamation.

(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 Proclamation, and their control and maintenance until such time as they are handed over to the persons authorised to receive them ;

SEC. 10. EXTRADITION BETWEEN TRAVANCORE CHAP. III
AND COCHIN.

- (b) the seizure and disposition of any property which is the subject of, or required for proof of, any alleged offence to which this Proclamation 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 the State of Cochin ; 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 Proclamation.

10. Notwithstanding anything 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 7, of the said Code, may, under the orders of the District Magistrate 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 4.

11. If, after a person accused of having committed any extradition offence in Travancore has been surrendered by the Cochin State, it is found during his trial in Travancore that he is not guilty of the offence for which he was extradited but only of a minor offence, it shall be competent to the Magistrate or Judge to alter the charge under Section 204 of the Criminal Procedure Code, and under Section 215 to convict him of the minor offence which the evidence has established : Provided that the trial of the accused person must be for the graver offence for which extradition was obtained, that the conviction for the minor offence must be on the same facts, and that the minor offence must itself be extraditable.

12. When a person accused or convicted of an offence in Travancore is surrendered by the State of Cochin, such person shall not be triable or tried for any of the offences committed in Travancore prior to surrender other than such of the said offences as may be proved by the facts on which the surrender is granted and as are extraditable, unless the Court concerned, after submitting a *prima facie* case, gets the assent of the authority which sanctioned the extradition.

13. This Proclamation shall come into force on the Commencement. 1st Chingom 1094.

SCHEDULE.

- | | |
|------------------------------------------------------------------------|---------------------------------------------------------|
| 1. Frauds upon creditors. | Section 201, Travancore Penal Code. |
| 2. Resistance to arrest | Section 221, Travancore Penal Code. |
| 3. Offences relating to Coin and Stamps. | Sections 227-261, Travancore Penal Code. |
| 4. Culpable Homicide. | Sections 298, 303, Travancore Penal Code. |
| 5. Attempt to murder. | Section 307, Travancore Penal Code. |
| 6. Thagi. | Sections 310 and 311, Travancore Penal Code. |
| 7. Causing miscarriage and abandonment of child. | Sections 312-317, Travancore Penal Code. |
| 8. Causing hurt. | Sections 323-333, Travancore Penal Code. |
| 9. Wrongful confinement. | Sections 347 and 348, Travancore Penal Code. |
| 10. Kidnapping and slavery. | Sections 360-373, Travancore Penal Code. |
| 11. Rape and unnatural offences. | Sections 375-377, Travancore Penal Code. |
| 12. Theft, extortion, robbery, etc. | Sections 378-404 and 406-415, Travancore Penal Code. |
| 13. Cheating. | Sections 416-421, Travancore Penal Code. |
| 14. Fraudulent deeds, etc. | Sections 422-425, Travancore Penal Code. |
| 15. Mischief. | Sections 426-441, Travancore Penal Code. |
| 16. Lurking house-trespass and house-breaking by night, | Sections 444 and 447, Travancore Penal Code. |
| 17. Forgery, using forged documents, etc. | Sections 465-480, Travancore Penal Code. |
| [18. Offences relating to Currency Notes and Bank Notes. | Sections 492-B and 492-C of the Travancore Penal Code.] |
| [19. Offences under Sections 51 and 54 of the Abkari Act (IV of 1073). | |
| 20. Offences under Section 30 of the Opium Act (IV of 1090). | |
| 21. Offences under Section 25 of the Tobacco Act (I of 1087). | |
| 22. Offences under Sections 66 and 67 of the Salt Act (III of 1088)]. | |
| [23. Desertion from the Travancore State Forces.] | |

Schedule. Item 18. This was added by Proclamation dated 30-1-1939.

Items 19 to 22 were added by Proclamation dated 26-5-1944,

Item 23 was added by Proclamation dated 23-3-1945.

ACT III OF 1093.

AN ACT TO AMEND THE TRAVANCORE LAND
CUSTOMS ACT, II OF 1091.

*Passed by His Highness the Maha Raja of Travancore,
on the 11th August 1918 corresponding with the
27th Audy 1093, under Section 14
of Act V of 1073.*

Whereas it is expedient to amend the Travancore
Land Customs Act II of 1091; We are pleased to enact
as follows:—

In Section 10, line 1, between the words “at such
rates” and “as”, insert “and from such dates, whether
previous or otherwise,”

ACT IV OF 1093.

AN ACT TO AMEND THE TRAVANCORE CUSTOMS ACT, V OF 1088.

*Passed by His Highness the Maha Raja of Travancore
on the 11th August 1918, corresponding with the
27th Aady 1093, under Section 14
of Act V of 1073.*

Whereas it is expedient to amend the Travancore Sea Customs Act, V of 1088; We are pleased to enact as follows :—

1. In Section 20, Paragraph 1, between the words “at such rates” and “as”, insert “and from such dates, whether previous or otherwise.”

2. Number the existing Section 20 as Section 20 (1) and add the following as sub-section (2) :—

“(2) In cases where the Notification referred to in sub-section (1) authorises the levy of customs duty with retrospective effect, any sums due on account of new duties leviabie thereunder or of any deficiency between the duties which have been paid and the duties which are leviabie thereunder shall be deemed to be duties short-levied within the meaning of Section 40 of the Act.”

ACT I OF 1094.

PORTS.

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Rate of Port-dues and Fre-
quency of payment.**

SECOND SCHEDULE.—Acts repealed.



AN ACT TO AMEND THE LAW RELATING TO PORTS
AND PORT CHARGES.

*Passed by His Highness the Maha Raja of Travancore
on the 13th September 1918 corresponding with the
28th Chingom 1094, under Section 14 of
Act V of 1073.*

Whereas it is expedient to amend the law relating to
Ports and Port charges; We are
pleased to enact as follows:—
Preamble.

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called "The Travancore
Ports Act, 1094."
Title and extent.

(2) It shall extend, save as otherwise appears from
its subject or context, —

(a) to the Ports mentioned in the First Schedule;

(b) to the other Ports or parts of navigable rivers
or channels to which Our Government, in
exercise of the power hereinafter conferred,
extend this Act.

(3) But nothing in Section 31 or Section 32 shall
apply to any Port, river or channel, to which the Section
has not been specially extended by Our Government.

Act I of 1035 was the earliest legislation on the subject. As it was found that the rates of Port dues levied were in excess of those levied at the neighbouring British Port of Cochin. Act I of 1036 was passed with a view to levy only such rates as were levied at the latter Port. Act I of 1036 was amended by Acts I of 1058 and I of 1061. The law thus enacted and amended dealt with only port dues at the Port of Alleppey alone. To make the law more comprehensive, the present Act (I of 1094) was passed in supersession of the earlier enactments. It was passed direct by His Highness the Maha Raja and was published in T. G. G. dated 17-9-1918. This Act is based on the Indian Ports Act XV of 1908.

2. Nothing in this Act shall—

- Savings.
- (i) apply to any vessel belonging to, or in the service of, Our Government; or
 - (ii) deprive any person of any right of property or other private right, except as hereinafter expressly provided; or
 - (iii) affect any Law or Rule relating to the customs, or any order or direction lawfully made or given pursuant thereto.

3. In this Act, unless there is anything repugnant in the subject or context,

Definitions. (1) "Magistrate" means a person exercising powers under the Code of Criminal Procedure, not less than those of a Magistrate of the Second Class:

(2) "Master", when used in relation to any vessel means, subject to the provisions of any other enactment for the time being in force, any person (except a pilot or harbour-master) having for the time being the charge or control of the vessel:

(3) "Pilot" means a person for the time being authorised by Our Government to pilot vessels:

(4) "Port" includes also any part of a river or channel in which this Act is for the time being in force:

(5) "Port Officer" is synonymous with Master-attendant:

(6) "Ton" means a ton as determined or determinable by the Rules for the time being in force for regulating the measurement of the net tonnage of British ships; and

(7) "Vessel" includes anything made for the conveyance by water of human beings or of property.

CHAPTER II.

POWERS OF GOVERNMENT.

4. (1) Our Government may, by Notification in Our Government Gazette,—

Power to extend or withdraw the Act or certain portions thereof.

(a) extend this Act to any Port in which this Act is not in force or to any part of any navigable river or channel which leads to a Port and in which this Act is not in force;

(b) specially extend the provisions of Section 31 or Section 32 to any Port to which they have not been so extended ;

(c) withdraw this Act or Section 31 or Section 32 from any Port or any part thereof in which it is for the time being in force.

(2) A Notification under Clause (a) or Clause (b) of Sub-section (1) shall define the limits of the area to which it refers.

(3) Limits defined under Sub-section (2) may include any piers, jetties, landing places, wharves, quays, docks and other works made on behalf of the public for convenience of traffic, for safety of vessels, or for the improvement, maintenance or good government of the Port and its approaches, whether within or without high water mark, and, subject to any rights of private property therein, any portion of the shore or bank within fifty yards of high-water mark.

(4) In Sub-section (3), the expression "high-water mark" means the highest point reached by ordinarily spring tides at any season of the year

5. (1) Our Government may, subject to any rights of private property, alter the limits of any Port in which this Act is in force.

Alteration of limits of Ports.

(2) When Our Government alter the limits of a Port under Sub-section (1), they shall declare or describe, by Notification in Our Government Gazette and by such other means, if any, as they think fit, the precise extent of such limits.

6. (1) Our Government may, in addition to any Rules which they may make under any other enactment for the time being in force, make such Rules, consistent with this Act, as they think necessary for any of the following purposes, namely :—

Power to make Port Rules.

(a) for regulating the time and hours at and during which, the speed at which, and the manner and conditions in and on which, vessels generally or vessels of any class defined in the Rules, may enter, leave or be moved in any Port subject to this Act ;

(b) for regulating the berths, stations and anchorages to be occupied by vessels in any such Port ;

(c) for striking the yards and top masts, and for rigging in the booms and yards, of vessels in any such Port, and for swinging or taking-in davits, boats and other things projecting from such vessels ;

(d) for the removal or proper hanging or placing of anchors, spars and other things being in or attached to vessels in any such Port ;

(e) for regulating vessels whilst taking-in or discharging passengers, ballast or cargo, or any particular kind of cargo, in any such Port, and the stations to be occupied by vessels whilst so engaged ;

(f) for keeping free passages of such width as may be deemed necessary within any such Port, and along or near to the piers, jetties, landing places, wharves, quays, docks, moorings and other works in or adjoining to the same, and for marking out the spaces so to be kept free ;

(g) for regulating the anchoring fastening, mooring and unmooring, of vessels in any such Port ;

(h) for regulating the moving and warping of all vessels within any such Port and the use of warps, therein ;

(i) for regulating the use of the mooring buoys-chains and other moorings in any such Port ;

(j) for fixing the rates to be paid for the use of such moorings when belonging to Our Government, or of any boat, hawser or other thing belonging to Our Government ;

(k) for regulating the use of piers, jetties, landing places, wharves, quays, ware-houses and sheds when belonging to Our Government, and for fixing the rates to be paid for the use of the same ;

(l) for licensing and regulating catamarans plying for hire, and flats and cargo, passenger and other boats plying, whether for hire or not, and whether regularly or only occasionally, in or partly within and partly without any such Port, and for licensing and regulating the crews of any such vessels, and for determining the quantity of cargo or number of passengers or of the crew to be

carried by any such vessels, and may by such Rules provide for the fees payable in respect of any such license, and the case of passenger vessels plying for hire, for the rates of hire to be charged and the conditions under which such vessels shall be compelled to ply for hire, and further for the conditions under which any such license may be revoked ;

(*m*) for regulating the use of fires and lights within any such Port ;

(*n*) for enforcing and regulating the use of signals or signal-lights by vessels by day or by night in any such Port ;

(*o*) for regulating the number of the crew which must be on board any vessel afloat within the limits of any such Port ;

(*p*) for regulating the employment of persons engaged in cleaning or painting vessels, or in working in the bilges, boilers or double bottoms of vessels in any such Port ;

(*q*) for the prevention of danger arising to the public health by the introduction and the spread of any infectious or contagious disease from vessels arriving at, or being in, any such Port, and for the prevention of the conveyance of infection or contagion by means of any vessel sailing from any such Port, and in particular and without prejudice to the generality of this provision, for—

- (i) the signals to be hoisted and the places of anchorage to be taken up by such vessels having any case, or suspected case, of any infectious or contagious disease on board, or arriving at such Port from a Port in which, or in the neighbourhood of which, there is believed to be, or to have been at the time when the vessel left such Port, any infectious or contagious disease ;
- (ii) the medical inspection of such vessels and of persons on board such vessels ;
- (iii) the questions to be answered and the information to be supplied by masters, pilots and other persons on board such vessels ;

- (iv) the detention of such vessels and of persons on board such vessels ;
 - (v) the duties to be performed in cases of any such disease by masters, pilots and other persons on board such vessels ;
 - (vi) the removal to hospital or other place approved by the Health Officer and the detention therein of any person from any such vessel who is suffering or suspected to be suffering from any such disease ;
 - (vii) the cleansing ventilation and disinfection of such vessels or any part thereof and of any articles therein likely to retain infection or contagion, and the destruction of rats or other vermin in such vessels ; and
 - (viii) the disposal of the dead on such vessels ;
- (r) for securing the protection from heat of the officers and crew of vessels in any such Port by requiring the owner or master of any such vessel—
- (i) to provide curtains and double awnings for screening from the sun's rays such portions of the deck as are occupied by, or are situated immediately above, the quarters of the officers and crew ;
 - (ii) to erect windsails so far as the existing port-holes or apertures in the deck admit of their being used for ventilating the quarters of the officers and crew :
 - (iii) when the deck is made of iron and not wood-sheathed, to cover with wooden planks or other suitable-non conducting material such portions of the deck as are situated immediately above the quarters of the officers and crew ;
 - (iv) when the quarters used by the crew and the gally are separated by an iron bulk-head only, to furnish a temporary screen of some suitable non-conducting material between such quarters and the gally ; and
- (s) for regulating the occupation of land within Port limits and the rent to be charged for same.

(2) The power to make Rules under Sub-section (1) is subject to the condition of the Rules being made after previous publication.

(3) If any person disobeys any Rule made under Clause (q) of Sub-Section (1), he shall be punishable for every such offence with fine which may extend to one thousand rupees.

(4) If a master fails wholly or in part to do any act prescribed by any Rule made under Clause (q) of Sub-section (1), the Health Officer shall cause such act to be done, and the reasonable expenses incurred in doing such act shall be recoverable by him from such master.—

CHAPTER III

PORT OFFICIALS AND THEIR POWERS AND DUTIES.

7. (1) Our Government shall appoint some Officer or body of persons to be Conservator of every Port subject to this Act.

Appointment of Conservator.

(2) Subject to any direction by Our Government to the contrary,—

(a) in Ports where there is a Port-Officer, the Port-Officer shall be the Conservator ;

(b) in Ports where there is no Port-Officer, but where there is a harbour-master, the harbour-master shall be the Conservator.

(3) Where the harbour-master is not Conservator, the harbour-master and his assistants shall be subordinate to, and subject to the control of, the Conservator.

(4) The Conservator shall be subject to the control of Our Government or of any intermediate authority which Our Government may appoint.

8. (1) The Conservator of any Port subject to this Act may, with respect to any vessel within the Port, give directions for carrying into effect any Rule for the time being in force therein under Section 6.

Power of Conservator to give and enforce directions for certain specified purposes.

(2) If any person wilfully and without lawful excuse refuses or neglects to obey any lawful directions of the Conservator, after notice thereof has been given to him, he shall, for every such offence, be punishable with fine which may extend to one hundred rupees, and in the case of a continuing offence, with a further fine which may extend to one hundred rupees for every day during which, after such notice as aforesaid, he is proved to have wilfully and without lawful excuse continued to disobey the direction.

(3) In case of such refusal or neglect, the Conservator may do, or cause to be done, all acts necessary for the purpose of carrying the direction into execution, and may hire and employ proper persons for that purpose, and all reasonable expenses incurred in doing such acts shall be recoverable by him from the person so refusing or neglecting to obey the direction.

9. The Conservator of any such Port may, in case of urgent necessity, cut or cause to be cut any warp, rope, cable or hawser endangering the safety of any vessel in the Port or at or near to the entrance thereof.

10. (1) The Conservator may remove, or cause to be removed, any timber, raft or other thing, floating or being in any part of any such Port, which in his opinion obstructs or impedes the free navigation thereof or the lawful use of any pier, jetty, landing place, wharf, quay, dock, mooring or other work on any part of the shore or bank which has been declared to be within the limits of the Port and is not private property.

(2) The owner of any such timber, raft or other thing shall be liable to pay the reasonable expenses of the removal thereof, and if such owner or any other person has without lawful excuse caused any such obstruction or impediment, or causes any public nuisance affecting or likely to affect such free navigation or lawful use, he shall also be punishable with fine which may extend to one hundred rupees.

(3) The conservator or any Magistrate having jurisdiction over the offence may cause any such nuisance to be abated.

11. If the owner of any such timber, raft or other thing, or the person who has caused any such obstruction, impediment or public nuisance as is mentioned in the last foregoing Section, neglects to pay the reasonable expenses incurred in the removal thereof, within one week after demand, or within fourteen days after such removal has been notified in Our Government Gazette or in such other manner as Our Government by general or special order direct, the Conservator may cause such timber, raft or other thing or the materials of any public nuisance so removed, or so much thereof as may be necessary, to be sold by public auction;

and may retain all the expenses of such removal and sale out of the proceeds of the sale, and shall pay the surplus of such proceeds or deliver so much of the thing or materials as may remain unsold, to the person entitled to receive the same;

and, if no such person appears, shall cause the same to be kept and deposited in such manner as Our Government direct;

and may, if necessary, from time to time, realise the expenses of keeping the same, together with the expenses of sale, by a further sale of so much of the thing or materials as may remain unsold.

12. (1) If any obstruction or impediment to the navigation of any Port subject to this Act has been lawfully made, or has become lawful by reason of the long continuance of such obstruction or impediment or otherwise, the Conservator shall report the same for the information of Our Government, and shall, with the sanction of Our Government, cause the same to be removed or altered, making reasonable compensation to the person suffering damage by such removal or alteration.

(2) Any dispute arising concerning such compensation shall be determined according to the law relating to like disputes in the case of land required for public purposes.

13. (1) If any vessel hooks or gets foul of any of the buoys or moorings laid down by or by the authority of Our Government in any such Port, the master of such vessel shall not, nor shall any other person, except in case of emergency, lift the buoy or mooring for the purpose of unhooking or getting clear from the same without the assistance of the Conservator;

and the Conservator, immediately on receiving notice of such accident, shall assist and superintend the clearing of such vessel;

and the master of such vessel shall, upon demand, pay such reasonable expenses as may be incurred in clearing the same.

(2) Any master or other person offending against the provisions of this Section shall, for every such offence, be punishable with fine which may extend to one hundred rupees.

14. (1) If any vessel is wrecked, stranded or sunk in any such Port so as to impede, or be likely to impede, the navigation thereof, the Conservator may cause the vessel to be raised, removed or destroyed.

Raising or removal of wreck impeding navigation within limits of Port.

(2) If any property recovered by a Conservator acting under Sub-section (1) is unclaimed or the person claiming it fails to pay the reasonable expenses incurred by the Conservator under that Sub-section and a further sum of twenty per cent. of the amount of such expenses, the Conservator may sell the property by public auction, if the property is of a perishable nature, forthwith, and, if it is not of a perishable nature, at any time not less than six months after the recovery thereof.

(3) The expenses and further sum aforesaid shall be payable to the Conservator out of the sale proceeds of the property, and the balance shall be paid to the person entitled to the property recovered, or, if no such person appears and claims the balance, shall be held in deposit for payment, without interest, to any person thereafter establishing his right thereto:

Provided that the person makes his claim within three years from the date of the sale.

15. (1) The Conservator or any of his assistants may, whenever he suspects that any offence against this Act has been, or is about to be, committed, or whenever it is necessary for him so to do in the performance of any duty imposed upon him by this Act,

Power to board vessels and enter buildings.

and the person appointed under this Act to receive any port-dues, fees or other charges payable in respect of any vessel, may, whenever it is necessary for him so to do in the performance of any duty imposed upon him by this Act,

either alone or with any other person, board any vessel, or enter any other building or place, within the limits of any Port subject to this Act.

(2) if the master of the vessel, or any person in possession or occupation of the building or place, without lawful excuse, refuses to allow any such person as is mentioned in Sub-section (1) to board or enter such vessel, building or place in the performance of any duty imposed upon him by this Act, he shall for every such offence be punishable with fine which may extend to two hundred rupees.

16. (1) For the purpose of preventing or extinguishing fire in any Port subject to this Act, the Conservator or Port-Officer may require the master of any vessel within the Port to place at his disposal such number as he requires, not exceeding three-fourths, of the crew then under the orders of such master.

(2) Any master refusing or neglecting to comply with such requisition shall be punishable with fine which may extend to five hundred rupees, and any seaman then under his orders who, after being directed by the master to obey the orders of the Conservator or Port-Officer for the purpose aforesaid, refuses to obey such orders, shall be punishable with fine which may extend to twenty-five rupees.

17. (1) Our Government may appoint at any Port subject to this Act an Officer to be called the Health Officer.

Appointment and powers of Health Officer. (2) A Health Officer shall, subject to the control of Our Government, have the following powers, within the limits of the Port for which he is appointed, namely:—

- (a) power to enter on board any vessel and medically examine all or any of the seamen or apprentices on board the vessel ;
- (b) power to require and enforce the production of the log-book and any other books, papers or documents which he thinks necessary for the purpose of enquiring into the health and medical condition of the persons on board the vessel ;
- (c) power to call before him and question for any such purpose all or any of those persons and to require true answers to any questions which he thinks fit to ask ;
- (d) power to require any person so questioned to make and subscribe a declaration of the truth of the statements made by him.

18. Our Government shall not be responsible for any act or default of any Conservator, Port-Officer or harbour master, of any Port subject to this Act, or of any deputy or assistant of any of the authorities aforesaid, or of any person acting under the control or direction of any such authority, deputy or assistant, or for any act or default of any pilot, or for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers or other things belonging to Our Government which may be used by the vessel :

Indemnity of Government against act or default of Port official or pilot.

Provided that nothing in this Section shall protect Our Government from a suit in respect of any act done by or under the express orders of Our Government.

CHAPTER IV.

RULES FOR THE SAFETY OF SHIPPING AND THE
CONSERVATION OF PORTS.*General Rules.*

19. (·) No person shall, without lawful excuse, lift, injure, loosen or set adrift any buoy, beacon or mooring fixed or laid down by, or by the authority of, Our Government in any Port subject to this Act.

Injuring buoys, beacons and moorings.

(2) If any person offends against the provisions of this Section, he shall for every such offence be liable, in addition to the payment of the amount of damage done, to fine which may extend to two thousand rupees, or to imprisonment for a term which may extend to two years.

20. If any person wilfully and without lawful excuse loosens or removes from her moorings any vessel within any such Port without leave or authority from the owner or master of the vessel, he shall, for every such offence, be punishable with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to six months.

Wilfully loosening vessel from moorings.

21. (1) No ballast or rubbish, and no other thing likely to form a bank or shoal or to be detrimental to navigation, shall without lawful excuse, be cast or thrown into any such Port or into or upon any place on shore from which the same is liable to be washed into any such Port, either by ordinary or high tides, or by storms or land-floods.

Improperly discharging ballast.

(2) Any person who by himself or another so casts or throws any ballast or rubbish or any such other thing, and the master of any vessel from which the same is so cast or thrown shall be punishable with fine which may extend to five hundred rupees, and shall pay any reasonable expenses which may be incurred in removing the same.

(3) If, after receiving notice from the Conservator of the Port to desist from so casting or throwing any ballast or rubbish or such other thing, any master continues so to cast or throw it, he shall also be liable to simple imprisonment for a term which may extend to two months.

(4) Nothing in this Section applies to any case in which the ballast or rubbish or such other thing is cast or thrown into any such Port with the consent in writing of the Conservator, or within any limits within which such act may be authorised by Our Government.

22. If any person graves, breams or smokes any vessel in any such Port, contrary to the directions of the Conservator, or at any time or within any limits at or within any limits at or within which such act is prohibited by Our Government, he and the master of the vessel shall for every such offence be punishable with fine which may extend to five hundred rupees each.

Graving vessel within prohibited limits.

23. If any person boils or heats any pitch, tar, resin, dammer, turpentine, oil or other such combustible matter on board any vessel within any such Port, or at any place within its limits where such act is prohibited by Our Government, or contrary to the directions of the Conservator, he and the master of the vessel shall for every such offence be punishable with fine which may extend to two hundred rupees each.

Boiling pitch on board vessel within prohibited limits.

24. If any person, by an unprotected artificial light, draws off spirits on board any vessel within any Port subject to this Act, he and the master of the vessel shall for every such offence be punishable with fine which may extend to two hundred rupees each.

Drawing spirits by unprotected artificial light.

25. (1) Every master of a vessel in any Port subject to this Act, shall, when required so to do by the Conservator, permit warps or hawsers to be made fast to vessel for the purpose of warping any other vessel in the

Warping.

Port, and shall not allow any such warp or hawser to be let go until required so to do.

(2) A master offending against Sub-section (1) shall be punishable for every such offence with fine which may extend to two hundred rupees.

26. (1) A master of a vessel shall not cause or suffer any warp or hawser attached to his vessel to be left out in any Port leaving out warp or hawser after sunset. subject to this Act after sunset in such a manner as to endanger the safety of any other vessel navigating in the Port.

(2) A master offending against Sub-section (1) shall be punishable for every such offence with fine which may extend to two hundred rupees.

27. If any person, without lawful excuse, discharges any fire-arms in any Port subject to this Act or on or from any pier, landing-place, wharf or quay thereof, except a gun loaded only with gunpowder for the purpose of making a signal of distress, or for such other purpose as may be allowed by Our Government, he shall for every such offence be punishable with fine which may extend to fifty rupees.

28. If the master of any vessel in which fire takes place while lying in any such Port wilfully omits to take order to extinguish the fire or obstructs the Conservator or the Port Officer, or any person acting under the authority of the Conservator or Port-Officer, in extinguishing or attempting to extinguish the fire, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

29. (1) No person, without the permission of the Conservator, shall in any Port subject to this Act creep or sweep for anchors, cables or other stores lost or supposed to be lost therein.

(2) If any person offends against the provisions of Sub-section (1), he shall be punishable with fine which may extend to one hundred rupees.

30. (1) No person without the permission of the Conservator shall in any Port subject to this Act remove or carry away any rock, stones, shingle, gravel sand or soil or any artificial protection from any part of the bank or shore of the Port ;

Removing stones or injuring shores of Port prohibited
 and no person shall sink or bury in any part of such bank or shore, whether the same is public or private property, any mooring-post, anchor or any other thing, or do any other thing which is likely to injure or to be used so as to injure such bank or shore, except with the permission of the Conservator, and with the aid or under the inspection of such person, if any, as the Conservator may appoint to take part in or overlook the performance of such work.

(2) If any person offends against Sub-section (1), he shall for every such offence be punishable with fine which may extend to one hundred rupees and shall pay any reasonable expenses which may be incurred in repairing any injury done by him to the bank or shore.

Special Rules.

31. (1) No vessel of the measurement of two hundred tons or upwards shall enter, leave or be moved in any Port to which this Section has been specially extended, without having a pilot, harbour-master or assistant of the Port-Officer or harbour-master on board ;

Moving of vessels without pilot or permission of harbour-master.
 and no vessel of any measurement less than two hundred tons and exceeding one hundred tons shall enter, leave or be moved in any such Port without having a pilot, harbour-master, or assistant of the Port Officer or harbour-master on board, unless authority in writing so to do has been obtained from the Conservator or some Officer empowered by him to give such authority.

Sec. 31: In the Indian Act, the following Proviso to Sub-sec. (1) has been added by Act XXXVI of 1925 :—“Provided that the Government may, by notification in the Gazette of India, direct that in any Port

specified in such Notification the provisions of this Sub-section shall not apply to sailing vessels of any measurement not exceeding a measurement so specified.”

(2) Notwithstanding anything in Sub-section (1), the owner or master of a vessel which is by that Sub-section required to have a pilot, harbour master or assistant of the Port-Officer or harbour-master on board, shall be answerable for any loss or damage caused by the vessel, or by any fault of the navigation of the vessel, in the same manner as he would have been if he had not been so required by that Sub-section.

(3) If any vessel, except in case of urgent necessity, enters, leaves or is moved in the Port contrary to the provisions of Sub-section (1), the master of the vessel shall for every such offence be punishable with fine which may extend to two hundred rupees, unless, upon application to the proper Officer, the master was unable to procure a pilot, harbour master or assistant of the Port Officer or harbour-master to go on board the vessel.

32. (1) Every vessel exceeding the measurement of two hundred tons and lying in any Port to which this Section has been specially extended shall be provided with a proper force-pump and hose appurtenances, for the purpose of extinguishing any fire which may occur on board.

Provision of certain vessels with fire extinguishing apparatus.

(2) The master of such a vessel who, having been required by the Conservator to comply with the provisions of Sub-section (1), neglects or refuses, without lawful excuse, so to do for the space of seven days after such requisition, shall be punishable with fine which may extend to five hundred rupees.

CHAPTER V.

PORT-DUES, FEES AND OTHER CHARGES.

33. (1) In each of the Ports mentioned in the first Schedule, such port-dues, not exceeding the amount specified for the Port in the third column of the Schedule as Our Government direct, shall be levied on vessels entering the Port and described in the second column of the Schedule, but not oftener than the time fixed for the Port in the fourth column of the Schedule.

Levy of Port-dues.

(2) Whenever Our Government declare any other Port to be subject to this Act, they may, by the same or any subsequent declaration, further declare—

- (a) in the terms of any of the entries in the second column of the first Schedule, the vessels which are to be chargeable with port-dues on entering the Port ;
- (b) the highest rates at which such dues may be levied in respect of vessels chargeable therewith ; and
- (c) the times at which such vessels are to be so chargeable.

(3) All port-dues leviabie in any Port shall continue to be so leviabie until it is otherwise declared in exercise of the powers conferred by this Section.

(4) An order increasing or imposing port-dues under this Section shall not take effect till the expiration of sixty days from the day on which the order was published in Our Government Gazette.

34. Our Government may, after consulting the authority appointed under Section 36, exempt, subject to such conditions, if any, as they think fit to impose, any vessel or class of vessels entering a Port subject to this Act from payment of port-dues and cancel the exemption, or may vary the rates at which Port-dues are to be levied in the port, in such manner as having regard to the receipts and charges on account of the Port, they think expedient, by reducing or raising the dues, or any of them, or may extend the periods for which any vessel or class of vessels entering a Port shall be exempt from liability to pay port-dues :

Provided that the rates shall not in any case exceed the amount authorised to be taken by or under this Act.

35. (1) Within any Port subject to this Act, fees may be charged for pilotage, hauling, mooring, re-mooring, hooking, measuring and other services rendered to vessels, at such rates as Our Government may direct.

Fees for pilotage and certain other services,

(2) The fees now chargeable for such services shall continue to be chargeable unless and until they are altered in exercise of the power conferred by Sub-section (1).

36. (1) Our Government shall appoint some Officer or body of persons at every Port at which any dues, fees or other charges are authorised to be taken by or under this Act to receive the same and, subject to the control of Our Government to expend the receipts on any of the objects authorised by this Act.

Receipt, expenditure and account of port-charges.

(2) Such Officer or body shall keep for the Port a distinct account to be called the port fund account, showing, in such detail as Our Government prescribe, the receipts and expenditure of the Port.

(3) If, for any of the purposes of this Act, an advance of money has been or shall be made by Our Government on account of any Port subject to this Act, simple interest upon that advance or upon so much of it as remains or shall remain unpaid, at such rate as they may determine, shall be charged in the port-fund account of the Port.

(4) All money received under this Act at or on account of any Port subject to this Act excluding receipts on account of pilotage but including—

(a) fines,

(b) proceeds of waifs, and

(c) any balance of the proceeds of a sale under Section 14, where no right to the balance has been established on a claim made within three years from the date of the sale, shall be credited in the port fund account of the Port.

(5) All expenses incurred for the sake of any such Port, excluding expenses on account of pilotage but including—

(a) the pay and allowances of all persons upon the establishment of the Port,

(b) the cost of the buoys, beacons, lights and all other works maintained chiefly for the benefit of vessels being in or entering or leaving the Port or passing through the rivers or channels leading thereto,

(c) pensions, allowances and gratuities of persons who have been employed in the Port under this or any other enactment relating to the Ports and port-dues, or such portion of those pensions, allowances and gratuities as Our Government may by Rule determine, and

(d) contributions towards the support of public hospitals or dispensaries suitable for the reception or relief of seamen or otherwise towards the provision of sanitary superintendence and medical aid for the shipping in the Port and for seamen, whether ashore or afloat, belonging to the vessels in the Port,

shall be charged to the port-fund account of the Port

(6) Subject to the provisions of any law as to the disposal of any balance from time to time standing to the credit of a port-fund account, any such balance may be temporarily invested in such manner as Our Government may direct.

37. (1) Our Government may direct that for the purposes of the last foregoing Section any number of Ports shall be regarded as constituting a single Port, and thereupon all moneys to be credited to the port-fund account under Sub-section (4) of that Section shall form a common port-fund account which shall be available for the payment of all expenses incurred for the sake of any of the Ports.

(2) Where Ports are grouped by or under this Act, the following consequences ensue, namely:—

(a) Our Government, in the exercise of their control over expenditure debitable to the common port-fund account of the group, may make Rules with respect to the expenditure of the fund for the sake of the several Ports of the group on the objects authorised by this Act; and

(b) Our Government may exercise their authority under Section 34 as regards all the Ports in the group collectively or as regards any of them separately.

38. The person to whom any dues, fees, or other charges authorised to be taken by or under this Act are paid, shall grant to the person paying the same a proper voucher in writing under his hand, describing the name of his office, the Port or place at which the dues, fees or other charges are paid, and the name, tonnage and other proper description of the vessel in respect of which the payment is made.

Receipts for port-charges.

39. (1) Within twenty-four hours after the arrival within the limits of any Port subject to this Act of any vessel liable to the payment of port-dues under this Act, the master of the vessel shall report her arrival to the Conservator of the Port.

Master to report arrival.

(2) A master failing without lawful excuse to make such report within the time aforesaid shall for every such offence be punishable with fine which may extend to one hundred rupees.

40. If any vessel liable to the payment of port-dues is in any such Port without proper marks on the stem and stern posts thereof for denoting her draught, the Conservator may cause the same to be ascertained by means of the operation of hooking, and the master of the vessel shall be liable to pay the expenses of the operation.

Conservator may in certain cases ascertain draught and charge expense to master.

41. In order to ascertain the tonnage of any vessel liable to pay port-dues, the following Rules shall be observed, namely :—

Ascertainment of tonnage of vessel liable to port-dues.

(1) (a) The Conservator may require the owner or master of the vessel or any person having possession of her register to produce the register for inspection.

(b) If the owner or master or such person neglects or refuses to produce the register or otherwise to satisfy the Conservator as to what is the true tonnage of the vessel in respect of which the port-dues are payable, he shall be punishable with fine which may extend to one hundred rupees, and the Conservator may cause the vessel to be measured, and the tonnage thereof to be ascertained, and in such case the owner or master of the vessel shall also be liable to pay the expenses of the measurement.

(2) If the vessel has no register or has lost her register or the master fails to satisfy the Conservator of the true tonnage of the vessel, and the tonnage of the vessel cannot be ascertained by measurement, the tonnage of the vessel shall be determined by the Conservator on such an estimate as may seem to him to be just.

42. If the master of any vessel in respect of which any port-dues, fees or other charges are payable under this Act, refuses or neglects to pay the same on demand, the authority appointed to receive such port-dues, fees or other charges, may distrain or arrest the vessel, and the tackle, apparel and furniture belonging thereto or any part thereof, and detain the same until the amount due is paid ;

and in case any part of the port-dues, fees or other charges or of the costs of the distress or arrest or of the keeping of the vessel or other thing distrained or arrested, remains unpaid for the space of five days next after any such distress or arrest, may cause the vessel or other thing distrained or arrested to be sold, and with the proceeds of such sale may satisfy the port-dues, fees or other charges and the costs including the costs of sale remaining unpaid, and shall render the surplus, if any, to the master of the vessel upon demand.

43. The Officer of Our Government whose duty it is to grant a port-clearance for any vessel shall not grant such clearance until her owner or master or some other person, has paid or secured to

No port-clearance to be granted until port-charges are paid.

the satisfaction of such Officer the amount of all port-dues, fees and other charges, and of all fines, penalties and expenses to which the vessel or her owner or master is liable under this Act.

44. (1) If the master of any vessel in respect of which any such sum as is mentioned in the last foregoing Section is payable causes her to leave any Port without having paid the sum, the authority appointed to receive port-dues, fees and other charges at the Port under this Act may require in writing the authority appointed to receive port-dues, fees and other charges under this Act at any other Port in Travancore to which she may proceed, or in which she may be, to levy the sum.

(2) The authority to whom the requisition is directed shall proceed to levy such sum in the manner prescribed in Section 42, and a certificate purporting to be made by the authority appointed to receive port-dues, fees and other charges at the Port where such sum as is mentioned in the last foregoing Section became payable, stating the amount payable, shall be sufficient *prima facie* proof of such amount in any proceeding under Section 42 and also (in case the amount payable is disputed) in any subsequent proceeding under Section 59.

45. (1) If the master of a vessel evades the payment of any such sum as is mentioned in Section 43, he shall be punishable with fine which may extend to five times the amount of the sum.

(2) In any proceeding before a Magistrate on a prosecution under Sub-section (1), any such certificate as is mentioned in Section 44, Sub-section (2), stating that the master has evaded such payment, shall be sufficient *prima facie* proof of the evasion, unless the master shows to the satisfaction of the Magistrate that the departure of the vessel without payment of the sum was caused by stress of weather, or that there was lawful or reasonable ground for such departure.

(3) Any Magistrate having jurisdiction under this Act in any port to which the vessel may proceed, or in

which she may be found, shall be deemed to have jurisdiction in any proceeding under this Section.

46. A vessel entering any Port subject to this Act in ballast and not carrying passengers shall be charged with a Port-due at a rate to be determined by Our Government and not exceeding three-fourths of the rate with which she would otherwise be chargeable.

47. When a vessel enters a Port subject to this Act but does not discharge or take in any cargo or passengers therein (with the exception of such unshipment and re-shipment as may be necessary for purposes of repair), she shall be charged with a Port-due at a rate to be determined by Our Government and not exceeding half the rate with which she would otherwise be chargeable.

48. No Port-due shall be chargeable in respect of—

(a) any pleasure-yacht; or

(b) any vessel which, having left any Port, is compelled to re-enter it by stress of weather or in consequence of having sustained any damage; or

(c) any vessel which, having entered any Port, within Our territories, leaves it within forty-eight hours without discharging or taking in any passengers or cargo.

49. (1) Our Government may, by Notification in Our Government Gazette, order that there shall be paid in respect of every vessel entering any Port subject to this Act within a reasonable distance of which there is a public hospital or dispensary suitable for the reception or relief of seamen requiring medical aid such further port-dues not exceeding one anna per ton as Our Government think fit.

(2) Such port-dues shall be called hospital port-dues.

(3) An order imposing or increasing hospital port-dues shall not take effect till the expiration of sixty days from the day on which the order was published in Our Government Gazette.

(4) Whenever Our Government are satisfied that proper provision has been made by the owners or agents of any class of vessels for giving medical aid to the seamen employed on board such class of vessels, or that such provision is unnecessary in the case of any class of vessels, they may, by Notification in Our Government Gazette, exempt such class of vessels from any payment under this Section.

50. Hospital port-dues shall be applied, as Our Government may direct, to the support of any such hospital or dispensary as aforesaid, or otherwise for providing sanitary superintendence and medical aid for the shipping in the Port in which they are levied and for the seamen belonging to the vessels therein, whether such seamen are ashore or afloat.

CHAPTER VI.

HOISTING SIGNALS.

51. (1) The master of every inward bound vessel on arriving within signal distance of any signal station or within the limits of any part of a river or channel leading to a Port subject to this Act shall, on the requisition of the pilot in charge of the vessel, signify the name of the vessel by hoisting the number by which she is known, or by adopting such other means to this end as may be practicable and usual, and shall keep the signal flying until it is answered from the signal-station.

(2) If the master of a vessel arriving as aforesaid offends against Sub-section (1), he shall be punishable for every such offence with fine which may extend to one thousand rupees.

52. (1) Every pilot in charge of a vessel shall require the number of the vessel to be duly signalled as provided by the last foregoing Section.

(2) When, on such requisition from the pilot, the master refuses to hoist the number of a vessel, or to adopt such other means of making her name known as may be practicable and usual, the pilot may, on arrival at the first place of safe anchorage, anchor the vessel and refuse to proceed on his course until the requisition has been complied with.

53. Any pilot in charge of a vessel who disobeys, or abets disobedience to any of the provisions of this Chapter shall be punishable with fine which may extend to five hundred rupees for each instance of such disobedience or abetment, and in addition shall be liable to have his authority to act as pilot withdrawn.

Penalty on pilot disobeying provisions of this Chapter.

provisions of this Chapter shall be punishable with fine which may extend to five hundred rupees for each instance of such disobedience or abetment.

CHAPTER VII.

PROVISIONS WITH RESPECT TO PENALTIES.

54. If any person disobeys any Rule or order which Our Government have made in pursuance of this Act and for the punishment of disobedience to which express provision has not been made elsewhere in this Act, he shall be punishable for svery such offence with fine which may extend to one hundred rupees.

Penalty for disobedience to Rules and orders of the Government.

Our Government have made in pursuance of this Act and for the punishment of disobedience to which express provision has not been made elsewhere in this Act, he shall be punishable for svery such offence with fine which may extend to one hundred rupees.

55. All offences against this Act shall be triable by a Magistrate, and any Magistrate may by warrant under his hand, cause the amount of any fine imposed upon the owner or master of any vessel, for any offence committed on board of the vessel or in the management thereof or otherwise in relation thereto, whereof the owner or master is convicted, to be levied by distress and sale of the vessel, and the tackle, apparel and furniture thereof, or so much thereof as is necessary.

Offences how triable, and penalties how recovered.

Magistrate, and any Magistrate may by warrant under his hand, cause the amount of any fine imposed upon the owner or master of any vessel, for any offence committed on board of the vessel or in the management thereof or otherwise in relation thereto, whereof the owner or master is convicted, to be levied by distress and sale of the vessel, and the tackle, apparel and furniture thereof, or so much thereof as is necessary.

56. (1) In case of any conviction under this Act, the convicting Magistrate may order the offender to pay the costs of the conviction in addition to any fine or expenses to which he may be liable.

Costs of conviction.

In case of any conviction under this Act, the convicting Magistrate may order the offender to pay the costs of the conviction in addition to any fine or expenses to which he may be liable.

(2) Such costs may be assessed by the Magistrate and may be recovered in the same manner as any fine under this Act.

57. (1) If any dispute arises as to the sum to be paid in any case as expenses or damages under this Act, it shall be determined by a Magistrate upon application made to him for that purpose by either of the disputing parties.

Ascertainment and recovery of expenses and damages payable under this Act.

(2) Whenever any person is liable to pay any sum not exceeding one thousand rupees, as expenses or damages under this Act, any Magistrate, upon application made to him by the authority to whom the sum is payable may, in addition to or instead of any other means for enforcing payment, recover the sum as if it were a fine.

58. Whenever any fine, expenses or damages is or are levied under this Act by distress and sale, the costs of the distress and sale may be levied in addition to such fine, expenses or damages, and in the same manner.

Costs of distress.

59. If any dispute arises concerning the amount leviable by any distress or arrest under this Act or the costs payable under the last foregoing Section, the person making the distress or using the arrest may detain the goods distrained or arrested, or the proceeds of the sale thereof, until the amount to be levied has been determined by a Magistrate, who, upon application made to him for that purpose, may determine the amount and award such costs to be paid by either of the parties to the other of them as he thinks reasonable, and payment of such costs, if not made on demand, shall be enforced as if they were a fine.

Magistrate to determine the amount to be levied in case of dispute.

60. (1) Any person offending against the provisions of this Act in any Port subject to this Act shall be punishable by any Magistrate having jurisdiction over any district or place adjoining the Port.

Jurisdiction over offences beyond local limits of jurisdiction.

(2) Such Magistrate may exercise all the powers of a Magistrate under this Act in the same manner and to the same extent as if the offence had been committed

locally within the limits of his jurisdiction, notwithstanding that the offence may not have been committed locally within such limits, and, in case any such Magistrate exercises the jurisdiction hereby vested in him, the offence shall be deemed for all purposes to have been committed locally within the limits of his jurisdiction.

61. (1) No conviction, order or judgment of any Magistrate under this Act shall be quashed for error of form or procedure, but only on the merits, and it shall not be necessary to state, on the face of the conviction, order or judgment, the evidence on which it proceeds.

(2) If no jurisdiction appears on the face of the conviction, order or judgment, but the depositions taken supply that defect, the conviction, order or judgment shall be aided by what so appears in the depositions.

CHAPTER VIII.

SUPPLEMENTAL PROVISIONS.

62. (1) If any vessel belonging to any of Our subjects or sailing under Travancore colours, hoists, carries or wears within the limits of any Port subject to this Act, any flag, jack, pennant or colours other than the Travancore colours, the master of the vessel shall, for every such offence, be punishable with fine which may extend to fifty rupees.

(2) Such fine shall be in addition to any other penalty recoverable in respect of such an offence.

(3) The Conservator of the Port may enter on board any such vessel and seize and take away any flag, jack, pennant or colours so unlawfully hoisted, carried or worn on board the same.

63. Any Magistrate, upon an application being made to him by the British Resident in Travancore and Cochin or by the Consul of any foreign Power or the representative of such Consul through the British Resident aforesaid, and upon complaint on oath of the desertion of any seaman not being a slave from any vessel of

the Paramount Power or such foreign Power, may issue his warrant for the apprehension of any such deserter, and, upon due proof of the desertion, may order him to be conveyed on board the vessel to which he belongs, or, at the instance of the Resident or the Consul, to be detained in custody until the vessel is ready to sail, or, if the vessel has sailed, for a reasonable time not exceeding one month :

Provided that a deposit be first made of such sum as the Magistrate deems necessary for the subsistence of the deserter during the detention and that the detention of the deserter shall not be continued beyond twelve weeks

64 (1) The provisions of Sections 10 and 21 shall be applicable to all Ports heretofore or hereafter declared by Our Government to be Ports for the shipment and landing of goods but not otherwise subject to this Act, and may be enforced by any Magistrate to whose ordinary jurisdiction any such Port is subject.

(2) Any penalties imposed by him, and any expenses incurred by his order, under the said provisions, shall be recoverable respectively in the manner provided in Section 55 and 57.

(3) In any of the said Ports for the shipment and landing of goods, the consent referred to in Section 21, Sub-section (4), may be given by the Chief Customs Officer at such Port or by any other Officer appointed in that behalf by Our Government.

65. (1) All acts, orders or directions by this Act authorised to be done by or given by any Conservator may, subject to his control, be done or given, by any harbour-master or any deputy or assistant of such Conservator or harbour-master.

(2) Any person authorised by this Act to do any act may call to his aid such assistance as may be necessary.

66. Any written notice of a direction given under this Act, left for the master of any vessel with any person employed on board thereof, or affixed on a conspicuous place on board of the vessel, shall, for the purposes

of this Act, be deemed to have been given to the master thereof.

67. Every declaration, order and Rule of Our Government made in pursuance of this Act shall be published in Our Government Gazette, and a copy thereof shall be kept in the office of the Conservator and at the Customs-house, if any, of every Port to which the declaration, order or Rule relates, and shall there be open at all reasonable times to the inspection of any person without payment of any fee.

68. The enactments mentioned in the Second Schedule are hereby repealed to the extent specified in the fourth column of that Schedule.

FIRST SCHEDULE.

Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.

(See Sections 1 and 33.)

Name of Ports.	Vessels chargeable.	Rate of Port-dues.	Due how often chargeable in respect of same vessel.
{ Alleppey Quilon Trivan- drum. Colachel.	All sea-going vessels of ten tons and upwards.	9 pies per ton.	The payment of the due at the first Port called at in the State will exempt a steamer for a period of thirty days and a sailing vessel for a period of sixty days from liability to pay the due again at that or any other Port in the State.

NOTE:—In assessing Port-dues, the date on which a vessel anchored shall be the date from which dues shall be calculated.

SECOND SCHEDULE.

Acts repealed.

(See Section 68.)

Year.	No.	Short title or subject.	Extent of repeal.
1036	I.	Port-dues.	The whole.
1058	I.	Amending the above.	Do.
1061	I.	Do.	Do.

ACT II OF 1094.

AN ACT TO AMEND THE TRAVANCORE EXTRADITION ACT, I OF 1082.

Passed by His Highness the Maha Raja of Travancore' on the 19th September 1918 corresponding with the 3rd Kanni 1094, under Section 14 of Act V of 1073.

Whereas it is expedient to amend the Travancore Extradition Act I of 1082; We are hereby pleased to enact as follows :—

Add the following as Section 3 :—

“ 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.

(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

ACT II OF 1094.

reference to such person in accordance with the procedure prescribed by Section 2.

(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.

PROCLAMATION.

By His Highness the Maha Raja of Travancore, issued under date the 10th November 1918 corresponding with the 25th Thulam 1094.

Whereas on emergency has arisen which makes it necessary that power should be conferred upon a Special First Class Magistrate in Travancore to levy fines imposed under Rule 41 of the Indian Defence Force Rules on European British subjects who are members of the Indian Defence Force residing within Travancore ; We are pleased to command as follows :—

When a sentence of fine is imposed by a Court Martial constituted under the Indian Defence Force Rules passed by the Governor-General-in-Council under Section 13 of the Indian Defence Force Act, III of 1917, (or by an Officer acting in pursuance of an order made by the Commander-in-Chief in India under Section 14 of that Act) on any European British subject residing in Travancore, a copy of such sentence signed and certified by the President of the Court (or by the Officer imposing the fine as the case may be) may be sent to a special First Class Magistrate in Travancore empowered by Our Government in this behalf : and, in that case, such Magistrate shall cause the fine to be recovered in accordance with the provisions of the Code of Criminal Procedure (Act V of 1067) for the levy of fines as if it was a sentence of fine imposed by such Magistrate.

This Proclamation was published in the Gazette dated 12th November 1918-

ACT IV OF 1094.

AN ACT FURTHER TO AMEND THE TRAVANCORE PENAL CODE, AND THE CODE OF CRIMINAL PROCEDURE.

*Passed by His Highness the Maha Raja of
Travancore, on the 8th December 1918 cor-
responding with the 23rd Vrischikom 1094,
under Section 13 of Act V of 1073.*

Preamble. Whereas it is expedient further to amend the Tra-
vancore Penal Code and the Code of
Criminal Procedure; It is hereby
enacted as follows :—

1. This Act may be called “ The Travancore Criminal
Short title. Law Amendment Act, 1094”.

2. After Illustration (c) in Section 13 of the Travancore Penal Code, the following Illustration shall be added :—
Insertion of a new Illustration in Section 13 of the Penal Code. “(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.”

3. Between Section 14 and Section 15 of the Code, add the following :—
Insertion of Illustration to Section 14 of the Penal Code.

“*Illustration.*—A Village Panchayat Court acting under Act I of 1090, having power to try and determine suits, is a Court of Justice”.

4. After Section 145 of the said Code, add the following Section :—

“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
Promoting enmity between classes.

SEC. 5. CRIMINAL LAW AMENDMENT ACT.

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, matters which are producing, or have a tendency to produce, feelings of enmity or hatred between the several classes of people in Our territory.”

5. Delete the words “and also in Section 252 to 260, both inclusive”, in Sub-section (4) of Section 261 of the said Code.
Amendment of Section 261 of the Penal Code.

6. Insert “Our” between “by” and “Government” in line 2 of Section 293 of the said Code.
Amendment of Section 293 of the Penal Code.

7. Substitute “twelve” for “ten” in the *Exception* to Section 375 of the said Code.
Amendment of Section 375 of the Penal Code.

8. After Section 492 of the Travancore Penal Code, the following Heading and Sections shall be inserted, namely:—

“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.

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 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."

9. For Section 508 of the said Code, the following Section shall be substituted, namely:—

Substitution of new Section for Section 508 of the Penal Code.

"508. Whoever makes, publishes or circulates any statement, rumour or report,—
 (a) with intent to cause, or which is likely to cause, any officer or soldier in the Army of Her Majesty the Queen Empress of India, or in the Imperial Service Troops, or in Our Nayar Brigade or Body Guard, to

SEC. 10. CRIMINAL LAW AMENDMENT ACT.

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 person 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."

10. For Chapter XXIV of the Travancore Penal Code, the following Chapter shall be substituted, namely,
Substitution of new Chapter for Chapter XXIV of the Penal Code.

" 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 ;

(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 Section 444 and 446 in 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 Section 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 ;

(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.

Explanation.—In this Section, the expression “juvenile offender” means an offender whom the Court after making such enquiry (if any) as may be deemed

CRIMINAL LAW AMENDMENT ACT

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."

Punishment of whipping not to be inflicted on females etc.

11—16 [*Repealed by Section 2 and Schedule I of Act VIII of 1117*]

ACT V OF 1094.

AN ACT TO AMEND THE BRITISH POST ACT, IV OF 1076.

*Passed by His Highness the Maha Raja of Travancore,
on the 26th Makaram 1094, corresponding with the
8th February 1919, under Section
14 of Act V of 1073.*

Whereas it is expedient to amend the British Post Act, IV of 1076; We are hereby pleased to enact as follows :--

Add the following as Section 5 :—

"(1) Every British Postal employee entrusted with 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, 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."

ACT VIII OF 1094.

AN ACT TO AMEND THE REVENUE RECOVERY ACT I OF 1068 AS AMENDED BY ACT III OF 1087.

*Passed by His Highness the Maha Raja of Travancore,
on the 12th May 1919 corresponding with the
29th Medom 1094, under Section
13 of Act V of 1073.*

Whereas it is expedient to further amend the Revenue Recovery Act I of 1068, as amended by Act III of 1087; It is hereby enacted as follows:—

1. Section I (c). Substitute the following for the definition of 'landholder.'

"Landholder" means the registered holder for the time being of any land, and includes his legal representative "

2. Section 3. Insert the words "the Village Accountant" after "Proverthicar" in lines 2 and 6.

3. Section 31. For the words "and if paid,——was made," substitute "and if paid by a *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."

4. Section 33. Substitute the following for the existing Proviso:—

"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,"

5. Add the following as Section 33-A :—

“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.”

6. Section 34. For the words “if no such application is made” in line 2 of Clause (4), substitute “if no application to have the sale set aside is made under Section 33-A or under Clause (2) of this Section.”

7. Section 48. Delete the Proviso (paragraph 2).

SEC. 8. REVENUE RECOVERY (AMENDMENT) ACT.

8. Section 51. Para 1. After the words "proceedings taken," add the words "or purporting to be passed or taken."

9. Substitute the following for Section 59 :—

"All arrears of public revenue due to Government other than land revenue,

all moneys due from any person to Government which under a written agreement executed by such person are recoverable as arrears of public or land revenue, and all specific pecuniary penalties to which such person renders himself liable under such arrangement,

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."

ACT IX OF 1094.

LAND IMPROVEMENT AND AGRICULTURAL LOANS ACT.

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The figures on the right refer to the corresponding Sections of the Indian Land Improvement Loans Act, XIX of 1883, except Sec. 4 which corresponds to Sec. 4 of the Indian Agriculturists' Loans Act, XII of 1884.

ACT IX OF 1094.

AN ACT TO CONSOLIDATE AND AMEND THE LAW RELATING TO THE MAKING OF LOANS OF MONEY BY GOVERNMENT FOR AGRICULTURAL IMPROVEMENTS.

Passed by His Highness the Maha Raja of Travancore on the 22nd May 1919 corresponding with the 8th Edavom 1094, under Section 13 of Act V of 1073.

Whereas it is expedient to consolidate and amend the law relating to loans of money by Our Government for Agricultural Improvements; It is hereby enacted as follows :—

Preamble.

The earliest enactment on the subject was Act IV of 1066. Regarding this legislation the Administration Report of the year 1066 stated thus :—

“It was thought necessary, in the interests of the agricultural population, the Government should come to their aid to stimulate their industry by offering them money at small interest, there being abundant scope both for improving the production of cultivated lands and for reclaiming land from our extensive backwaters and wastes. It is hoped that when the object of Government is well understood, the facilities offered will be largely availed of, though we have to combat the reluctance of the ryots to have the Government for a creditor,”— *A. R., 1066, Pp. 1-2.*

The Act applied only to loans in respect of wet lands. Amending Act III of 1085 was therefore passed in order to include loans in respect of garden and

dry lands also within the ambit of Act IV of 1066. These Acts were repealed by Act IX of 1094 which is the law now in force on the subject.

Act IX of 1094. Statement of Objects and Reasons.—“Regulation IV of 1066 follows the British Indian Act XIX of 1883. The Regulation as it stands at present, applies only to the improvement of lands. The Director of Agriculture has suggested that the scope of the Regulation should be extended so as to include loans for the purchase of seeds, manure, etc. In British India, there is a separate Act known as “The Agriculturists’ Act”, XII of 1884 which enables the Government to grant loans for the purposes mentioned by the Director. The provisions of that Act are similar to those of the ‘Land Improvement Loans Act’. It is thought desirable to incorporate the provisions of Act XII of 1884 in the Regulation and thus extend its scope.

ACT IX OF 1094.

2. In view of the fact that loans for the purchase of seeds, manure, etc., may have to be granted by the Agricultural Department, Clauses 3 and 4 provide that loans may be granted by the Government or such officer as may from time to time be empowered by the Government." S. O. & R., T. G. G. dated 6-11-1917.

In introducing the Bill, the member in charge said :—

"Though Travancore is mainly an agricultural country the produce raised in it is not sufficient to maintain its own population. It is common knowledge that a large quantity of paddy worth many lakhs has to be imported into the country every year. With a view therefore to enlarge the area of cultivation and with a view to encourage the ryots who though having the inclination to improve their lands have not the means to do so, the Agricultural Loans Regulation, IV of 1066, was passed. The Regulation has been in existence for about twenty-seven years and it cannot be said that the object with which the Regulation was passed has been fulfilled. It was however brought to the notice of the Government at the Sessions of the Sri Mulam Popular Assembly in the years 1905, 1907 and 1908 that the Regulation was not applicable to improvement of garden lands and that, if the Regulation were amended, it will be of real help to the agriculturists. In pursuance to the above representations, the amending Regulation of 1085 was passed. In spite of this amendment the Regulation continues to be practically inoperative as will be seen

from the small number of applications received from year to year. At the 11th Session of the Sri Moolam Popular Assembly, the Member for the Kottayam Taluk pointed out that, on account of the stringency of the Regulation, people could not freely avail themselves of its provisions. The Government thereupon resolved that the Regulation should be amended as some of the provisions are unworkable in practice. With a view to amend the Bill the opinions of all the Peishkars, the Commissioner of Devicolum and of the Director of Agriculture and Fisheries were invited. Their suggestions have in the main been adopted. Similar enactments are in force in British India and in other Native States, and it cannot be said that those enactments are better availed of there than here. The fact that the Regulation is virtually a dead letter may be due to various causes. In the first place the disposal of an application for loan necessarily entails some unavoidable delay as without some enquiry the public servants are not expected to know the necessary particulars about the applicant and it will be unsafe to issue money from the public treasury without such enquiry.

"In the second place, the agriculturist may feel that there are some disadvantages in applying to the Government for a loan rather than to a private money lender. The Government will lend the ryot only for one purpose *viz*, the improvement of the land, whereas a private money lender will lend him for all purposes. The moment a loan is taken from

LAND IMPROVEMENT AND AGRICULTURAL LOANS ACT.

Government for land improvement a first charge is created in favour of Government for the amount of the loan. Consequently the borrower finds it difficult to raise subsequent loans from money lenders when he wants the same for other pressing purposes. Further, if he makes up his mind to take a loan from Government he has to act up to the terms on which the loans are granted. The loans are made by instalments and the officers have to be satisfied that the amounts received at each instalment are utilised for the works for which they are borrowed. Instances are not rare where the borrowers owing to inability or otherwise divert the funds for more pressing needs with the result that payments of subsequent instalments have sometimes to be withheld. The above causes could not be easily remedied, and may continue to exist even though the Regulation is amended.

Perhaps a system of co-operative banks for the benefit of the agriculturists may do them considerable good. At the same time if the ryot makes up his mind to put up with the inevitable delay, if he will understand that by creating a first charge in favour of Government his rights to raise subsequent loans are not in the least affected and if he will only keep to the terms on which the loans are raised, the Regulation will prove to be of substantial help to him. With a view therefore to make the Regulation as popular as possible it is proposed to minimise the delay in the disposal of applications as far as

possible and to remove other defects found to exist in the practical working of it. The procedure prescribed by Sections 4 to 7 of the Regulation is found to be cumbrous and to some extent even unworkable. This has been remedied in the draft Bill. There is no provision in the Regulation for villagers or other persons to take loans for their common benefit such as improvement of a common tank. A new provision has therefore been made in the draft Bill for the same, and loans advanced for common benefits may be apportioned among the various ryots and the amount payable by each ryot recovered separately.

With the creation of the Agricultural Department in the State, improved methods of cultivation are being introduced and the suggestions of the Department are freely availed of by the ryot. In order to enable the poor ryots to take advantage of the suggestions of the Department the Director has recommended that a provision ought to be made for the sale of seed, manure etc., on credit. Clause 4 therefore provides that loans may be made to owners and occupiers of arable land for the relief of distress, the purchase of seed, cattle, manure, agricultural implements and other purposes. It is hoped that this provision will be beneficial to the ryots concerned and will be largely availed of by them. It may however be suggested that it may not be desirable to incorporate Clause 4 in the Regulation itself and separate Regulation will be better. For, while in the case of loans for

1. (1) This Act shall be called "The Land Improvement and Agricultural Loans Act",

Short Title.

(2) It extends to the whole of Travancore.

Extent.

2. (1) The Agricultural Improvement Loans Act, IV of 1066, as amended by Act III of 1085, shall, except as regards the recovery of advances made before

Repeal.

this Act comes into force and costs incurred by Our Government in respect of such advances, be repealed.

(2) When, in any Act or Notification passed or issued before this Act comes into force, reference is made to the Act hereby repealed, the reference shall, so far as may be practicable, be read as applying to this Act or the corresponding part thereof.

3. Subject to such Rules as may be made under Section 10, loans may be granted by

Purposes for which loans may be granted.

Our Government, or by such Officer as may from time to time be empowered by Our Government in this behalf, for the purpose of making any improvement on land, to any person having a right to make that improvement, or with the consent of that person to any other person.

land improvement the amounts are likely to be large, the enquiry elaborate, and the repayment covering many years, the loans under Clause 4 are likely to be for petty amounts requiring but little preliminary enquiry and liable to be repaid within the year. This objection is proposed to be met by making Clause 4 distinct from Clause 3, the Government being empowered to frame a separate set of rules for the two sets of loans. The necessity for a separate enactment has thus been avoided. A Proviso has been added in Clause 7 with a view to make

it clear that any loans raised under the Regulation will not affect any interest in the land which existed before the date of the order granting the loan. The interests of prior charge holders have thus been safeguarded."—*L. C. P. dated 8-12-1917.*

The Report of the Select Committee was published on 2-7-1918.

For legislative proceedings see *T. G. G. dated 22-1-1918; 22-10-1918 and 15-4-1919*

The Act was published in *T. G. G. dated 27-5-1919.*

SEC. 4. LAND IMPROVEMENT AND AGRICULTURAL LOANS ACT.

Explanation.—The expression 'Improvement on land' means any work which adds to the letting value of garden and dry land as well as wet land, and includes the following, namely:—

(a) the construction of wells, tanks and other works for the storage, supply or distribution of water, for the purposes of agriculture, or for the use of men and cattle employed in agriculture ;

(b) the preparation of land for irrigation ;

(c) the drainage, reclamation from rivers or other waters, or protection from floods or from erosion or other damage by water, of land used for agricultural purposes or waste land which is cultivable ;

(d) the reclamation, clearance, enclosure or permanent improvement of land for agricultural purposes ;

(e) the construction of works for affording facilities for the transport of materials to and from the land ;

(f) the repair or renewal or re-construction of any of the foregoing works or alterations therein or additions thereto ; and

(g) Such other works as Our Government may, from time to time, by Notification in Our Government Gazette, declare to be improvements for the purposes of this Section.

4. Subject to such Rules as may be made under Section 10, loans may be granted by such Officer as may be empowered by Our Government in this behalf to owners and occupiers of arable land, for the relief of distress, the purchase of seed, cattle, manure, agricultural implements or any other purpose declared by a Notification in Our Government Gazette to be connected with agricultural objects.

5. (1) When an application for a loan is made under this Act, the Officer to whom the application is made may, if it is in his opinion expedient that public notice of the application be given, publish a notice, in such manner as Our Government may from

Mode of dealing with applications for loans.

time to time direct, calling upon all persons objecting to the loan to appear before him at a time and place fixed therein and submit their objections.

(2) The Officer shall consider every objection submitted under Sub-section (1) and make an order in writing either admitting or over-ruling it :

Provided that, when a question raised by an objection is, in the opinion of the Officer, one of such a nature that it cannot be satisfactorily decided except by a Civil Court, he shall postpone his proceedings on the application until the question has been so decided.

6. Every loan granted under this Act shall be made repayable in such manner and at such time as Our Government may prescribe or by instalments (in the form of an annuity or otherwise) within such period from the date of the actual advance of the loan, or, when the loan is advanced in instalments, from the date of the advance of the last instalment, actually paid, as may, from time to time, be fixed by Rules made under this Act.

7. (1) Subject to such Rules as may be made under Section 10, all loans granted under this Act, all interests (if any) chargeable thereon and costs (if any) incurred in making the same shall, when they become due, be recoverable in any of the following modes :—

- (a) from the borrower as if they were arrears of land revenue due by him ;
- (b) from his surety (if any) as if they were arrears of land revenue due by him ;
- (c) except as regards the loans referred to in Section 4, out of the land for the benefit of which the loan has been granted as if they were arrears of land revenue due in respect of that land ;

SEC. 8. LAND IMPROVEMENT AND AGRICULTURAL
LOANS ACT.

(d) out of the property comprised in the collateral security according to the procedure for the realisation of land revenue by the sale of immovable property other than the land on which the revenue is due :

Provided that no proceeding in respect of any land under Clause (c) shall affect any interest in that land which existed before the date of the order granting the loan, other than the interest of the borrower, and of mortgagees of, or persons having charges on, that interest, and, where the loan is granted under Section 3 with the consent of another person, the interest of that person, and of mortgagees of, or persons having charges on, that interest.

(2) When any sum due on account of any such interests or costs is paid by a surety or any owner of property comprised in any collateral security, or recovered from a surety or out of any such property, such sum shall, on the application of the surety or the owner of such property, be recovered on his behalf from the borrower or out of the land for the benefit of which the loan has been granted, in manner provided by this Section.

8. A written order under the hand of the Chief Secretary to Our Government or of an Officer empowered to make loans under this Act granting a loan to or with the consent of a person mentioned therein, for the purpose of carrying out a work described therein, for the benefit of the land specified therein, or for any agricultural object, shall, for the purposes of this Act, be conclusive evidence —

- Order granting loan conclusive on certain points.
- (a) that the work described is an improvement within the meaning of this Act.
 - (b) that the person mentioned had at the date of the order a right to make such an improvement ;
 - (c) that the improvement is one benefiting the land specified ; or
 - (d) that the purpose is one connected with an agricultural object.

9. When a loan is made under this Act to the members of a village community or to any other persons on such terms that all of them are jointly and severally bound to Our Government for the payment of the whole amount payable in respect thereof, and a statement showing the portion of that amount which as among themselves each is bound to contribute is entered upon the order granting the loan and is signed by each of them and by the Officer making the order, that statement shall be conclusive evidence of the portion of that amount which, as among themselves, each of those persons is bound to contribute.

10. Our Government may, from time to time, by Notification in Our Government Gazette, make Rules consistent with this Act to provide for the following matters, namely :—

- (a) the manner of making applications for loans ;
- (b) the Officers by whom loans may be granted ;
- (c) the manner of conducting inquiries relating to applications for loans, and the powers to be exercised by Officers conducting those inquiries :
- (d) the nature of the security to be taken for the due application and repayment of the money, the rate of interest at which, and the conditions under which, loans may be granted, and the manner and time of granting loans ;
- (e) the inspection of works for which loans have been granted ;
- (f) the instalments by which, and the mode in which, loans, the interests to be charged on them and the cost incurred in the making thereof, shall be paid ;
- (g) the manner of keeping and auditing the accounts of the expenditure of loans and of the payments made in respect of the same ; and
- (h) all other matters pertaining to the working of this Act ;

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SURVEY AND BOUNDARIES ACT.

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ACT X OF 1094.

AN ACT TO CONSOLIDATE AND AMEND THE LAW RELATING TO SURVEY OF LANDS AND SETTLEMENT OF BOUNDARY DISPUTES.

*Passed by His Highness the Maha Raja of Travancore
on the 24th May 1919 corresponding with the
10th Edavom 1094, under Section 13 of
Act V of 1073.*

Whereas it is expedient to consolidate and amend
the law relating to Survey of Lands
and Settlement of Boundary Dis-
putes ;

Preamble.

It is hereby enacted as follows :—

Year	No.	Short title.	Effect of subsequent legislation.
1094	X	Survey and Boundaries Act.	Amended by Act IX of 1112.

Act III of 1058, the earliest law on the subject, was enacted in connection with the Revenue Survey and Settlement operations initiated during the year. This Act was amended by Act II of 1060. These enactments were repealed by Act X of 1094 which is the law in force on the subject.

Act X of 1094. *Objects and Reasons.*—"Regulation III of 1058, as amended by Regulation II of 1060 was passed more than 30 years ago. This Regulation followed the Madras Act XXVIII of 1860. This Act and the Madras Survey Act, II of 1884, were repealed by the Madras Survey and Boundaries Act

of 1897. The title and preamble of the existing Regulation are misleading (VIII T. L. R.. 99) and the language of the Regulation is not clear. The provisions as to the prosecution of surveys are not satisfactory. Secs. 12 to 25 deal with the reference of boundary disputes to arbitration. These provisions are seldom or never used in practice. The provisions of the Civil Procedure Code about arbitration are quite ample for the purpose. In the case of boundary disputes not arising out of a survey, the Settlement officer is empowered under Section 26 to examine witnesses voluntarily produced. He is

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called "The Travancore Survey and Boundaries Act of 1094."
Title.

(2) It extends to the whole of Travancore.
Local extent.

2. Act III of 1058, as amended by Act II of 1060, is hereby repealed.

Repeal.

not empowered to compel the attendance of witnesses or the production of documents. The Regulation contains many provisions about penalties for disobedience of summonses, making false statements, erasing, altering, removing or injuring boundary marks and obstructing Survey officers, which are unnecessary, having been superseded by the Travancore Penal Code. Many of the Edavagas have been surveyed at the cost of the proprietors, but there is no law regulating the procedure to be adopted in such cases. To remove these defects, the present Bill has been drafted on the lines of the Madras Act IV of 1897." S. O. & R. T. G. G. Dated 23-10-1917.

It may be noted that the Madras Act IV of 1897 has been repealed by the Madras Survey and Boundaries Act VIII of 1923.

The report of the Select Committee was published on 23-7-1918. For legislative proceeding see T. G. G. dated 16-10-1917; 22-1-1918; 22-10-1918 and 15-4-1919.

The Act was published in T. G. G. dated 27-5-1919.

Act IX of 1112. *Objects and Reasons.* "It has been brought to the notice of Government that private individuals very often plant shank-marked demarcation stones on the boundaries of land sub-divisions made by themselves as for instance in partitioning holdings held in common without applying for a sub-division survey to the proper authorities under the Rules made for the purpose. Such planting of stones on their own account by private individuals is misleading and is likely to lead to confusion in as much as the sub-divisions so marked out by the stones are not incorporated in the revenue records and the stones so planted may be taken to be real survey marks. The Government feel that it is necessary to prevent such planting of stones and this Bill has accordingly been framed." S. O. and R. T. G. G. dated 9-2-1937.

For legislative proceedings see A. P. Vol. IX, P. 509 and C. P. Vol. IX, Pp. 452, 453.

The Act was published in T. G. G. dated 23-3-1937.

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

Interpretation-
Clause.

- (i) "Edavaga" means a compact area recognised as such in the Government accounts, the whole or any portion of which area is exempt from payment of revenue to Government :
"Edavaga."
- (ii) "Government land" means any land not forming an Edavaga or any portion thereof :
"Government land."
- (iii) "Proprietor" means a sole owner or the eldest or the principal of several joint owners of an Edavaga :
"Proprietor."
- (iv) "Registered holder" means and includes any person in whose name Government land is for the time being registered :
"Registered holder."

Provided that, when any person other than the registered holder is in lawful management of Government land otherwise than as agent or servant of the registered holder or as mortgagee or lessee, such person shall be deemed to be the registered holder in respect of such Government land :

Where a Government land is registered in the names of two or more persons jointly, the registered holder shall, for the purposes of this Act be the person who is recognised by the other joint holders as the manager of the land or who, in case of dispute, is recognised by the Division Peishkar as senior Joint holder :

- (v) "Survey" includes re-survey and demarcation :
"Survey."
- (vi) "Survey-mark" means any mark or thing heretofore or hereafter made, erected or placed for the purpose of indicating survey points or lines above, on, or below, the surface of any land by or by order of any person duly authorised under any enactment for the time being in force to make a survey of such land or to settle the boundaries thereof.
"Survey-mark."

4. (1) Our Government may appoint any person either by name or by virtue of his office to be a Survey Officer under this Act, and may dismiss, suspend or remove any person so appointed.

Government to appoint and remove Survey Officers.

(2) Subject to the control of Our Government and of any superior Officer or authority appointed in this behalf, every person so appointed shall exercise and perform the powers and duties of a Survey Officer within such limits as Our Government may direct.

Government to prescribe local limits of Survey Officers.

CHAPTER II.

THE SURVEY OF GOVERNMENT LANDS.

5. Our Government may, by Notification, direct the survey of any Government land.

Government may direct survey of Government lands.

6. (1) When the survey of any Government land has been directed under Section 5, the Survey Officer shall publish a Notification inviting every person claiming to be interested in such land as registered holder or otherwise, to attend either in person or by agent at a specified place and time, and from time to time thereafter when called upon for the purpose of pointing out boundaries and supplying information in connection therewith.

Notification to be published by Survey Officer.

(2) A Notification published under Sub-section (1) shall be held to be a valid notice to every person having any interest in the land about to be surveyed.

Such Notification to be valid notice to persons interested.

(3) Such Notification shall further require all registered holders of the land about to be surveyed—

Terms of such Notification.

(a) to clear, within a specified period, by cutting down or removing any trees, jungle, fences, standing crops or other material

obstructions, the boundaries or other lines the clearance of which may be necessary for the purposes of the survey ;

- (b) to provide labour at such times and for such periods as may from time to time be required by furnishing flag-holders and chain-men ;
- (c) to provide suitable survey-marks and otherwise to give such assistance in the survey as may be demanded under this Act or the Rules made thereunder.

7. (1) If any person fails to comply with any requisition of a Survey Officer made under clause (a), (b) or (c) of Sub-section (3) of Section 6, the Survey Officer may employ hired labour for the purposes of the survey.

Employment of hired labour on failure of registered holders to assist in the survey.

(2) The Survey Officer shall, in accordance with such Rules as Our Government may prescribe, apportion the cost of such hired labour on the lands which have been surveyed, and charge the same to the registered holders thereof.

Cost to be charged to registered holders of lands surveyed.

8. If the registered holder of any land, which has been or is about to be surveyed, fails to provide suitable survey-marks to the satisfaction of the Survey Officer, such officer may himself provide or make such marks, and the cost of providing or making them shall be apportioned and charged as provided in Sub-section (2) of Section 7.

Provision of survey-marks.

9. Notwithstanding anything contained in Sub-section (3) of Section 6 and in Sub-section (1) of Section 7, whenever it may appear to the Superintendent, Revenue Survey, to be desirable that the cost of all or any of the operations prescribed in Clauses (a), (b) and (c) of Sub-section (3) of Section 6 should be defrayed in the first instance by Our Government, he may, with the

Cost of survey operations may be defrayed in the first instance by Government in certain cases.

previous sanction of Our Government, in lieu of the Notification prescribed in Sub-section (3) of Section 6, issue a Notification that such cost will be defrayed in the first instance by Our Government, and may thereupon proceed with the survey of the land and apportion and charge such cost in the manner prescribed by Sub-section (2) of Section 7.

10. The cost of hired labour under Sub-section (1) of Section 7 and of providing survey-marks under Section 8 shall be defrayed in the first instance by Our Government, but any sum charged under Section 7, 8 or 9 to the registered holder shall be recoverable from the land in the same manner as an arrear of land revenue.

Recovery of charges incurred by survey Officer.

11. (1) If, at the time of survey, a boundary is undisputed, the Survey Officer may order that it shall be laid down as pointed out by the registered holder or his agent.

Procedure where boundary is undisputed.

(2) If the registered holder is not present, or if the boundary is disputed, the Survey Officer shall order it to be laid down as nearly as may be, in accordance with the Revenue records, or as ascertained from the Proverthicar and from such other evidence as the Survey Officer may be able to procure.

Procedure where boundary is disputed.

(3) The order passed by the Survey Officer in the case of any dispute under Sub-section (2) shall be recorded in writing and the purport thereof communicated forthwith to the parties to the dispute, a copy of the order being furnished to them on their application and at their cost.

Order in disputed cases to be in writing.

(4) When the survey of any village or other defined local area forming part of the land under survey has been completed in accordance with the orders passed under Sub-sections (1) (2) and (3), the Survey Officer shall notify the fact as soon as practicable thereafter.

Completion of demarcation to be notified.

12. (1) Notice of every order passed by the Survey Officer under Section 11 shall be given to all registered holders the boundaries of whose holdings may be affected by the order, and an appeal from such order shall lie to the authority to whom the Survey Officer is immediately subordinate : Provided that it be filed —

! Appeals against orders under Section 11.

- (a) in the case of an order communicated under Sub-section (3) of Section 11, within three months of the date of service of the order;
- (b) in the case of any other order, within three months of the date on which the Notification prescribed under Sub-section (4) of Section 11 was published; and
- (c) where an appeal is filed, notice shall be given by the appellate authority, in the case of an appeal preferred under Clause (a), to the other parties to the dispute, and, in the case of an appeal preferred under Clause (b), to all registered holders, the boundaries of whose holdings may be affected by the proceedings in appeal.

(2) The decision of the appellate authority shall be recorded in writing, and the purport thereof communicated forthwith to the parties concerned, a copy of the order being furnished to them on their application and at their cost.

Appellate decision to be in writing.

(3) The order of the Survey Officer, or, in the event of an appeal being filed, the decision of the appellate authority shall be final, and there shall be no further appeal from such decision.

Such order or appellate decision final in certain cases.

13. Any party to a boundary dispute before the Survey Officer, and any party to an appeal preferred under Section 12 or to whom notice of such appeal is given, and any person claiming under any such party, deeming himself aggrieved by the Order of the Survey Officer or by the decision of the appellate authority, as the case may be, may, subject

Institution of a suit in Civil Court within one year to establish rights claimed in respect of the boundary of property surveyed.

to the provisions of Parts II and III of the limitation Act of 1062, institute, within the period of one year from the date of service of such order or decision or from the date on which the Notification prescribed under Sub-section (4) of Section 11 was published, a suit to establish the right which he claims in respect of the boundary of the property surveyed: Provided that, subject to the result of such suit, if any, such order or decision shall be conclusive as between the parties to the dispute or to the appeal, including those to whom notice of such appeal has been given, and those claiming under such parties or any of them.

Explanation.—Where parties litigate *bona fide* in respect of boundaries of property claimed in common for themselves and others, all persons interested in such boundary dispute shall, for the purpose of this Section, be deemed to claim under parties so litigating.

14. Subject to such Rules as Our Government may prescribe in this behalf, every registered holder of Government land shall be bound to maintain, renew and repair the survey-marks on or within the boundaries of his holding, and in default of his doing so within a prescribed period, the Survey officer or the Division Peishkar may, at the cost of Our Government, maintain, renew and repair such survey-marks and apportion the cost thereof; such cost may be recovered from the land as an arrear of land revenue: Provided that Our Government may from time to time exempt, by a Notification, any local area from the operation of the former part of this Section and cancel such Notification.

15. It shall be the duty of every Proverticar and Pakuthi Accountant—

Duties of Proverticar and Pakuthi Accountant. (a) to prevent the destruction, injury or alteration of any survey-mark on or within the limits of his jurisdiction; and

(b) when he becomes aware that any such mark has been destroyed, injured or altered, to report the fact to his immediate official superior or the nearest Survey Officer having jurisdiction.

16. (1) Every order of a Survey Officer or of a Division Peishkar imposing charges under Sections 7, 8, 9 and 14 shall be recorded in writing, and an account prepared in accordance therewith communicated forthwith to the persons affected, a copy of the order being supplied to them on their application and at their cost.

(2) An appeal against every such order shall lie to the authority to whom the Officer passing it is immediately subordinate: Provided that it be filed within one month of the date of service of such order.

(3) The order of the Survey Officer or of the Division Peishkar, if an appeal is not preferred, or, in the event of an appeal being filed, the decision of the appellate authority, shall be final.

CHAPTER III.

THE SURVEY OF EDAVAGAS.

17. Our Government may, by Notification, direct the survey of any Edavaga or portion of an Edavaga,—

Government may direct survey of an Edavaga in certain cases.

(a) on the application in writing of the proprietor of such Edavaga, accompanied by a written statement of his consent to defray the whole cost of the survey, or,

(b) without such application, for reasons to be recorded prior to the issue of such Notification :

Provided that a survey commenced under Clause (a) shall be stopped on the withdrawal by the proprietor of his application, unless Our Government sees reason to direct the continuance of the survey in virtue of the power conferred on them by Clause (b).

18. Except as hereinafter provided in Sections 19 and 20, the conduct of such survey and the proceedings of a Survey Officer shall, as far as may be, be regulated by the procedure laid down in Chapter II with regard to the survey of Government lands; and the provisions contained in that Chapter in regard to appeals from the orders of a Survey Officer, the granting of copies thereof and the effect of such orders and of the decisions passed in appeal therefrom shall, as far as may be, apply to all orders passed by a Survey Officer under this Chapter and to the decisions passed in appeal against such orders.

19. All costs incurred by Our Government on account of a survey conducted under this Chapter shall be recoverable from the Edavaga, the whole or a part of which has been surveyed, in the same manner as an arrear of land revenue:

Provided that the cost of a survey directed under Clause (b) of Section 17 shall be borne by Our Government unless otherwise prescribed by any law for the time being in force.

20. (1) On the application of the proprietor of an Edavaga under survey, Our Government may direct the Survey Officer to apportion among the lands which have been surveyed the whole or a specified portion of the cost of such survey: Provided that the cost so apportioned shall not exceed the amount which would be chargeable to such lands under Sections 7, 8 and 9 if they were Government lands.

(2) Such apportionment among the lands shall be made in accordance with such Rules as Our Government may prescribe, and shall be subject to appeal in the manner prescribed in Section 16.

(3) The amount so apportioned shall be recoverable by the proprietor from the tenants concerned in the same manner as if it were an arrear of rent due by a tenant to his landlord.

Cost so apportioned recoverable by proprietor from tenants.

21. (i) When an Edavaga or a portion of an Edavaga has been surveyed in pursuance of a Notification issued under Section 17, the Survey Officer shall report the completion of the survey to the Division Peishkar and to the proprietor, and the following consequences shall thereupon ensue:—

Consequences ensuing on completion of survey of an Edavaga.

(ii) Subject to such Rules as Our Government may prescribe in this behalf, every tenant of the land surveyed shall be bound to maintain, renew and repair the survey-marks on or within the boundaries of his holding, and, in default of his doing so within a prescribed period, the Division Peishkar may, at the cost of Our Government, maintain, renew and repair such survey marks, and such cost shall be recoverable from the tenant in the same manner as an arrear of land revenue.

Duty of tenants.

(iii) It shall be the duty of the Proverticar and the Pakuthi Accountant of every Pakuthi, the whole or a part of which has been surveyed—

Duty of Proverticar and Pakuthi Accountant.

(a) to prevent the destruction, injury or alteration of any survey-mark on or within the limits of his Pakuthi, and

(b) When he becomes aware that any such mark has been destroyed, injured or altered, to report the fact to the proprietor of the Edavaga and to the Division Peishkar or to such Officer subordinate to the Division Peishkar as the Division Peishkar may, from time to time, direct.

CHAPTER IV.

THE SETTLEMENT OF BOUNDARY DISPUTES ARISING OTHERWISE THAN IN THE COURSE OF A SURVEY.

22. The Division Peishkar may,—

Division Peishkar may direct settlement of boundary dispute. (a) of his own motion, or, (b) on the application of any of the disputants, direct that any dispute, arising otherwise than in the course of a survey, as to the boundaries of any land, shall be decided under the provisions of this Act.

23. (1) Unless Our Government appoint a Survey Officer under Section 4 for the purpose of settling such dispute, the Division Peishkar shall thereupon—

(a) proceed to deal therewith himself, or

(b) refer it for disposal to any Officer not below the rank of Deputy Tahsildar.

(2) Every Officer to whom a dispute is referred for disposal as aforesaid shall be a Survey Officer for the purpose of this Act.

24 (1) The Division Peishkar or Survey Officer, as the case may be, shall, after giving Inquiry regarding dispute. due notice of the time and place at which his inquiry will be held, proceed to investigate the claims of the various parties, and record the evidence of all persons examined by him.

(2) At the close of the investigation, he shall record in writing his decision and the reasons upon which it is based, and, after duly informing the parties of the same and intimating to them the date on which he intends to demarcate according to his decision, shall proceed to mark out the requisite boundaries conformably therewith.

(3) The date on which the demarcation is completed shall be entered on the record of the case and forthwith communicated to the parties.

Completion of demarcation to be intimated to parties.

(4) The decision so arrived at shall be final unless reversed or modified by the decree of a Civil Court: Provided that, in the case of an order passed by an Officer to whom the dispute was referred by the Division Peishkar under Clause (b) of Sub-section (1) of Section 23, such decision shall be submitted to the Division Peishkar who, after giving notice to the parties concerned and hearing them if they appear, shall either confirm it or pass such other order as he may deem fit.

25. The provisions of Section 13 shall apply *mutatis mutandis* in the case of any final decision passed under the preceding Section.

Right of suit in regard to decisions under Section 24.

26. (1) In the case of any dispute settled under this Chapter, the costs of survey shall in the first instance be defrayed by Our Government, and shall then be apportioned by the Division Peishkar or the Survey Officer, in accordance with such Rules as Our Government may prescribe, among the parties to the dispute; and the amount so apportioned to each party shall be recoverable from him as an arrear of land revenue.

Recovery of cost of survey in case of dispute settled under this Chapter.

(2) Appeals against orders passed under Sub-section (1) shall be governed by the provisions of Section 16.

27. The provisions of Chapter II or III as the case may be, shall so far as they relate to the maintenance, renewal and construction of survey-marks, apply to marks erected under this Chapter.

Applicability of Chapters II and III to survey marks erected under Chapter.

CHAPTER V.

MISCELLANEOUS.

28. For the purpose of any survey, inquiry, or other proceeding under this Act, the Survey Officer or the Division Peishkar or any of the subordinates of such Officers, shall have power to enter upon, examine and measure any land under survey.

Power to enter upon and examine lands.

29. Any Survey Officer generally or specially authorised in that behalf, or the Division Peishkar, or any Officer to whom an appeal is preferred under any of the provisions of this Act may, for the purposes of any survey, inquiry or other proceeding under this Act, summon and enforce the attendance of any person for giving evidence and for the production of documents or for the purpose of rendering assistance in the survey of any land in which such person has an interest; and the procedure prescribed in the Code of Civil Procedure for summoning and enforcing the attendance of witnesses and for the recording of evidence shall be followed as far as it can be made applicable.

30. (1) The Division Peishkar or Survey Officer may, with the consent of all the parties concerned, refer to arbitration any dispute as to a boundary.

Reference to arbitration.

(2) The procedure laid down in Chapter XXXVI of the Code of Civil Procedure, Act II of 1065, shall thereupon apply as far as may be.

Procedure in such cases.

(3) The decision of the Division Peishkar or the Survey Officer passed in accordance with such award shall be conclusive between the parties to such arbitration and those claiming under them.

Decision under award conclusive.

31. (1) A proprietor or registered holder of any Edavaga or Government land under survey who incurs expenses under this Act in respect of such survey or from whom the expenses of such survey are recovered under this Act, shall, if he be not the owner thereof, acquire a charge on such Edavaga or Government land to the extent of the expenses so incurred or recovered from him, with interest thereon at the rate of nine per cent. per annum: Provided that, if he be a co-owner of such Edavaga or Government land, such charge shall

Proprietor or registered holder may recover expenses paid by him from the owner of the Edavaga or Government land and may acquire a charge upon the land to that extent.

extend only to so much of the amount of such expenses as is payable in respect of the shares of the other co-owners in such Edavaga or Government land.

(2) It shall be lawful for any person who is a mortgagee, lessee or tenant, or who is the owner or co-owner or in good faith believes himself to be the owner or co-owner of an Edavaga or Government land under survey, to pay the charges payable under this Act in respect of the survey of such Edavaga or Government land, though he be not the proprietor or registered holder thereof.

(3) A mortgagee making such payment shall be entitled to add the same to the principal money due under the mortgage at the rate of interest payable on the principal, and where no such rate is fixed, at the rate of nine per cent. per annum. And a lessee or tenant making such payment shall be entitled to deduct the same with interest at the rate of nine per cent. per annum from the rent then due, or thereafter becoming due, in respect of such Edavaga or Government land.

(4) A co-owner or a person who, in good faith, believes himself to be owner or co-owner, making such payment, shall acquire a charge on such Edavaga or Government land for the amount so paid by him with interest thereon at the rate of nine per cent. per annum: Provided that in the case of a co-owner such charge shall extend only to so much of the amount paid as is due in respect of the share of the other co-owners in such Edavaga or Government land.

32. Our Government may make Rules consistent with this Act.—

Government may make Rules under this Act. (a) prescribing for different localities the unit of survey, the subdivisions thereof and the description of the survey-marks; and for the maintenance, renewal and repair of such marks;

(b) for the collection and record of any information in respect of any land which has been or is about to be surveyed ;

(c) prescribing and limiting the powers and duties of Officers conducting proceedings under this Act and for regulating their procedure ;

(d) for the publication of all Notifications issued under this Act, and for the issue and service of all orders, communications and notices to be issued, communicated, given or served under this Act ;

(e) for the apportionment of all charges directed to be apportioned by this Act ;

(f) prescribing the fees payable for processes issued and copies granted under this Act ; and

(g) generally for carrying out the purposes of this Act :

and all such Rules shall be published in Our Government Gazette and shall thereupon have the force of law.

33. No suit or other legal proceedings shall lie against any person for anything in good faith done or purporting to be done under this Act

Immunity for acts done in good faith or purporting to be so done.

[34. (1) Whoever erects or places any mark which is not a survey mark intending or knowing it to be likely that such mark or object may be understood or believed to be a survey mark shall, on conviction, be punishable with fine which may extend to one hundred rupees :

Penalty for erecting or placing any mark or object which is not a survey mark.

Provided that a prosecution for an offence under this Section shall not lie except on the complaint or sanction in writing of the Tahsildar of the Taluk within the limits of which the mark or object is erected or placed.

Sec. 34. This was added by Act IX of 1112.

(2) In any case of prosecution started under the foregoing provision, the Court may, whether the accused be convicted or not, order the mark, or object to be removed if the Court is satisfied that it is not a real survey mark and in case the mark or object is not removed accordingly, the Court may cause the mark or object to be removed and where such mark or object has been proved to be erected or placed by the accused, recover the cost of the removal from the accused as if it were a fine imposed by the Court.]

PR OCLAMATION

*By His Highness the Maha Raja of Travancore
issued under date the 5th Mithunam 1094
corresponding to the 12th June 1919.*

Whereas provision has been made by a Proclamation issued by His Highness the Raja of Cochin on the 30th November 1917, corresponding with the 15th Vrischikom 1093, for the better management of the Koodalmanikom Devaswom in Irinjalakuda in the Native State of Cochin; and whereas under the said Proclamation it is provided that the Kaimal of the said Devaswom known as the Thatchudaya Kaimal may, in the case of misconduct, be deprived of the management of the properties of the Devaswom and a manager appointed; We are hereby pleased to command as follows :

1. This Proclamation may be called "the Koodalmanikom Devaswom Proclamation."
2. The Kaimal shall, subject to the provisions of Sections 4 and 5, represent the Koodalmanikom Devaswom in all suits or proceedings in any Civil or Revenue Court in Travancore relating to any property of the Devaswom.
3. The deprivation of the Kaimal by the controlling authority of the management of the properties of the said Devaswom and the appointment of a manager, as provided in the said Proclamation of His Highness the Raja of Cochin, shall be published in Our Government Gazette.
4. Whenever the Kaimal for the time being of the said Devaswom is deprived of the management of the properties of the Devaswom and a manager is appointed, as provided by the said Proclamation, the manager so appointed shall, so long as the Notification issued under Section 3 remains in force, be entitled to the possession and management of all the properties of the Devaswom situated in Travancore including all title-deeds and accounts and shall be entitled to recover them by suit, if necessary.
5. Every such manager shall, during his period of management, in all suits or proceedings in any Civil or Revenue Court in Travancore relating to any property of the Devaswom, sue or be sued as representing the Kaimal of the Devaswom.

This Proclamation was published in the Gazette dated 24th June 1919.

PROCLAMATION
—
SOLDIERS (LITIGATION.)
—
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—

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6. Notice to be given in case of unrepresented soldier.
7. Postponement of proceedings.
8. Court may proceed when no certificate received within certain period.
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10. Power to set aside decrees and orders passed against a soldier serving under war conditions.
11. Modification of law of limitation in the case of soldiers serving under war conditions.
12. Power of Court to refer question as to whether service was under war conditions or not.
13. Rule-making power.
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15. Repeal of the Soldiers (Litigation) Proclamation, 1090.

This Proclamation was published in the Gazette dated 15th July 1919.

PROCLAMATION

*By His Highness the Maha Raja of Travancore.
issued under date the 27th Mithunam 1094
corresponding with the 11th July 1919.*

Whereas it is expedient to amend the law to provide
for the special protection in respect
of civil and revenue litigation of
soldiers whether belonging to the Imperial Service Troops
or to the Indian Army, serving under war conditions ;
We are pleased to command as follows :—

1. (1) This Proclamation may be called " The soldiers
Short title and ex- (Litigation) Proclamation, 1094. "
tent.

(2) It extends to the whole of Travancore

2. In this Proclamation,—

Definitions.

" Court " means a Civil or Revenue Court :

" Soldier " means any person subject to the Indian
Army Act, 1911, or to the Army Act (44 and 45 Victoria,
Chapter 58) :

" Prescribed " means prescribed by Rules made
under this Proclamation : and

" Proceeding " includes suit and appeal.

3. A soldier shall be deemed to be serving under war
conditions.

Circumstances in which a soldier shall
be deemed to be serving under war con-
ditions.

(a) till the signing of peace, and for
six months thereafter,

(i) when he is serving out of
India,

(ii) when he is under orders to
proceed on field service,

(iii) when the unit to which he belongs is mobilis-
ed, or

(iv) when, in the opinion of the prescribed autho-
rity, such soldier by reason of the state of
war now existing is precluded from obtain-
ing leave of absence to enable him to at-
tend a Court as a party to any proceeding
therein, and

SOLDIERS LITIGATION PROCLAMATION. SEC. 7.

(b) after the expiration of that period, when he is serving in any place, and such service has been declared, by Notification of the Governor-General-in-Council in the Gazette of India, to be service under war conditions.

4. If any person presenting any plaint, application or appeal to any Court has reason to believe that any adverse party is a soldier who is serving under war conditions, he shall state the fact in his plaint, application or appeal.

Particulars to be furnished in plaints, applications or appeals to Court.

5. If the Division Peishkar has reason to believe that any soldier, who ordinarily resides, or who has property in his Division and who is a party to any proceeding pending before any Court, is unable to appear thereon, the Division Peishkar may certify the facts in the prescribed manner to the Court.

Power of Division Peishkar to intervene in case of unrepresented soldier.

6. If the Division Peishkar has certified under Section 5, or if the Court has reason to believe, that a soldier, who is a party to any proceeding pending before it, is unable to appear thereon, and if such soldier is not represented by any person duly authorised to appear, plead or act on his behalf such Court shall suspend the proceeding and shall give notice thereof, in the prescribed manner to the prescribed authority.

Notice to be given in case of unrepresented soldier.

7. If, on receipt of a notice under Section 6, the prescribed authority certifies in the prescribed manner to the Court in which the proceeding is pending that such soldier is serving under war conditions, and that a postponement of the proceeding as against such soldier is necessary in the interests of justice, such Court shall thereupon postpone the proceeding as against such soldier for the prescribed period; or, if no period has been prescribed, for such period as it thinks fit.

Postponement of proceedings.

SEC. 8. SOLDIERS LITIGATION PROCLAMATION.

8. If, after issue of a notice under Section 6, the prescribed authority either certifies that such soldier is not serving under war conditions, or that such postponement is not necessary, or fails to certify, in the case of a soldier resident in the Division in which the Court is situate, within two months or, in any other case, within three months from the date of the issue of such notice that such postponement is necessary, the Court may, if it thinks fit, continue the proceeding.

9. When any document is produced before any Court by or on behalf of a soldier who is a party to any proceeding in such Court purporting to be signed by his Commanding Officer and to the effect that such soldier—

Postponement of proceedings against soldier on leave.

(a) is on leave of absence for a period not exceeding two months, and is on the expiration of his leave to proceed on service out of India, or

(b) is on sick leave for a period not exceeding three months, and is on the expiration of his leave to rejoin his unit with a view to proceeding on service out of India,

the Court shall postpone the proceeding as against such soldier in the manner provided in Section 7.

10. (1) In any proceeding before a Court in which a decree or order has been passed against a soldier whilst such soldier was serving under war conditions, such soldier may apply to the Court which passed the same for an order to set it aside, and, if he satisfies the Court that default after the twenty-second day of Karkatakam, 1090, has been made in complying with the provisions of Section 4 or 6, the Court shall, or in any other case if the interests of justice require such a course, the Court, subject to such conditions (if any) as it thinks fit

Power to set aside decrees and orders passed against a soldier serving under war conditions.

SOLDIERS LITIGATION PROCLAMATION. SEC. 13.

to impose, may make an order setting aside the decree or order as against such soldier :

Provided that—

- (a) any such application shall be made within three months from the date on which such soldier ceased to serve under war conditions ;
- (b) no decree or order shall be set aside on any such application, unless notice thereof has been served on the opposite party ; and
- (c) when the decree or order is of such a nature that it cannot be set aside as against such soldier only, it may be set aside against all or any of the parties against whom it has been made.

(2) The provisions of Section 5 of the Travancore Limitation Act of 1062 shall apply to applications under this Section.

11. In computing the period of limitation prescribed by the Travancore Limitation Act

Modification of law of limitation in the case of soldier serving under war conditions.

of 1062, or any other law for the time being in force for any suit, appeal or application to any Court in which the plaintiff, appellant or applicant is a soldier, the time during

which such soldier has been serving under war conditions since the 4th August 1914, shall be excluded.

12. If any Court is in doubt whether, for the purposes of Section 10 or 11, any soldier is or

Power of Court to refer question as to whether service was under war conditions or not.

was at any particular time serving under war conditions, it may refer the point for the decision of the prescribed authority, and the certificate of such authority shall be conclusive

evidence on the point.

13. Our Government, after consulting the High Court, may, by Notification in Our Govern-

Rule-making power. ment Gazette, make Rules—

- (a) prescribing the manner and form in which any notice or certificate under this Proclamation shall be given, and the authorities to

SEC. 14. SOLDIERS LITIGATION PROCLAMATION.

whom such notices shall be given, and by whom the powers under this Proclamation shall be exercised ;

(b) the period for which proceedings or any class of proceedings shall be suspended under this Proclamation ; and

(c) generally providing for any matters incidental to the purposes of this Proclamation.

14. Our Government may, by Notification in Our Government Gazette, direct that all

Power to apply the provisions of this Proclamation to other persons in the service of Government.

or any of the provisions of this Proclamation shall apply to any other class of persons in the service of Our Government specified in such Notification in the same manner as they apply to soldiers, and upon such

Notification such provisions shall apply accordingly.

15. The soldiers (Litigation) Proclamation, 1090, is hereby repealed.

Repeal of the soldiers (Litigation) Proclamation, 1090.

ACT XI OF 1094.

ANIMALS DISEASES.

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Act XI OF 1094.

AN ACT FOR THE PREVENTION OF THE SPREAD OF DISEASES AMONG ANIMALS IN TRAVANCORE.

*Passed by His Highness the Maha Raja of Travancore,
on the 9th August 1919, corresponding with the
24th Karkadakom 1094, under Section
13 of Act V of 1073.*

Whereas it is expedient to make provision for the
Prevention of the Spread of Diseases
among Animals in Travancore; It is
hereby enacted as follows:—

1. (1) This Act may be called "The Travancore Ani-
Short title and oper- mals Diseases Act of 1094."
ation of the Act.

(2) It shall be put into force in such parts of Tra-
vancore and during such periods of time as Our Govern-
ment may, from time to time, by Notification in Our
Government Gazette, direct.

(3) Our Government may, at any time, by Notifica-
tion in Our Government Gazette, cancel or vary a Noti-
fication under Sub-section (2).

2. In this Act, unless there be something repugnant
Interpretation. in the subject or context,—
"Animals" shall mean elephants, camels, buffaloes,
"Animals". horses, mares, geldings, ponies, colts,
fillies, mules, asses, bulls, cows,
rams, ewes, sheep, lambs, goats or kids and all other
ruminating animals and swine:

Act XI of 1094.—*Objects and
Reasons.* "At present there is
no law for the effective preven-
tion of the spread of epidemic
diseases among animals general-
ly, in Travancore. The neces-
sity for such a law was recently
felt on the out-break of anthrax
in the Public Gardens. A Bill
on the lines of the Madras Cat-
tle-Disease Act, II of 1866, has

therefore been drafted."—S. O.
& R., T. G. G. dated 26-6-1917.

The Report of the Select Com-
mittee was published on
16-4-1918.

For legislative proceedings
see T. G. G. dated 16-10-1917;
23-7-1918 and 24-6-1919.

The Act was published in
T. G. G. dated 12-8-1919.

“Disease” means cattle plague (that is to say, rinderpest or the disease commonly called cattle plague), contagious pleuropneumonia of cattle, foot-and-mouth disease, sheep-pox, sheep-scab, or swine fever (that is to say, the disease known as typhoid-fever of swine, soldier purples, red diseases, hog-cholera or swine-plague), or any other disease which Our Government may, by a Notification in Our Government Gazette, declare to be contagious or infectious among animals :

“Diseased” means affected with disease :

“Diseased”.

“Suspected” means suspected of being diseased :

“Suspected”.

“Carcass” means the carcass of an animal, and includes part of a carcass and the meat, bones, hide, skin, hoofs, horns, offal, or other part of an animal, separately or otherwise, or any portion thereof :

“Fodder” means hay or other substance commonly used for food of animals.

3. Our Government may establish hospital pounds in such places as they may from time

Establishment of hospital pounds. to time direct. Inspectors shall be appointed to such pounds by Our Government or by such other Officer as may be empowered in this behalf.

4. Every person having in his possession or under his charge an animal affected with disease shall—

Notice by owner of animal attacked with disease.

(a) as far as practicable keep that animal separate from animals not so affected ; and

(b) with all practicable speed give notice of the fact of the animal being so affected to the Inspector of the nearest hospital pound.

5. On receiving the notice referred to in Section 4,

Examination by Inspector.

the Inspector shall, as soon as practicable, examine the animal, and, if he be of opinion that the animal is

diseased, he shall thereupon require the person in possession or in charge of the animal to place it in the hospital pound.

6. Every Inspector of a hospital pound or any person authorised by Our Government in this behalf may at any time and place examine any suspected animal and, if necessary, enter upon and inspect any premises or place for the said purpose. He may, if satisfied that the animal is diseased, direct the removal of such animal or animals to the hospital pound.

Inspection of places in which animals suspected to be diseased are found.

7. Every Inspector of a hospital pound or any person authorised by Our Government in this behalf may cause to be cleansed and disinfected in such manner as he may deem proper any premises in which any diseased animal may have been kept and may cause to be disinfected, and, if necessary, destroyed, any fodder, manure, or refuse matter, which he may deem likely to propagate disease.

Cleansing of premises in which diseased animal has been kept, and disinfecting of fodder. etc.

8. When any diseased animal is taken charge of by the Inspector of a hospital pound, all expenses incurred on account of feeding and medical treatment for the said animal shall be borne by Our Government, unless the owner or person in charge thereof, desires to supply the food and medicines himself: Provided always that such food and medicines shall be, such as the Inspector of the hospital pound may approve or direct.

Expenses for food and treatment by whom to be borne.

9. The Inspector of the hospital pound or any other person authorised by Our Government in this behalf may, if necessary, and subject to such Rules as may be framed by Our Government, cause to be destroyed any diseased animal.

Power to destroy diseased animals.

When any animal shall have been so destroyed, or shall die whilst in charge of the Inspector of the hospital pound, it shall be the duty of the said Inspector to have the carcasses of the said animal buried at such places as may be appointed and at such depth as may from time to time be fixed in this behalf.

No compensation shall be claimable in respect of any loss incurred by reason of any act done or authorised to be done under this Section.

10. Should any animal impounded in any hospital pound as aforesaid recover from the disease from which it may have been suffering, the person in possession or in charge thereof shall pay to the Inspector of the hospital pound the cost of the feeding and treatment of such animal.

Should he fail to pay the expenses aforesaid, then, the said animal shall be sold by auction, and the sum realised by its sale, after deducting the amount of the expenses, shall be paid over to the owner, or the person who was in charge :

Provided always that, in such cases as the owner or person who was in charge may elect to supply food and medicine, he shall not be required to pay any charges whatever.

11. No person having, in his possession, or under his custody, any animal which has been in the same shed or stable, or in the same herd or flock, or in contact with any diseased animal, shall remove such animal alive from his land or premises, without the license of the Inspector of the nearest hospital pound, or of some person authorised by the Director of Agriculture and Fisheries, to grant such license.

Every such license shall be in writing, and shall only permit the removal of such animal to some place where it can be conveniently kept apart from all other animals, until the Inspector of the hospital pound, or other person authorised as aforesaid, is satisfied that there is no reasonable probability of such animal propagating the disease.

License.

12. If any person in possession or in charge of any diseased animal shall, without reasonable cause, fail to give notice to the Inspector of the hospital pound as required in Section 4, he shall be liable to a fine not exceeding rupees five.

Penalty for failure to give notice as required in Section 4.

13. Whoever disobeys any directions given under Section 5, Section 6, or Section 7, shall be liable, for every such offence to a fine, not exceeding twenty rupees.

Penalty for disobedience of the directions given under Section 5, Section 6, or Section 7.

14. It shall be the duty of all Inspectors of hospital pounds, and such other persons as may be empowered by Our Government in this behalf, to seize and impound all diseased animals, and any person, who shall forcibly oppose such seizure, or who shall forcibly rescue the animals after such seizure, shall be deemed to have committed an offence punishable under Section 179 of the Penal Code.

Penalty for opposing seizure and impounding of diseased animals.

15. Any person whose animals shall have been seized as being diseased may prefer a complaint against the seizure, at any time within ten days from the date thereof, to any Magistrate.

Complaint of seizure by owner.

The complaint may be either verbal, in which case the substance of it shall be taken down in writing by the Magistrate, or written upon plain paper, and shall be preferred by the complainant in person, or by an agent personally acquainted with the circumstances.

Form of complaint.

If, on examination of the complainant or his agent, the Magistrate shall see reason to believe the complaint to be well-founded, he shall summon the party complained against, and shall proceed to make an inquiry into the case.

If the seizure be adjudged illegal and wanting in good faith, the Magistrate shall award to the complainant such damages as he may deem to be a reasonable compensation for any loss or injury sustained from the unlawful seizure, together with all expenses incurred by the complainant in procuring the release of the animals; or if the animals have not been released, the Magistrate, in addition to the award of damages, shall make an order for their release, and shall direct that the expenses leviable under this Act shall be paid by the party who made the seizure.

The amount of all damages and expenses so awarded shall be recoverable as if they were fines imposed by the Magistrate.

16. It shall be lawful for the Officer inflicting a fine under this Act to direct any portion thereof, not exceeding one-half, to be paid to the informer.

17. Our Government may make Rules for—

- (a) prohibiting or regulating the movement of animals and persons into, within, or out of, an infected place;
- (b) prescribing and regulating the isolation or separation of animals being in an infected place;
- (c) prohibiting or regulating the removal of carcasses, fodder, litter, utensils, pens, bundles, dung or other things into, within, or out of, an infected place;
- (d) prescribing and regulating the destruction, burial, disposal or treatment of carcasses, fodder, litter, utensils, pens, bundles, or other things being in an infected place or removed thereout;

- (e) prescribing and regulating the cleansing and disinfection of infected places or parts thereof ;
- (f) prescribing and regulating the disinfection of the clothes of persons coming in contact with or employed about diseased or suspected animals or being in an infected place, and the use of precautions against the spreading of disease by such persons ;
- (g) prohibiting or regulating the digging up of carcasses which have been buried ;
- (h) prohibiting or regulating the carrying, leading or driving of diseased or suspected animals or the causing them to be carried, led or driven on high-ways or thoroughfares or elsewhere ;
- (i) prescribing and regulating the destruction, burial, disposal, or treatment of carcasses of animals destroyed by order of the Inspector or dying while in the hospital pound ;
- (j) prescribing and regulating the issue and production of licenses respecting movement and removal of animal and things ;
- (k) prescribing and regulating the payment and recovery of expenses in respect of animals ;
- (l) prescribing and regulating the form and mode of service or delivery of notices ; and
- (m) generally for the better execution of this Act or for the purpose of, in any manner, preventing the spread of disease.

A breach of any such Rules shall render the party liable to a fine not exceeding ten rupees.

18. Officers of the Department of Agriculture superior in rank to the Inspectors of hospital pounds may exercise the same powers throughout the local areas to which they are appointed as may be exercised by such Inspectors within the local limits of their respective jurisdictions.

ACT XII OF 1094.

PLANT PESTS AND PLANT DISEASES.

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PREAMBLE.

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1. Short title, extent and commencement-
 2. Interpretation.
"Plant"
"Pest"
"Plant disease."
"Owner or occupier."
"Infection."
"Import."
 3. Notification of pests and plant diseases.
 4. Power of Government to regulate or prohibit the import of articles likely to cause infection to any plant.
 5. Operation of Notification under Section 4.
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 7. [Power to require preventive or remedial measures to be taken.]
 8. Power of Officer to carry out preventive or remedial measures on failure of owner or occupier to do so.
 9. Offences.
 10. Power to make Rules.
 11. Protection to persons acting under Act.
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ACT XII OF 1094.

PLANT PESTS AND PLANT DISEASES.

AN ACT TO PROVIDE FOR THE PREVENTION, ARREST
AND ERADICATION OF PLANT PESTS AND PLANT
DISEASES IN TRAVANCORE.

*Passed by his Highness the Maha Raja of Travancore,
on the 9th August 1919 corresponding with the 24th
Karkatakam 1094, under Section 13 of
Act V of 1073.*

Whereas it is expedient to provide for the Prevention, Arrest and Eradication of Plant Pests and Plant Diseases in Travancore ; It is hereby enacted as follows :—

Year.	No.	Short title.	Effect of subsequent legislation.
1094	XII	Plant pests and plant diseases Act.	Amended by Act II of 1121.

Act XII of 1094—Objects and Reasons—

“A Bill to prevent introduction into Travancore of any insect, fungus or other pest which may be destructive to crops was introduced in the Legislative Council on 13th December 1915. The Bill was referred to a Select Committee and it was then thought that as plant pests do already exist in Travancore, it would be better to provide for their destruction. The water hyacinth and the cocoanut pest are some requiring prompt eradication. With a view to have a more comprehensive law on the subject the Bill was withdrawn. The present Bill has therefore been drafted with a view to make provision for the prevention, arrest and eradication of plant

pests in Travancore.”—S. O. & R., T. G. G. dated 26-6-1917.

In introducing the Bill in the Council, the member in Charge said :—

‘Water hyacinth’ is an aquatic plant which has appeared in the tanks and waterways in North Travancore. The Chief Engineer has brought to the notice of the Government that this plant spreading with dangerous rapidity has become a serious menace to boat traffic. The Director of Agriculture, while pressing upon the Government the desirability of taking effective measures for the eradication of Water hyacinth, has also suggested that the root disease of the cocoanut palm which is prevalent in

1. (1) This Act may be called "The Travancore Plant Pests and Plant Diseases Act of 1094"
 Short title, extent and commencement.

(2) It extends to the whole of Travancore, and shall come into force on the 1st Chingam 1095.

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

"Plant" means plant, tree, shrub, bud, cutting, graft, scion, nursery stock and fruit, and includes all members

Central and North Travancore is a more serious pest than even Water hyacinth, and that the proposed legislation should aim at the eradication of these also. In pursuance to the above suggestions the present Bill has been drafted. In the preparation of this Bill, the British Indian Act II of 1914, the Burma Water hyacinth Act No. I of 1917, Ceylon Ordinances 5 of 1901 and 6 of 1907 have been consulted. Clauses 4 and 5 of the Bill as to the importation of pests follow the Indian Act II of 1914. The eradication of pests can be best secured only by the co-operation of the public. The Bill therefore provides that the Government may from time to time declare what are pests for the purposes of this Regulation and specify the measures which shall be taken for the eradication of such pests. The Director of Agriculture or any Officer empowered by the Government in this behalf may inspect any place whether land or water reputed to be affected by any pest and examine any plant or plants for the same. If satisfied as to the existence of this pest, he may require the owner or occupier to take such measures for the arrest or eradication of the same as may seem to him desirable. If the owner or oc-

cupier fails to take the necessary measures, the Director for Agriculture or any other Officer empowered in this behalf may proceed to take the necessary measures. He may if necessary direct the destruction of any plant which is infected or which has become liable to infection. The owner of any plant destroyed shall not ordinarily be liable for compensation of any pest, but it is in the discretion of the Government to award compensation in any special case if they think fit to do so. The above is the main outline of the Bill."—*L. C. P. dated 14-9-1917.*

The Bill as originally drafted dealt with plant pests only. The Select Committee to whom the Bill was referred included plant diseases also by making the necessary amendments.

The Report of the Select Committee was published on 5-2-1918.

For legislative proceedings see *T. G. G. dated 16-10-1917 ; 7-5-1918 and 24-6-1919.*

The Act was published in *T. G. G. dated 12-8-1919.*

Act II of 1121. This Act was passed direct by His Highness the Maha Raja and was published in *T. G. G. dated 4-9-1945.*

SEC. 3. PLANT PESTS AND PLANT DISEASES ACT.

of the vegetable kingdom whether living or dead or any part or parts of such, but shall not include canned or preserved fruits; nor does it include the seed, unless the same has been specifically included in the definition of 'plant' by Our Government by a Notification under this Act,

"Pest" means such insect or animal organism, plant, fungus, or other vegetable organism as Our Government may from time to time declare to be pests for the purposes of this Act.

"Plant disease" means any other disease which Our Government may from time to time declare to be a plant disease for the purposes of this Act;

"Owner or occupier" means the proprietor, lessee, superintendent or other person in actual charge of any cultivated or uncultivated land or of any water;

"Infection" means infection by any pest or plant disease injurious to a plant:

"Import" means import by sea into Travancore from outside British India.

3. Our Government may, from time to time, publish by Notification in Our Government Gazette, and may revoke, alter, modify, or add to, Schedules specifying—

Notification of pests and plant diseases.

- (a) the insects, plants or fungi, which are declared to be pests for the purposes of this Act;
- (b) the diseases which are declared to be plant diseases for the purposes of this Act; and
- (c) the measures which it shall be within the power of the Director of Agriculture to require to be taken for the prevention, arrest or eradication of such pests or plant diseases.
- [(d) the areas affected by any pest or plant disease.]

4. (1) Our Government may, by Notification in Our Government Gazette, prohibit or regulate, subject to such restrictions and conditions as may be imposed, the import into or the removal from one place to another in Travancore of any article or class of articles likely to cause infection to any plant.

Power of Government to regulate or prohibit the import of articles likely to cause infection to any plant.

Sec. 3. Clause (d) was added by Sec. 2 Act II of 1121.

(2) A Notification under this Section may specify any article or class of articles, either generally or in any particular manner, whether with reference to the country of origin, or the route by which imported or otherwise,

5. A Notification under Section 4 shall operate as if it had been issued under Section 18 of the Sea Customs Act V of 1088, and the Officers of Customs at every Port shall have the same powers in respect of any article with regard to the importation of which such a Notification has been issued as they have for the time being in respect of any article the importation of which is regulated, restricted or prohibited by the law relating to Sea Customs and the law for the time being in force relating to Sea Customs in respect of any such article shall apply accordingly.

6. It shall be lawful for the Director of Agriculture or any Officer empowered by Our Government in this behalf or any person authorised in writing by the Director or by such Officer to enter upon at all reasonable times any land or water reputed to be affected by any pest or plant disease and inspect and examine any plant or plants on such land or water, and the owner of such land or water shall afford all reasonable facilities for such inspection and examination.

[7. On being satisfied of the existence of any pest or plant disease,—

(i) Our Government by means of a Notification published in Our Government Gazette or

(2) Any Officer duly authorised by Our Government in this behalf, by means of a notice

Sec. 7. This was substituted by Sec. 3, Act II of 1121. The Sec. as originally enacted read as follows:—

"7. Power to require preventive or remedial measures to be taken. On being satisfied of the existence of any pest or plant disease, the Director of

Agriculture or any Officer duly authorised by Our Government in this behalf may require, by means of a notice served on the owner or occupier of any land or water affected by such pest or plant disease, the carrying out within such time as he may specify, of such measures

SEC. 8. PLANT PESTS AND PLANT DISEASES ACT.

served on the owner or occupier of any land or water affected by such pest or plant disease.

May require the carrying out, within such time as may be specified, or of such measures for the eradication, arrest or prevention of the pest or plant disease as are in accordance with the requirements laid down in the schedule of such measures in force for the time being as provided in Section 3 of this Act.

On the publication in Our Government Gazette of a Notification by Our Government under this Section a notice shall be deemed to be duly and validly served on every owner or occupier of any land or water affected by the pest or plant disease in any area specified in such Notification]

8. (1) If any owner or occupier on whom notice under Section 7 has been duly served fails to comply therewith, the Director of Agriculture or any Officer duly authorised by Our Government in this behalf may enter upon such place and cause to enter thereon such persons with such instruments and things as may be necessary, and proceed to take or cause to be taken all such measures as may have been required under Section 7, without being liable for trespass or any injury to crops, pasture or fishery right in so doing. The cost of taking such measures shall be borne by the owner or occupier and shall be recoverable as if they are arrears of land revenue.

(2) For the purpose of carrying out the measures referred to in Sub-section (1), the Director of Agriculture, or any person authorised by Our Government in this behalf may destroy or cause to be destroyed—

(a) any plant which is infected ;

(b) any plant which, though not infected, has in his opinion become liable to infection.

for the eradication, arrest or prevention of the pest or plant disease in question as may seem to him desirable :

Provided, however, that such measures are in accordance

with the requirement laid down in the Schedule of such measures in force for the time being as provided in Section 3 of this Act."

9. If any person on whom a notice has been served under the provisions of Section 7 wilfully fails or neglects to carry out the requisition contained in such notice within the time specified therein, or if he obstructs or impedes or aids in obstructing or impeding any Officer in the execution of any duty under this Act, he shall be liable to a fine not exceeding twenty-five rupees and upon a second or subsequent conviction to a fine not exceeding one hundred rupees.

10. (1) Our Government may make Rules for the purpose of carrying out the provisions of this Act.
 Power to make Rules.

(2) In particular and without prejudice to the generality of the foregoing provision, Our Government may make Rules—

- (a) for the detention, inspection, disinfection or destruction of any article or class of articles in respect of which a Notification has been issued under Section 4 ;
- (b) prescribing the methods by which and the time within which the prevention, arrest or eradication of a pest or plant disease shall be completed ;
- (c) prescribing the form, the terms and the mode of service of a notice under Section 7 ;
- (d) prescribing the circumstances under which the compensation for the destruction of plants may be given and the mode of assessing the actual value of the same.

(3) All Rules made under Sub-sections (1) and (2) shall be published in Our Government Gazette and thereupon shall have the force of law,

(4) Our Government may, subject to the restriction mentioned in Sub-section (3) alter or vary any Rule made under this Section.

SEC. 11. PLANT PESTS AND PLANT DISEASES ACT.

(5) In making any Rule under this Section, Our Government may direct that a breach thereof shall be punishable with a fine which may extend to twenty-five rupees.

11. No suit, prosecution or other legal proceeding shall lie against any Officer for anything in good faith done or intended to be done under this Act.

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ACT II OF 1095.

REGISTRATION OF SHIPS.

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23. Institution of prosecution.
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ACT II OF 1095.

AN ACT TO PROVIDE FOR THE REGISTRY OF SHIPS BUILT IN TRAVANCORE.

Passed by His Highness the Maha Raja of Travancore, on the 13th September 1919 corresponding with the 28th Chingom 1096, under Section 13 of Act V of 1073.

Whereas it is expedient to provide for the registry of ships built in Travancore; It is hereby enacted as follows:—

Preamble.

1. (i) This Act may be called “the Registration of Ships Act.”

Short title-

(ii) It extends to the whole of Travancore.

Extent.

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

Definitions.

“Ship” means every description of sea-going vessel built in Travancore and used in navigation, but not propelled by oars :

“Master” means any person (except a pilot or harbour master), having for the time being the charge or control of a ship :

“Prescribed” means prescribed by Rules made under this Act.

3. No ship shall proceed on any voyage unless she is registered by the prescribed authority at the prescribed Port and a certificate obtained from such authority in the prescribed manner :

Ships to be registered. Certificate of registry.

Provided that any ship built at any place other than the prescribed Port may make her first voyage to such Port for the purpose of registry.

In the year 1094 an emergent legislation on the subject was enacted. This was Act VII of 1094. It was in force for a period of six months.

The present Act, (II of 1095) is modelled on the lines

of the Indian Registration of Ships Act X of 1841.

For legislative proceedings see T. G. G. dated 24-6-1919 and 30-9-1919; The Act was published in T. G. G. [dated 16-9-1919.

4. Any owner wishing to have his ship registered shall apply to the prescribed authority in the prescribed manner. Applications for certificate of registry. Declaration by owner. No certificate of registry shall be granted unless such application is accompanied by a declaration made by the owner in the prescribed manner.

5. The Port at which a ship is registered shall be considered to be the Port to which she belongs. Port of registry.

6. At every prescribed Port a book shall be kept by the prescribed authority in which all the particulars contained in the certificate shall be duly entered. Book of registry.

7. In order to enable the prescribed authority to grant a certificate describing every ship truly and accurately and to enable other Officers to ascertain whether any ship is the same as that for which a certificate is alleged to have been granted, it shall be lawful for any surveying Officer appointed by Our Government in this behalf to go on board a ship to be registered and examine and measure the same in the prescribed manner in the presence of the master or owner. Such master or owner shall be bound to deliver a true statement of the particulars of the build, description and measurement of such ship to such surveying Officer. Measurement to be made by surveying Officer.

8. After the examination and measurement referred to in Section 7, the surveying Officer shall issue a certificate in the prescribed manner. Every such certificate shall be delivered to the prescribed authority. Certificate of surveying Officer.

9. The tonnage of a ship shall for the purposes of this Act be ascertained in the prescribed manner. Ascertainment of tonnage.

SEC. 10. REGISTRATION OF SHIPS ACT.

10. The registered number, tonnage and name of a ship, and the name of the Port to which, she belongs, shall be cut or marked on every ship in the prescribed manner.

Marking of registered number, tonnage, etc.. on ship.

11. No person shall sell, lend or otherwise dispose of any certificate, or use it for the service of any other ship than the one for which it is granted.

Certificate not to be sold, lent, or otherwise disposed of.

12. Whenever the master of a registered vessel is changed, the owner shall report it to the prescribed authority who shall endorse on the certificate such change and likewise amend the register book referred to in Section 6.

Change of master.

13. If the certificate of registry of any ship shall be lost without the owner's fault, the prescribed authority may, subject to such Rules as may be framed by Our Government in this behalf, issue a fresh certificate.

Loss of certificate.

14. If any ship after being registered under this Act shall undergo alteration in any of the particulars mentioned in the certificate of registry, or if any alteration shall take place in the ownership of any ship or of any share or shares thereof, such ship shall be registered anew as soon as she returns to the Port to which she belongs, in manner hereinbefore required.

Registration *de novo*.

15. If a ship proceeds on any voyage in contravention of Section 3 or Section 14 of this Act, the owner and master shall each be punishable with fine which may extend to five thousand rupees.

Voyage in contravention of Section 3 or Section 14.

16. If any person makes any declaration required under Section 4 or gives any information under Section 7, which he knows or has reason to believe to be untrue, he shall be punishable with a fine which may extend to five thousand rupees.

False declaration or information.

17. If the registered number, tonnage or name of a ship or the name of the Port to which she belongs is not cut or marked as required by Section 10, the owner and master of such ship shall each be punishable with fine which may extend to one thousand rupees.

Penalty for failure to mark or cut as required by Section 10.

18. If any person sells, lends or otherwise disposes of or uses any certificate in contravention of Section 11 of this Act, he shall be punishable with fine which may extend to five thousand rupees. Such certificate shall also become void.

Penalty for selling, &c., of certificate in contravention of Section 11.

19. The owner of any ship who fails to report as required by Section 12 shall be punishable with fine which may extend to one thousand rupees.

Penalty for failure to report change of master.

20. If any person shall counterfeit, erase or alter any certificate required to be obtained, granted or produced under this Act, or shall knowingly or wilfully make use of such certificate, or shall wilfully grant a certificate which is false, such person shall be punishable with fine which may extend to ten thousand rupees. If any such offence be committed by the owner of any ship, such certificate shall also become void.

Counterfeiting, &c., of certificates.

21. If the owner or master of a ship shall wilfully alter, erase or obliterate the name painted in any ship, or cause or procure or permit the same to be done, or shall in any written instrument describe such ship by any name other than that by which she was first registered, or shall verbally describe, or cause or procure or permit such ship to be described by any other name, to any officer acting in his official capacity, he shall be punishable with fine which may extend to ten thousand rupees. The certificate of registry of such ship shall also become void.

Wilful alteration, erasure or obliteration of names painted in ships.

22. When the owner or master of any ship is convicted of an offence under this Act or any Rule made thereunder committed on board or in relation to such ship, and is sentenced to pay

Mode of levy of fine.

a fine, the Magistrate who passes the sentence may direct the amount of the fine to be levied by distress and sale of the ship and the tackle, apparel and furniture thereof, or so much thereof as is necessary.

23. No prosecution shall be instituted under this Act except with the previous sanction of Our Government or of any Officer empowered by Our Government in this behalf.

Institution of pro-
secution.

24. No Magistrate shall try an offence under this Act unless his powers are not less than those of a Magistrate of the First Class.

Cognizance of of-
fence.

25. (i) Our Government may make Rules generally for the carrying out of this Act.

Rules

(ii) In particular and without prejudice to the generality of the foregoing power, such Rules may prescribe—

- (a) the particulars to be mentioned in the application for registry and documents to be filed along with such application ;
- (b) the Port at which and the authority by whom registration could be effected ;
- (c) the particulars to be mentioned in the certificate of registry ;
- (d) the particulars of the declaration under Sec. 4 ;
- (e) the manner in which and the time when the name, the register number and the tonnage of a ship shall be cut or painted ;
- (f) the duties of the surveying Officer ;
- (g) the particulars to be mentioned in the surveying Officer's certificate ;
- (h) the mode of ascertaining the tonnage of a vessel ; and
- (i) the fees to be paid for certificate of registry and for survey.

(iii) All Rules made under this Section shall be published in Our Government Gazette and thereupon shall have the force of law. Such Rules may be amended cancelled or varied by a like Notification.

(iv) Any Rule made under this Section may contain a provision that any person committing a breach of it shall be punishable with fine which may extend to one thousand rupees.

PROCLAMATION.

By His Highness the Maha Raja of Travancore, issued under date the 16th Meenam 1095, corresponding with the 29th March 1920.

Whereas an emergency has arisen which makes it expedient to provide for regulating and restricting the temporary landing of foreigners at Ports in Travancore ; We are pleased to command as follows :—

1. No foreigner, being the master or a member of the crew of a vessel, arriving at any Port in Travancore, shall land at such Port unless he has in his possession a passport issued to him not more than two years previously by or on behalf of the Government of the country of which he is a subject or some other document satisfactorily establishing his identity, to which passport or document there is attached a photograph of the foreigner to whom it relates.

2. Nothing in this Proclamation shall—

(a) apply to any subject of the German Empire or of the Dual Monarchy of Austria Hungary or of the Kingdom of Bulgaria ;

(b) be deemed to prohibit any foreigner from landing at any Port in Travancore in accordance with the terms of any general or special permit granted by Our Government or some Officer empowered by Our Government in this behalf ; or

(c) derogate from the provisions of any law or Rules for the time being in force restricting the entry of any person into Travancore.

3. Whoever contravenes the provisions of this Proclamation shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

This Proclamation was published in the Gazette dated 6th April, 1920.

ACT IV OF 1095.

POLICE.

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ACT IV OF 1095.

AN ACT TO CONSOLIDATE AND AMEND THE LAW RELATING TO THE POLICE FORCE IN TRAVANCORE.

*Passed by His Highness the Maha Raja of Travancore
under date the 5th Mithunam 1095 corresponding
with the 18th June 1920, under Section 11 of
Act I of 1095.*

Preamble. Whereas it is expedient to consolidate and amend
the law relating to the Police Force
in Travancore; It is hereby enacted
as follows :

Year.	No.	Short Title.	Effect of subsequent Legislation.
1095	IV	Police Act.	Amended by Acts IX of 1108; XV of 1117 and XX of 1124. Sec. 15 temporarily amended by Act X of 1118.

The earliest legislation on the subject was Act VI of 1010, Under that Act the Tahsildars were invested with powers of Police-Officers and detailed provisions for prevention and detection of crimes were made. It was only in the year 1056 that a separate police force was organised in pursuance to the provisions of Act IV of 1056. The Administration Report of the year states of this reform as follows :—"117. But one important measure introduced during the year was the separation of the Police from the Magistracy as essential to the improvement of the administration of Criminal Justice. The old Police of the country was admitted on all hands to be utterly inefficient for the prevention and detection of crime. It was an ill-

paid and an ill-disciplined force and an engine of oppression very often in the hands of Revenue subordinates who were Magistrates and Police-Officers as well. Such a combination of incompatible offices in the same set of men worked as injuriously in practice as it was objectionable in principle, and confinement in a Police Tanah which has been naively described by the Darbar-Physician 'as a disgrace to civilisation', has always been a favourite and effective mode of exacting gratuitous services or collecting the Government dues. Though the Force employed was large and the country remarkably free from any violent crime owing to the peaceable habits of the people and the absence of any criminal classes, such crime as was committed was neither

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systematically reported nor efficiently dealt with. It was therefore resolved to separate the Police from the Magistracy and to place the former under the control and supervision of a separate Officer, but still leaving it as an instrument at the disposal of the Magistrate for the prevention and detection of crime. Powers were accordingly taken by a legislative enactment to define its duties and responsibilities".

Act IV of 1056 was modelled on the lines of the Madras Act XXIV of 1859 and the Indian Act V of 1861. The Act was amended by Act II of 1058, IV of 1084 and III of 1090. These enactments were repealed and the law was consolidated and re enacted by Act IV of 1095.

Act IV of 1095. *Objects and Reasons*—"It is now more than 35 years since the Police Regulation IV of 1056, was passed. Though there have been three amending Regulations since then, the Regulation is found to be very defective. The new Bill has therefore been drafted with a view to bring the Regulation up to date.

2. The Bill is divided into seven Chapters,

3. Chapter I is preliminary and deals with definitions.

4. Chapter II relates to the organisation of the Police. Clause 5 (2) lays down that the administration of the Police throughout the local jurisdiction of a District Magistrate shall, under the general control and direction of such Magistrate, be vested in a District Superintendent. In order to avoid any conflict of authority between the Commissioner and

the District Magistrate, sub-clause (4) lays down that the District Magistrate shall in exercising authority under sub-clause (2) be governed by such rules as may be framed by the Government. * * *

Clause 8. A Police-Officer under suspension does not cease to be a Police-Officer.

5. Chapter III deals with the regulation, control and discipline of the Police Force.

Under the Explanation to Clause 18, a Police-officer overstaying his leave without reasonable cause shall be deemed to withdraw himself from the duties of his office.

6. Chapter IV deals with Police regulations. The whole Chapter is new.

Clause 23 empowers the District Magistrate to make rules for the regulation of traffic and for preservation of order in public places, etc.

Clauses 31, 32, 33 and 34 detail the powers of a District Magistrate and the other Clauses, the powers of the Police.

7. Chapter V deals with the executive powers and duties of Police.

Clause 35 details the various duties of the Police.

Clause 36 deals with the powers of the Police on the occasion of a fire.

Clause 37 empowers the Police to deal with property suspected to be stolen.

Clause 38. Under the existing law, the Police have no power to take charge of unclaimed property. Clause 38 therefore provides for the same,

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Clause 42 makes it obligatory upon all persons to conform to the reasonable directions of a Police Officer given in fulfilment of any of his duties under the Bill.

8. Chapter VI deals with offences and punishments.

Clause 52 penalises the solicitation of any person in a public place to immorality. *

9. Chapter VII deals with miscellaneous provisions " *S. O. & R., T. G. G. dated 5-6-1917.*

The Report of the Select Committee was published on *5-11-1918.*

For Legislative proceedings *See T. G. G. dated 7-8-1917; 11-12-1919; and 25-5-1920.*

The Act was published in *T. G. G. dated 22-6-1920.*

Most of the provisions of this Act are adaptations from the Madras District Police Act XXIV of 1859; Indian Police Act V of 1861; Bombay City Police Act IV of 1902; Calcutta Police Act 1866 and Bombay District Police Act IV of 1890.

Act IX of 1108. *Objects and Reasons.*—"Drivers, conductors and passengers in public passenger vehicles, such as motor buses, are not infrequently found drunk and disorderly. The existing provision of the Police Regulation (Section 51) intended to check drunkenness and disorderly conduct in public places does not seem wide enough to cover such cases. As it is necessary to ensure orderliness in public passenger vehicles, this Bill has been drafted, to amend the

Police Regulation, Section 51". — *S. O. & R., T. G. G. dated 15-9-1931.*

For Legislative proceedings *See L. C. P. Vol. XX. Pp. 58, 59, 346; Vol. XXII, P. 708.*

The Act was published in *T. G. G. dated 3-1-1933.*

Act XV of 1117. *Objects and Reasons.*—"Pawn brokers and workers of metals are mainly the class of persons to whom stolen valuables are ordinarily taken for purposes of disposal. It will be to the public advantage if a duty is cast on such persons and they are empowered under proper police direction to seize such articles and if necessary to detain the person in possession of the article pending further action by the Police. In many of the important cities in British India such provisions are in force * * * " *S. O. & R., T. G. G. dated 21-1-1941.*

For Report of the Select Committee *See T. G. G. dated 4-11-1941.*

For Legislative proceedings *See A. P. Vol. XIX, P. 55; C. P. Vol. XIX, P. 20.*

The Act was published in *T. G. G. dated 30-12-1941.*

Act X of 1118. This Act published in *T. G. G. dated 8-9-1942* is an emergent measure based on the British Indian Police (Resignation of office) ordinance XI of 1942. It amends Sec. 18 of Act IV of 1095 by depriving the Police Officers the right to resign their office by giving notice during such period as Act X of 1118 is in force. The Act was passed direct by the Sovereign.

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called "The Travancore Police Short title and extent. Act of 1955."

(2) It extends to the whole of Travancore.

2. (1) Act IV of 1956, as amended by Acts II of 1958, IV of 1984 and III of 1990, is hereby repealed.

(2) All references made in 'any enactment' to the Act hereby repealed shall be read as if made to the corresponding provisions of this Act.

(3) All Rules prescribed, appointments made, powers conferred, and orders and certificates issued under the enactments hereby repealed shall, so far as they are consistent with this Act, be deemed to have been respectively prescribed, made, conferred and issued hereunder.

3. (a) The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction :—

(1) The word "Magistrate" shall include all persons exercising all or any of the powers of a Magistrate within their respective jurisdictions.

(2) The word "Police" shall include all persons by whatever name known, who exercise any Police functions throughout Travancore.

(3) The expression "Police-Officer" means any member of the Police Force appointed under this Act.

(4) "[Inspector-General]" and "District Superintendent" mean respectively the [Inspector-General] of Police and the District Superintendent of Police.

Sec. 3. In this Sec. and the other Secs. of the Act, for the word "Commissioner" the words 'Inspector General' were substituted by Act XX of 1124.

(5) The expression "District Superintendent" includes also an "Assistant District Superintendent of Police."

Assistant District Superintendent.

(6) The word "Property" shall include any movable property, money, or valuable security.

"Property."

(7) The word "Street" shall mean any road, footway, square, court, alley or passage, whether a thoroughfare or not, to which the public have permanently or temporarily a right of access.

"Street."

(8) The word "Cattle" shall, besides horned cattle, include elephants, camels, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats, kids and swine.

"Cattle."

(9) "Public place" shall include the foreshore, the banks of the river, the docks, the jetties, warehouses, to which the public have access, every public building and monument and the precincts thereof and all places accessible to the public for drawing water, washing or bathing or for purposes of recreation.

"Public place."

(10) "Place of public amusement" shall mean any place, enclosure, building, tent, booth or other erection, whether permanent or temporary, where music, singing, dancing or any diversion or game, or the means of carrying on the same, is provided, and to which the public are admitted either on payment of money, or with the intention that money may be collected from those admitted, otherwise than for a *bona fide* charitable purpose; and shall include a race-course, circus, theatre, music-hall, billiard-room, bagetelle-room, gymnasium and fencing school.

"Place of public amusement."

(11) "Vehicle" shall include any locomotive, automobile, carriage, cart, van, dray, truck, hand-cart, bicycle, tricycle, motor cycle, or other wheeled conveyance of any description capable of being used on the streets.

"Vehicle."

(12) "Place of public entertainment" shall mean any place, whether enclosed or open to which the public are admitted, and where any kind of food or drink is supplied for consumption on the premises for the profit or gain of any person owning or having an interest in or managing such place.

Words and expressions used in this Act which are defined in the Code of Criminal Procedure, Act V of 1067, have the same meaning as in that Code.

CHAPTER II.

ORGANISATION OF THE POLICE.

4. The entire Police establishment of the State shall, for the purpose of this Act, be deemed to be one Police Force, and shall be formally enrolled, and shall consist of such number of Officers and men, and shall be otherwise constituted in such manner, and the members of such Force shall receive such pay, as shall from time to time be ordered by Our Government.

5. (1) The administration of the Police throughout Travancore shall, subject to the control of Our Government, be vested in an Officer to be styled the [Inspector-General] of Police.

(2) The administration of the Police throughout the local jurisdiction of a District Magistrate shall be vested in a District Superintendent or Assistant District Superintendent as Our Government may think fit to appoint.

(3) The [Inspector-General] of Police and the other Officers above mentioned shall, from time to time, be appointed by Our Government and may be dismissed, suspended, reduced, removed or transferred by the same authority.

6. The Police Force within the local jurisdiction of a District Magistrate shall be under the general control and direction of such Magistrate. In exercising authority under this Section, the District Magistrate shall be governed by such Rules and orders as Our Government may from time to time make in this behalf.

7. The appointment of all Police-Officers other than those mentioned in Section 5 shall vest with Our Government or, subject to such Rules as may be framed by Our Government, with any Police-Officer empowered by Our Government in this behalf. Our Government, or any Police-Officer empowered by Our Government in this behalf subject to the Rules aforesaid, may at any time dismiss or suspend or reduce or award any other punishment to any Police-Officer who shall discharge his duty in a careless or negligent manner or who by any act of his own shall render himself unfit for the discharge thereof.

Nothing contained in this Section shall affect any Police-Officer's liability to a criminal prosecution for any offence with which he is charged.

8. Every Police-Officer so appointed shall receive on his enrolment a certificate under the seal of the [Inspector-General] or of such other Officer as Our Government may appoint by virtue of which he shall be vested with the powers, functions and privileges of a Police-Officer.

Such certificate shall cease to have effect whenever the person named in it ceases for any reason to be a Police-Officer.

A Police-Officer shall not by reason of being suspended from office cease to be a Police-Officer. During the term of such suspension, the powers, functions and privileges vested in him as a Police-Officer shall be in abeyance, but he shall continue subject to the same responsibilities, discipline and penalties and to the same authorities, as if he had not been suspended.

9. It shall be lawful for the Inspector-General of Police, if he shall think fit, on the application of any person showing the necessity thereof, to depute any additional number of Police-Officers to keep the peace at any place within Travancore for such time as shall be deemed proper.

Such Force shall be under the orders of the District Superintendent, and shall be at the charge of the person making the application :

Provided always that it shall be lawful for the person on whose application such deputation shall have been made, on giving thirty days notice in writing to the [Inspector-General], to require that the Officers so deputed shall be withdrawn ; and such person shall be relieved from the charge of such additional Force from the expiration of such notice.

10. Whenever any railway, canal or other public work or any manufactory or commercial concern, shall be carried on or be in operation, in any part of the country, and it shall appear to the [Inspector-General] that the employment of an additional Police Force in such place is rendered necessary by the behaviour or reasonable apprehension of the behaviour of the persons employed in such work, manufactory, or concern, it shall be lawful for the [Inspector-General,] with the consent of Our Government, to depute such additional Force to such place and to employ the same so long as such necessity shall continue, and to make orders from time to time upon the person having the control or custody of the funds used in carrying on such work, manufactory or concern, for the payment of the extra Force so rendered necessary, and such person shall thereupon cause payment to be made accordingly.

11. (1) It shall be lawful for Our Government by Notification in Our Government Gazette to declare that any area within Our State has been found to be in a disturbed condition, or that, from the conduct of the inhabitants, of such area or of any class or section of such inhabitants, it is expedient to increase the number of Police in that area.

(2) It shall thereupon be lawful for the [Inspector General] of Police, or other Officer authorised by Our Government in this behalf, with the sanction of Our Government, to employ any Police Force in addition in the ordinary fixed complement to be quartered to the area specified in such Notification as aforesaid.

(3) Subject to the provisions of Sub-section (5) of this Section, the cost of such additional Police Force shall be borne by the inhabitants of such area described in the Notification.

(4) The District Magistrate having jurisdiction, after such enquiry as he may deem necessary, shall apportion such cost among the inhabitants who are, as aforesaid, liable to bear the same, and who shall not have been exempted under the next succeeding Sub-section. Such apportionment shall be made according to the Magistrate's judgment of the respective means within such area of such inhabitants.

(5) It shall be lawful for Our Government, by order, to exempt any persons, or class or section of such inhabitants from liability to bear any portion of such cost; and all such orders shall be final.

(6) Every Notification issued under Sub-section (1) of this Section shall state the period for which it is to remain in force, but it may be withdrawn at any time, or continued from time to time for a further period or periods as Our Government may, in each case, think fit to direct. All such Notifications issued by Our Government shall be final.

(7) Every order passed by the District Magistrate under Sub-section (4) of this Section shall be subject to revision by Our Government, but save as aforesaid, it shall be final.

Explanation.—For the purposes of this Section, inhabitants shall include persons who, themselves or by their agents or servants, occupy or hold lands or other immovable property or trade or do other business within such area, and landlords who, themselves or by their agents or servants, collect rents direct from ryots or occupiers in such area, notwithstanding that they do not actually reside therein.

12. (1) If, in any area in regard to which any Notification issued under the last preceding Section is in force, death or grievous hurt or loss of, or damage to, property has been caused by, or has ensued from, the misconduct of the inhabitants of such area, or of any class or section of them, it shall be lawful for any person, being an inhabitant of such area, who claims to have suffered injury from such misconduct, to make, within sixty days from the date of the injury, or such shorter period as may be prescribed by Our Government in this behalf, an application for compensation to the District Magistrate having jurisdiction over such area.

(2) It shall be lawful for the District Magistrate, with the sanction of Our Government, and after such enquiry as he may deem necessary, and whether any additional Police Force has or has not been quartered in such area under the last preceding Section, to—

- (a) declare the persons to whom injury has been caused by, or has ensued from, such misconduct ;
- (b) fix the amount of compensation to be paid to such persons, and the manner in which it is to be distributed among them ; and
- (c) assess the proportion in which the same shall be paid by the inhabitants of such area, other than the applicant, who shall not have been exempted from liability to pay under the next succeeding Sub-section :

Provided that the Magistrate shall not make any declaration or assessment under this Sub-section, unless he is of opinion that such injury as aforesaid has arisen from a riot or unlawful assembly within such area and that the person who suffered the injury was himself free from blame in respect of the occurrences which led to such injury.

(3) It shall be lawful for Our Government, by order, to exempt any persons, or class or section of such inhabitants from liability to pay any portion of such compensation ; and all such orders shall be final.

(4) Every declaration or assessment made, or order passed, by the District Magistrate, under Sub-section (2) of this Section, shall be subject to revision by Our Government, but save as aforesaid, it shall be final.

(5) No civil suit shall be maintainable in respect of any injury for which compensation has been awarded under this Section.

13. (1) If, in any area in regard to which any Notification issued under Section 11 is in force, damage to any public property or property belonging to Our Government has been caused by, or has ensued from, the misconduct of the inhabitants of such area, or of any class or section of them either before or after the issue of such Notification, it shall be the duty of the District Magistrate having jurisdiction over such area, with the sanction of Our Government, and after such enquiry as he may deem necessary, and whether any additional police Force has or has not been quartered in such area under Section 11 to—

Awarding compensation for damage to public property.

- (a) declare and assess the damage which has been caused by, or has ensued from, such misconduct ;
- (b) fix the amount of compensation to be paid to Our Government ; and
- (c) assess the proportion in which the same shall be paid by the inhabitants of such area, who shall not have been exempted from such liability to pay under the next succeeding Sub-section :

Provided that the Magistrate shall not make any declaration or assessment under this Sub-section, unless he is of opinion that such damage as aforesaid has arisen from a riot or unlawful assembly within such area.

(2) It shall be lawful for Our Government, by order, to exempt any persons, or class or section of such inhabitants, from liability to pay any portion of such compensation ; and all such orders shall be final.

(3) Every declaration or assessment made or order passed by the District Magistrate, under Sub-section (1) of this Section, shall be subject to revision by Our Government, but save as aforesaid, it shall be final.

(4) No civil suit shall be maintainable in respect of any damage for which compensation has been awarded under this Section.

Explanation.—In this and the foregoing Section 12, the word 'inhabitants' shall have the same meaning as in Section 11.

14. (1) All moneys payable under Sections 9, 10, 11 and 12 and 13 shall be recoverable by suit in any competent Court, or by distress and sale of the goods of the defaulter under the warrant of a Magistrate, in the manner provided under Sections 286 and 287 of the Code of Criminal Procedure (Act V of 1967.)

Recovery of moneys payable under Sections 9, 10, 11, 12 and 13 and disposal of same when recovered.

(2) All moneys paid or recovered under Sections 9, 10 and 11 shall be credited to Our Government, and shall be applied to the maintenance of the Police under such orders as Our Government may pass.

(3) All moneys paid or recovered under Section 12 shall be paid by the District Magistrate to the persons to whom, and in the proportion in which, the same are payable under that Section.

(4) All moneys paid or recovered under Section 13 shall be credited to Our Government, and shall be applied to the repair of the damage referred to in that Section, or in such manner as Our Government may direct.

15. When it shall appear that any tumult, riot or outrage has taken place, or may be reasonably apprehended, in any place, and that the ordinary Officers appointed for preserving the peace are not sufficient for its preservation, and for protection of the inhabitants, and the security of property in such place, it shall be lawful for any Police-Officer, not below the rank of an Inspector, to apply to the nearest Magistrate to appoint so many of the public servants or other

Special Police Officers.

residents of the neighbourhood, between the ages of 18 and 55, as such Police-Officers may require, to act as Special Police-Officers for such time and in such manner as he shall deem necessary, and it shall be the duty of such Magistrate, unless he sees cause to the contrary, to comply therewith.

16. Every Special Police-Officer so appointed shall receive a certificate in the prescribed form, have the same powers, privileges and protection, and be liable to all such duties and penalties, and be subordinate to the same authorities, as the ordinary Officers of Police.

17. If any person, being appointed a Special Police-Officer as aforesaid, shall, without a sufficient excuse, neglect or refuse to serve as such, or to obey such lawful order or direction as may be given him for the performance of his duties, he shall be liable to a fine not exceeding fifty rupees for such neglect, refusal, or disobedience.

CHAPTER III.

REGULATION, CONTROL AND DISCIPLINE OF THE POLICE FORCE.

18. No Police-Officer shall be at liberty to resign his office or withdraw himself from the duties thereof, unless expressly allowed to do so in writing by the [Inspector-General] or by some other Officer authorised by Our Government to grant such permission, or unless, except in the case of a special Police-Officer, he shall have given to his superior Officer notice in writing for a period not less than two months of his intention to do so.

Provided that, if any Police-Officer produces a certificate signed by a Medical Officer empowered by Our

Sec. 18. The words "or un- during such period as the latter less except.....to do so" were Act is in force. omitted by Sec. 2, Act X of 1118

Government in this behalf declaring such Police-Officer to be unfit by reason of any disease or mental or physical incapacity for further service in the Police, the necessary written permission to resign shall forthwith be granted to him.

Explanation.—A Police-Officer who, being absent on leave, fails without reasonable cause to report himself for duty on the expiration of such leave shall be deemed, within the meaning of this Section, to withdraw himself from the duties of his office.

19. No Police-Officer other than a Special Police-Officer shall, either as principal or agent,—
 Police-Officers not to take other employment. (a) engage in any trade ; or

- (b) be in any way concerned in the purchase or sale of any immovable property or of any interest therein within the District wherein he is employed, or
- (c) hold any office or practise any profession or engage in any employment whatsoever other than his office or duties as such Police-Officer,

unless expressly permitted to do so in writing by Our Government.

20. Subject to the approval of Our Government, the [Inspector General] [Inspector General] may from time to time issue such orders as he may deem expedient,—
 to control Force and issue orders.

- (a) relating to the recruitment, organisation, instruction, classification, discipline and general government of the Force ;
- (b) regulating the inspection of the Police by his subordinates ; and
- (c) determining the description and quantity of the arms, accoutrements, clothing and other necessaries to be furnished to the Police.

21. (1) Subject to the approval of Our Government the [Inspector General] of Police may make Rules not inconsistent with this Act or any other Act for the time being in force—

Power of [Inspector General] to make Rules regulating duties of Police-Officers, etc.

- (a) assigning duties to Police-Officers of all ranks and grades, and prescribing—
 - (i) the manner in which, and
 - (ii) the conditions subject to which, they shall exercise and perform their respective powers and duties ;
- (b) prescribing the places of residence and the location of members of the Force ;
- (c) regulating or restricting the collection and communication of intelligence and information ;
- (d) prescribing the forms of certificates to be received by additional Police-Officers and Special Police Officers ;
- (e) generally for the purpose of rendering the Police Force efficient, and preventing abuse or neglect of duties.

(2) A copy of the Rules for the time being in force under this Section shall be kept in every Police-station.

(3) Orders and Rules made under this and preceding Section may with the like approval be altered and rescinded.

22. Every Police-Officer not on leave or under suspension shall, for all purposes in this Act contained, be considered to be always on duty, and may at any time be employed as a Police-Officer in any part of Travancore.

Police-Officers always on duty and may be employed in any part of Travancore.

CHAPTER IV.

POLICE REGULATIONS.

Rules for Preservation of Order.

23. (1) In any local area in which he thinks fit, the District Magistrate, with the previous sanction of Our Government and subject to such orders as may have been made by a Municipal or other local authority empowered in this respect, may from time to time, make Rules not inconsistent with this Act—

Powers to make Rules for regulation of traffic and for preservation of order in public places, etc.

- (a) for licensing and controlling persons offering themselves for employment at quays, wharves and landing places and outside railway stations, for the carriage of passengers' baggage, and fixing and providing for the enforcement of a scale of charges for the labour of such persons so employed;
- (b) regulating traffic of all kinds in streets and public places, and the use of streets and public places by persons riding, driving, cycling, walking or leading or accompanying cattle so as to prevent danger obstruction or inconvenience to the public ;
- (c) regulating the conditions under which vehicles may remain standing in streets and public places and the use of streets as halting places for vehicles or cattle ;
- (d) prescribing the number and position of lights to be used on vehicles in streets and public places, and regulating and controlling the manner and mode of conveying timber, scaffold poles, ladders, iron girders, beams or bars, boilers or other unwieldy articles through the streets, and the route and hours for such conveyance ;
- (e) prescribing the roads along which, the hours during which, and, in times of epidemic, the manner in which, corpses may, or may not, be carried ;

- (f) regulating the hours during which and the manner in which any place for the disposal of the dead, any chattram or other place of public resort may be used so as to secure the equal and appropriate application of its advantages and accommodation, and to maintain orderly conduct among those who resort thereto ;
- (g) in cases of existing or apprehended epidemic or infectious disease of men or animals, with respect to cleanliness and disinfection of premises by the occupier thereof and residents therein, and as to the segregation and management of the persons or animals diseased or supposed to be diseased, as may have been directed or approved by Our Government with a view to prevent the disease or to check the spreading thereof ;
- (h) for licensing, controlling, or, in order to prevent the obstruction, inconvenience, annoyance, risk, danger or injury to the residents or passengers in the vicinity, prohibiting—
- (i) the keeping of places of public amusement or entertainment ;
 - (ii) the playing of music in streets and public places ;
 - (iii) the illumination of streets and public places and the exteriors of buildings abutting thereon by persons other than Government or Municipal Officers duly authorised in that behalf ;
 - (iv) the carrying in the streets and public places of gunpowder or any other explosive substance ; and
 - (v) the blasting of rocks ;
- (i) regulating the means of entrance and exit at places of public amusement, entertainment and assembly, and providing for the maintenance of public safety and the prevention of disturbance therein ; and

- (j) prescribing the procedure in accordance with which any license or permission sought to be obtained or required under this Act should be applied for, and fixing the fees to be charged for any such license or permission :

Provided, firstly, that nothing in this Section and no license granted under any Rule made thereunder shall authorise any person to import, export, transport, manufacture, sell or possess any liquor or intoxicating drug, in respect of which a license, permit or pass, is required under the Abkari Act, 1073, or under any other law for the time being in force relating to the abkari or opium revenue, or shall affect the liability of any person under any such law, or shall in any way affect the provisions of the Arms Act, 1084, or of the Explosives Act, 1079, or of any Rules made under either of those enactments, or the liability of any person thereunder :

Provided, secondly, that no Rule under Clause (h) shall contain any regulation requiring a license for any place of public entertainment unless spirituous liquor, toddy or any intoxicating drug, as defined in the Abkari Act, 1073, or opium, as defined in the Opium Act, 1090, is sold in such place or unless such place is kept open for customers between the hours of nine at night and five in the morning :

Provided, thirdly, that every Rule made under Clause (f) with respect to the use of a place for the disposal of the dead shall be framed with due regard to established religious and social usages and the necessities of prompt disposal of the dead in certain cases.

(2) Any Rules made under this Section may with the like sanction be altered or rescinded after previous publication of the alteration or rescission.

(3) Every Rule and alteration of a Rule made under this Section and every rescission of any such Rule shall be published in Our Government Gazette and in the manner prescribed by this Act for the publication of public notices.

24. The [Inspector General] or the District Superintendent may, subject to any Rule or order which may at any time be legally made or any license granted by any Magistrate or other authority duly empowered in this behalf,—

Power of [Inspector General] and other Officers to give directions to the public.

- (a) direct the conduct of and behaviour or action of persons constituting processions and assemblies in streets ;
- (b) prescribe the routes by which and the times at which any such procession may, or may not, pass ;
- (c) prevent obstructions on the occasion of all processions and assemblies and in the neighbourhood of all places of worship during the time of public worship, and in all cases when any street or public place or place of public resort may be thronged or liable to be obstructed ;
- (d) keep order on and in all streets, quays, wharves and landing-places, and all other public places of public resort ; or
- (e) regulate and control music, the beating of drums, tomtoms and other instruments, and the blowing or sounding of horns or other noisy instruments in any street or any public place other than public buildings and the precincts thereof.

25. The District Magistrate may, whenever and for such time as he may consider it necessary to do so for the preservation of the public peace or public safety, by Notification, publicly promulgated or addressed to individuals, prohibit—

Power to prohibit the carrying of swords, spears etc.

- (i) the carrying of swords, spears, bludgeons, guns or other offensive weapons in any public place ;
- (ii) the carrying, collection and preparation of stones or other articles intended to be used as missiles, or of instruments or means of casting or of impelling missiles ;

- (iii) the exhibition of persons, corpses, figures of effigies in any public place ; and
- (iv) the public utterance of cries, singing of songs or playing of music.

26. The District Magistrate may also, whenever and for such time as he may consider necessary, by Notification, publicly promulgated or addressed to individuals, prohibit the delivery of public harangues, the use of gestures or mimetic representations, and the preparation, exhibition or dissemination of pictures, symbols, placards or any other object or thing, which—

Power to prohibit delivery of public harangues, etc.

- (i) may be of a nature to outrage morality or decency ; or
- (ii) are likely, in the opinion of the Magistrate, to inflame religious animosity or hostility between different classes, or to incite to the commission of an offence, to a disturbance of the public peace, or to resistance to, or contempt of, the law or lawful authority:

Provided that no such prohibition shall remain in force for more than fifteen days without the sanction of Our Government.

27. The District Magistrate may, by order in writing prohibit any procession or public assembly, whenever and for so long as he considers such prohibition to be necessary for the preservation of the public peace or public safety :

Power to prohibit any procession or public assembly.

Provided that no such prohibition shall remain in force for more than fifteen days without the sanction of Our Government.

28. The [Inspector General] of Police may, subject to the orders of Our Government, by public notice temporarily reserve for any public purpose any street or public place, and prohibit persons from entering the area so reserved save under such conditions as may be prescribed by the [Inspector General] of Police.

Power to reserve any street or public place.

29. (1) Whenever a Notification, order in writing or public notice has been duly issued under Section 25, 26, 27 or 28, then Enforcement of orders issued under Sections 25 to 28.

(a) in the case of a Notification issued under Clause (i), Clause (ii) or Clause (iii) of Section 25, or in the case of a public notice issued under Section 28, any Magistrate or any Police-Officer, or

(b) in the case of a Notification issued under Clause (iv) of Section 25, or under Section 26, or in the case of an order issued under Section 27, any Magistrate or any Police-Officer not below the rank of Sub-Inspector,

may require any person acting or about to act contrary thereto to desist or to abstain from such action, and, in case of refusal or disobedience, may arrest such person.

(2) Any Magistrate or Police-Officer acting under Sub-section (1) may also seize anything used or about to be used in contravention of such Notification, order or notice as aforesaid, and anything so seized shall be disposed of as any Magistrate having jurisdiction may order.

30. (1) For the purpose of preventing serious disorder or manifest and imminent danger to the persons assembled at any place of public amusement, or at any assembly or meeting to which the public are invited or which is open to the public,—

Power to give directions to prevent disorder at places of public amusement, etc.

the Police-Officer of highest rank not below the rank of Sub-inspector who is present may, subject to such Rules, directions and orders as may have been lawfully made, give such reasonable directions as he may think necessary as to the mode of admission of the public to, and for securing the peaceful and orderly conduct of persons attending at such place, assembly or meeting ;

and all persons shall be bound to conform to such directions.

(2) The Police shall have free access to every such place of public amusement, assembly or meeting, for the purpose of giving effect to the provisions of Sub-section (1) and to any direction given thereunder.

31. In order to prevent or suppress any riot or grave disturbance of the peace, the District Magistrate may temporarily close or take possession of any building or place and may exclude all or any persons therefrom, or may allow access thereto to such persons only and on such terms as he shall deem expedient. All persons concerned shall be bound to conduct themselves in accordance with such orders as the District Magistrate may make and notify in the exercise of the authority hereby vested in him.

Issue of orders by District Magistrate for prevention of riot, etc.

32. (1) In any case of an actual or intended religious or ceremonial or corporate display or exhibition or organised assemblage in any street or public place, as to which or the conduct of or participation in which it shall appear to the District Magistrate that a dispute or contention exists which is likely to lead to grave disturbance of the peace, the District Magistrate may give such orders as to the conduct of the persons concerned towards each other and towards the public as he shall deem necessary and reasonable under the circumstances, regard being had to the apparent legal rights and to any established practice of the parties and of the persons interested. Every such order shall be published in the section or place wherein it is to operate, and all persons concerned shall be bound to conform to the same.

Issue of orders for maintenance of order at religious ceremonies, etc.

(2) Any order under Sub-section (1) shall be subject to a decree, injunction or order made by a Court having jurisdiction, and shall be recalled or altered on its being made to appear to the District Magistrate that it is inconsistent with a judgment, decree, injunction or order of such Court, on the complaint, suit or application of any person interested, as to the rights and duties of any persons affected by the order aforesaid.

33. On complaint being made to a District Magistrate that any house in a Municipality or in any village in his District to which Our Government have by Notification extended this Section—

Discontinuance of
brothels.

- (a) in the vicinity of a place of worship or an educational institution or a boarding house, hostel or mess used or occupied by students, is used as a brothel or for the purpose of habitual prostitution or by disorderly persons of any description, or
- (b) is used as aforesaid to the annoyance of respectable inhabitants of the locality, or
- (c) in the immediate neighbourhood of a cantonment, is used as a brothel or for the purpose of habitual prostitution,

he may summon the owner, tenant, manager or occupier of the house to appear before him either in person or by agent; and, if satisfied that the house is used as described in Clause (a) or Clause (b) or Clause (c), may by a written order direct such owner, tenant, manager or occupier, within a period to be stated in such order, not less than five days from the date thereof, to discontinue such use.

34. (1) The District Magistrate may, from time to time, by public notice, proclaim that any stray dogs found, during such period as may be specified in the said notice, wandering in the streets or in any public place may be destroyed, and any dog so found within such period may be destroyed accordingly.

(2) The District Magistrate may by public notice require that every dog, while in the streets or in any public place and not led by some person, shall be muzzled in such a manner as effectually to prevent it from biting while not obstructing its breathing or drinking, and the Police may, so long as such notice remains in force, destroy or take

Provisions as to
muzzling or seizure
of dogs.

possession of and detain, any dog found loose without a muzzle in any place beyond the premises of the owner thereof :

Provided that any dog so found, wearing a collar on which an apparently genuine name or address of an owner is inscribed, shall not, unless it is rabid, be forthwith destroyed, but information of the detention thereof shall forthwith be sent by Post or Anchal or otherwise to such owner.

(3) Any dog which has been detained under Sub-section (2) for a period of seven clear days without the owner providing a muzzle and paying all expenses connected with such detention, may be destroyed or sold with the sanction and under the orders of the District Magistrate.

(4) The proceeds of the sale of any dog under Sub-section (3) shall be applied as far as may be, in discharge of the expenses incurred in connection with its detention, and the balance, if any, shall be held in deposit for three months.

If no claim thereto be preferred within three months and established, the said balance shall be at the disposal of Our Government.

(5) Any expenses incurred in connection with the destruction or detention of any dog under the Section shall, subject to the provisions of Sub-section (4), be recoverable from the owner thereof as arrears of public revenue.

(6) The provisions of this Section shall not apply to any 'Town' constituted under Act II of 1069 or III of 1076.

CHAPTER V.

EXECUTIVE POWERS AND DUTIES OF THE POLICE.

35. (1) It shall be the duty of every Police-Officer—

- Duties of Police-
Officer.
- (a) promptly to serve every summons, obey and execute all orders and warrants lawfully issued to him by competent authority, and to endeavour by all lawful means to give effect to the lawful commands of his superior ;
 - (b) to the best of his ability to collect and communicate intelligence concerning the commission of cognisable offences or designs to commit such offences and to lay such information and to take such other steps consistent with law and with the orders of his superiors as shall best be calculated to bring offenders to justice or to prevent the commission of cognisable, and within his view, of non-cognisable offences ;
 - (c) to preserve the peace and to collect and communicate intelligence affecting or likely to affect the public peace ;
 - (d) to prevent to the best of his ability the commission of public nuisances ;
 - (e) to apprehend all persons whom he is legally authorised to apprehend and for whose apprehension sufficient ground exists ;
 - (f) to aid another Police Officer when called on by him or in case of need in the discharge of his duty in such ways as would be lawful and reasonable on the part of the Officer aided ;
 - (g) to discharge such duties as are imposed upon him by any law for the time being in force ;
 - (h) to use his best endeavours to prevent an injury attempted to be committed in his view to any public property, movable or immovable or the removal or injury of any public land mark or buoy or other mark used for navigation ;

- (i) to afford every assistance within his power to disabled or helpless persons in the streets and to take charge of intoxicated persons and of lunatics at large who appear dangerous or incapable of taking care of themselves ;
- (j) to take prompt measure to procure necessary help for any person under arrest or in custody who is wounded or sick and, whilst guarding or conducting any such person, to have due regard to his condition ;
- (k) to arrange for the proper sustenance and shelter of every person who is under arrest or in custody ;
- (l) in conducting searches, to refrain from needless rudeness and the causing of unnecessary annoyance ;
- (m) in dealing with women and children, to act with strict regard to decency and with reasonable gentleness ;
- (n) to use his best endeavours—
 - (i) to prevent any loss or damage by fire, and
 - (ii) to avert any accident or danger to the public ;
- (o) to regulate and control the traffic in the streets, to prevent obstruction therein and to the best of his ability to prevent the infraction of any Rule or order made under this Act or under any other law for the time being in force for observance by the public in or near the streets ;
- (p) to keep order in the streets, and at and within public bathing, washing and landing places, fairs and other places of public resort, and in the neighbourhood of places of public worship during the time of public worship ;

- (g) to regulate resort to public bathing, washing, and landing places, to prevent overcrowding thereat and in public ferry boats, and to the best of his ability to prevent the infraction of any Rule or order lawfully made for observance by the public at any such place or on any such boat ; and
- (h) to perform all duties imposed on him by Rules for the time being in force under this Act in the manner and subject to the conditions therein prescribed.

36. (1) On the occasion of a fire in any locality, any Police Officer not below the rank of a Head Constable may—
- Powers of Police on the occasion of a fire.
- (a) remove or order the removal of any persons who by their presence interfere with or impede the operations for extinguishing the fire or for saving life or property, and may close any street or passage in or near which any fire is burning.
 - (b) by himself or those acting under his orders, break into or through, or pull down, or use for the passage of hoses or other appliances, any premises for the purpose of extinguishing the fire, doing as little damage as possible ;
 - (c) cause the mains and pipes of any district to be shut off so as to give greater pressure of water in the place where the fire has occurred ;
 - (d) call on the persons in charge of any fire-engine to render such assistance as may be possible ; and
 - (e) generally, take such measures as may appear necessary for the preservation of life and property.

Any damage done on the occasion of fires by members of any fire-brigade or by Police-Officers or their assistants in the due execution of their duties shall be

deemed to be damage by fire within the meaning of any policy of insurance against fire. But nothing in this Section shall exempt any Officer of Police or any member of any fire-brigade from liability to damages on account of any acts done by him without reasonable cause.

(2) All charges on account of establishments and appliances for extinguishing fire maintained by the Police under the orders of Our Government for general use, and all expenses incurred on the occasion of any fire by the Police in the execution of their duty, shall, if the duty of extinguishing fire is cast upon any Municipality, be paid from the Municipal Fund of that Municipality upon the Inspector-General certifying the amount thereof :

Provided that no charges on account of establishments and appliances for extinguishing fire shall be recovered from any Municipality which maintains such establishments and appliances at its own cost.

37. When in a street or a place of public resort a person has possession or apparent possession of any article which a Police-Officer in good faith suspects to be stolen property, such Police-Officer may search for and examine the same and may require an account thereof, and, should the account given by the possessor be manifestly false or suspicious, may detain such article and report the facts to a Magistrate.

[37-A. Any Officer of Police may deliver to any pawn-broker, dealer in second hand property or worker in metals a list of any property believed to have been stolen, and there-upon it shall be the duty of such pawn-broker, dealer or worker as aforesaid, upon any article answering the description or any of the property set forth in any such list being offered him in pawn, for sale or otherwise, to inquire the name and address of the party offering such article, to seize and detain the article, and forthwith to communicate to the nearest Police Station the fact of such

Sec. 37 A. This was inserted by Sec. 2, Act XV of 1117.

article having been offered and such name and address as may be given by the party offering it. Any pawn-broker, dealer or worker as aforesaid failing to comply with the requirements of this section without reasonable excuse shall be liable on conviction to fine not exceeding fifty rupees for every such offence. Such pawn-broker, dealer or worker as aforesaid may also detain any person offering such article as aforesaid pending the arrival of the Police]

38. It shall be the duty of every Police-Officer to take charge of all unclaimed property found by or made over to him and to furnish without any unreasonable delay an inventory thereof to a Magistrate.

Power to deal with unclaimed property.

39. The provisions of Sections 401, 402 and 403 of the Criminal Procedure Code, Act V of 1067, shall, as nearly as may be practicable, apply to all property detained or taken charge of by the Police under this Act.

Applicability of the provisions of Sections 401, 402 and 403 of the Code of Criminal Procedure.

40. A Police-Officer not below the rank of a Head Constable may perform any duty assigned by law or by a lawful order to any Officer subordinate to him; and in case of any duty imposed on such subordinate, a superior, where it shall appear to him necessary, may aid, supplement, supersede or prevent any action of such subordinate by his own action or that of any person lawfully acting under his command or authority, whenever the same shall appear necessary or expedient for giving more complete or convenient effect to the law or for avoiding an infringement.

A superior Police-Officer may himself perform duties imposed on his inferior, etc.

41. It shall be lawful for any Police-Officer to lay any information before a Magistrate, and to apply for a summons, warrant, search-warrant, or such other legal process as may by law issue against any person committing an offence.

Polic-Officer may lay information etc.

42. (1) All persons shall be bound to conform to the reasonable direction of a Police-Officer given in fulfilment of any of the duties mentioned in Sections 35 and 36 or of the powers vested in him under this Act.

Persons bound to conform to reasonable directions of Police.

(2) A Police-Officer may restrain or remove any person resisting or refusing or omitting to conform to any such direction as aforesaid.

CHAPTER VI,

OFFENCE AND PUNISHMENTS.

43. (1) Every member of the Force shall, on ceasing to belong thereto, forthwith deliver up to the [Inspector General] or to such person and at such time and place as shall be directed by the [Inspector General] his certificate and all clothing, accoutrements and other articles supplied to him for the execution of his duty, and in default thereof, shall be liable to fine not exceeding two hundred rupees, or to imprisonment of either description for a term which may extend to six months, or to both.

Certificate arms, etc to be delivered up by person ceasing to be a Police-Officer.

(2) It shall be lawful for the [Inspector General] of Police or any Magistrate to issue a warrant to search for and seize, wherever they may be found, any certificate, arms or accoutrements, clothing or other necessary articles not delivered up as required by Sub-section (1). Every warrant so issued shall be executed in accordance with the provisions of the Code of Criminal Procedure, Act V of 1907, or if the [Inspector General] or Magistrate so directs by any other person

(3) Nothing in this Section shall be deemed to apply to any article which, under the orders of the [Inspector General] of Police, has become the property of the person to whom the same was furnished.

44. From and after the passing of this Act, every person not being or having ceased to be, a duly enrolled Police-Officer,—

Unlawful assumption of Police functions, personation of Police, etc.

- (i) who shall unlawfully assume any function or power belonging to the Police ; or
- (ii) who shall have in his possession any distinctive article of the dress or accoutrement directed to be worn exclusively by the Police Force, without being able to account satisfactorily for the possession thereof ; or
- (iii) who shall put on the dress of any Police-Officer, or any dress designed to represent it or to be taken for it ; or
- (iv) who shall otherwise personate the character or act the part of any Police-Officer for any purpose whatever ;

shall, in addition to any other punishment to which he may be liable for any offence committed under the assumed character, be liable to a penalty not exceeding two hundred rupees, or to imprisonment of either description for a period which may extend to six months, or to both.

45. Any Police-Officer who—

Penalties for neglect of duties, etc.,

- (a) contravenes any provision of Section 19 ;
- (b) is guilty of cowardice ;
- (c) resigns his office or withdraws himself from the duties thereof in contravention of Section 18 ;
- (d) is guilty of any wilful breach or neglect of any provision of law or any Rule or order which it is his duty as such Police-Officer to observe or obey ; or
- (e) is guilty of any violation of duty for which no punishment is expressly provided by any other law in force :

shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

46. Any Police-Officer who—

(a) without lawful authority or reasonable cause, enters or searches, search, arrest. etc., or causes to be entered or searched by Police-Officers. any building, vessel, tent or place ;

(b) vexatiously and unnecessarily seizes the property of any person ;

(c) vexatiously and unnecessarily detains, searches or arrests any person ;

(d) vexatiously and unnecessarily delays forwarding any person arrested to a Magistrate or to any other authority to whom he is legally bound to forward such person ;

(e) offers any unnecessary personal violence to any person in his custody ; or

(f) holds out any threat or promise not warranted by law to an accused person ;

(g) shall maliciously and without probable cause prefer any false or vexatious or frivolous charge or information against any individual ; or

(h) shall knowingly and wilfully and with evil intent exceed his powers ;

shall for every such offence 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.

47. Any Police-Officer who shall, on any pretext, or under any circumstances, directly or indirectly, collect or receive any fee, gratuity, diet money, allowance, or recompense, other than he may be duly authorised by the [Inspector General] or other Officer acting under his order to collect or receive, shall be liable, to a penalty not exceeding six months' pay, or to imprisonment of either description for a term which may extend to six months, or to both.

Penalty for receiving unauthorised fees, etc.

48. Any Police-Officer who shall, directly or indirectly, extort, exact, seek or obtain any Penalty for extortion. bribe, perquisite or unauthorised reward or consideration, by any illegal threat or pretence, for doing or omitting or delaying to do any act which it may be his duty to do or cause to be done, or for withholding or delaying any information which he is bound to afford or to communicate, or who shall attempt to commit any of the offences abovesaid, shall be liable to a fine not exceeding twelve months' pay, or to imprisonment of either description for a term which may extend to twelve months, or to both.

49. If any person shall assault or resist any Police-Officer in the execution of his duty, or shall aid or incite any other person so to do, or shall maliciously and without probable cause prefer any false or frivolous charge against any Police-Officer, such person shall be liable to a fine not exceeding fifty rupees, or to imprisonment of either description for a term which may extend to three months, or to both.

50. In any street, public place or thoroughfare within the limits of any local area to which this Section or any part thereof, shall, by Notification in Our Government Gazette, be specifically extended by Our Government, whoever, to the obstruction, inconvenience, annoyance, risk, danger or injury to the residents or passengers,—

- Punishment for certain offences on roads, etc.
- (i) slaughters any cattle or cleans any carcass, or cleans any article of furniture or any vehicle, or groom's any animal;
 - (ii) makes or repairs any vehicle or any part of a vehicle (unless when in the case of an accident repairing on the spot is necessary) or carries on any manufacture or operation;
 - (iii) drives, drags or pushes a vehicle at any time after dark without a sufficient light;

- (iv) drives, drags, or pushes any vehicle and does not keep (except in cases of actual necessity or of some sufficient reason for deviation) on the left of such street when meeting any other vehicle or on the right side of such street when passing any other vehicle ;
- (v) rides or drives any animal, or drives, drags or pushes any vehicle in a rash or negligent manner, or trains or breaks any horse or other cattle.
- (vi) causes mischief by any negligence or ill-usage in the driving, management or care of any animal or vehicle ;

shall be liable to imprisonment of either description for a term which may extend to eight days, or to fine which may extend to fifty rupees, or to both.

51. Whoever is found drunk and incapable of taking care of himself, is guilty of any riotous, disorderly or indecent behaviour in any street or public place or in any place of public amusement or resort or on board any passenger boat or vessel [or in any public passenger vehicle] and whoever is guilty of any violent, disorderly, or indecent behaviour in any Court or Police station or other public office shall be liable to a fine which may extend to fifty rupees, or to imprisonment of either description for a term which may extend to eight days.

[*Explanation.*—'Public passenger Vehicle' means a vehicle used for carrying passengers for hire or reward other than a vehicle which carries passengers for hire or reward under a contract expressed or implied for the use of the vehicle as a whole at or for a fixed or agreed rate or sum.

Sec. 51. The words within were added by Sec. 2. Act IX brackets as also the explanation of 1108.

52. Whoever, in a public place solicits any person to immorality, to the annoyance of the person solicited or of any two or more of the inhabitants or passers-by, shall be liable to a fine not exceeding fifty rupees, or to imprisonment of either description for any period not exceeding eight days.

Penalty for solicitation in a public place.

53. Every person who opposes or disobeys or fails to conform to any lawful and reasonable directions given by a Police-Officer under this Act or Rules made thereunder shall be liable to a fine not exceeding two hundred rupees.

Penalty for failure to conform to lawful and reasonable directions of Police-Officers.

54. For any breach of any of the conditions of a license granted under this Act, the offenders shall be liable to fine not exceeding one hundred rupees, and such fine may be recovered from the person licensed notwithstanding that such breach may have been owing to the default or carelessness of his servant or agent in charge of the shop or place.

Penalty for breach of conditions of licenses.

55. Whoever contravenes any Rule made under Section 23 shall be liable,—

Contravention of Rules and orders.

- (i) if the rule were made under Clauses (a), (b), (c), (f), (g) and (h) of Sub-section (1)—to fine which may extend to fifty rupees; or
- (ii) if the Rule were made under Clauses (d) and (e) of Sub-section (1)—to imprisonment of either description for a term which may extend to eight days, or to fine which may extend to fifty rupees, or to both; or
- (iii) if the Rule were made under Clause (i) of Sub-section (1)—to fine which may extend to one hundred rupees.

56. Whoever contravenes any direction, order or prohibition lawfully given or made under Section 24, Section 25, Section 26, Section 27, or Section 28 shall be liable, —
- Contravention of order or direction given under Section 24, Section 25, Section 26, or Section 28.
- (i) if the direction, order or prohibition were made under Section 24 Section 28—to fine which may extend to one hundred rupees ; or
- (ii) if the prohibition were made under Section 25, Section 26 or Section 27—to imprisonment of either description for a term which may extend to one month, or to fine which may extend to one hundred rupees, or to both.

57. If a person against whom an order has been passed by a Magistrate under Section 33 fails to comply with such order within the period stated therein, the Magistrate may impose on him a fine which may extend to twenty-five rupees for every day after the expiration of that period during which the house is so used.

Contravention of order passed under Section 33.

58. Any person who knowingly makes a false statement or uses a false document for the purpose of obtaining for himself or any person, employment or release from employment as a Police Officer, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

False statement to obtain employment.

59. Nothing contained in this Act shall be construed to prevent any person from being prosecuted under any other Act for any offence made punishable by this Act, or from being liable under any other Act to any other or higher penalty or punishment than is provided for such offence by this Act :

Power to prosecute under other law not affected.

Provided that no person shall be punished twice for the same offence.
 Proviso.

60. The provisions of Sections 53 to 59, both inclusive, of the Travancore Penal Code, and of Sections 286 to 289, both inclusive, of the Code of Criminal Procedure, Act V of 1067, with respect to fines, shall apply to penalties and fines imposed under this Act :

Recovery of penalties and fines imposed by Magistrates.

Provided that, notwithstanding anything contained in Section 54 of the first mentioned Code, any person sentenced to a fine under Section 50 of this Act may be imprisoned in default of payment of such fine for any period not exceeding eight days.

CHAPTER VII.

MISCELLANEOUS.

61. All sums paid for the service of process by Police-Officers, and all rewards, forfeitures and penalties which by law are payable to informers, shall, except as hereinafter in this Section provided, when the information is laid by a Police-Officer, be paid to Our Government :

Rewards to Police and informers payable to Government.

Provided that, with the sanction of Our Government, or under any Rule made by Our Government in that behalf, the whole or any portion of any such reward, forfeiture or penalty may, for special services, be paid to a Police-Officer or be divided amongst two or more Police-Officers.

62. Any public notice required to be given under any of the provisions of this Act shall be in writing, shall be signed by the Officer issuing such notice, and shall be published in the locality to be affected thereby, by affixing copies thereof in conspicuous public places, or by proclaiming the same with beat of drum, or by advertising the same in Our Government Gazette, and in such local newspapers, English or Vernacular, as such Officer may deem fit, or by any two or more of these means and by any other means he may think suitable.

63. Any order or Notification published or issued by Our Government or by a Magistrate or Officer under any provision of this Act, and the due publication and issue thereof, may be proved by the production of a copy thereof in Our Government Gazette or of a copy thereof signed by such Magistrate or Officer and by him certified to be a true copy of an original published and issued according to the provisions of the Section of this Act applicable thereto.

64. No Rule, order, direction, adjudication, inquiry or Notification made or published, and no act done under any provision herein contained or in substantial conformity to the same, shall be deemed illegal, void, invalid or insufficient for any defect of form or publication or any irregularity of procedure.

65. (1) Any license or written permission granted under the provisions of this Act shall specify the period and locality for which, and the conditions and restrictions subject to which, the same is granted, and shall be given under the signature of the Officer issuing the same; and such fee shall be charged therefor as is prescribed under this Act on that behalf.

(2) Any license or written permission granted under this Act may at any time be suspended or revoked by the Officer issuing the same if any of its conditions or restrictions is infringed or evaded by the person to whom it has been granted, or if such person is convicted of any offence in any matter to which such license or permission relates.

(3) When any such license or written permission is suspended or revoked, or when the period for which the same was granted has expired, the person to whom the same was granted shall, for all purposes of this Act, be deemed

ed to be without a license or written permission, until the order for suspending or revoking the same is cancelled, or until the same is renewed, as the case may be.

(4) Every person to whom any such license or written permission has been granted shall, while the same remains in force, at all reasonable times, produce the same, if so required by a Police-Officer.

Grantee to produce license etc., when required.

66. Whenever under this Act the doing or the omitting to do anything or the validity of anything depends upon the consent, approval, declaration, opinion or satisfaction of the [Inspector General] of Police or of any other Police-Officer, a written document signed by the [Inspector General] of Police or by such Office rpurporting to convey or set forth such consent, approval, declaration, opinion, or satisfaction shall be sufficient evidence thereof.

Consent, etc., of [Inspector General] of Police may be proved by writing under his signature.

67. (1) No Magistrate or Police-Officer shall be liable to any penalty or to payment of damages on account of any act done or intended to be done in good faith in pursuance of any duty imposed or any authority conferred on him by any provision of this Act or of any Rule, order or direction lawfully made or given thereunder.

Magistrate or Police-Officer not liable for anything done in good faith.

(2) No public servant or person duly appointed or authorised shall be liable as aforesaid for giving effect in good faith to any such order or direction issued with apparent authority by Our Government or by a person empowered in that behalf under this Act or any Rule made under any provision thereof.

Public servant or person duly appointed or authorised not liable for anything done in good faith.

(3) In any case of an alleged offence by a Magistrate, Police-Officer or other person or of a wrong alleged to have been done by such Magistrate, Police-Officer or other person, by any act done under colour or in excess of any such duty or authority as aforesaid or wherein it shall appear to the Court that the offence or wrong if committed or done was of the character aforesaid, the prosecution or suit shall not be entertained, or shall be dismissed if instituted, more than six months after the date of the act complained of.

(4) In the case of an intended suit on account of such a wrong as aforesaid, the person intending to sue shall be bound to give to the alleged wrong-doer one month's notice at least of the intended suit with a sufficient description of the wrong complained of, failing which such suit shall be dismissed.

(5) The plaintiff shall set forth that a notice as aforesaid has been served on the defendant and the date of such service, and shall state whether any, and if so what, tender of amends has been made by the defendant. A copy of the said notice shall be annexed to the plaint endorsed or accompanied with a declaration by the plaintiff of the time and manner of service thereof.

(6) Whenever it is proved to the satisfaction of the Court that, before the suit was instituted, tender of sufficient amends has been made to the plaintiff, the plaintiff shall not recover his costs nor any relief not included in such tender, and shall defray the costs of the defendant in the suit :

Provided always that no action shall in any case lie where such Officers shall have been prosecuted criminally for the same act.

68. When any action or prosecution shall be brought or any proceedings held against any Police-Officer for any act done by him in such capacity, it shall be lawful for him to plead that such act was done by him under authority of a warrant issued by a Magistrate.

Such plea shall be proved by the production of the warrant directing the act, and purporting to be signed by such Magistrate; and the defendant shall thereupon be entitled to a decree in his favour, notwithstanding any defect of jurisdiction in such Magistrate. No proof of the signature of such Magistrate shall be necessary, unless the Court shall see reason to doubt its being genuine:

Provided always that any remedy which the party may have against the authority issuing such warrant shall not be affected by anything contained in this Section.

69. Offences against this Act, when the accused person or any one of the accused persons is a Police-Officer, shall not be cognizable by a Magistrate below the First Class.

70. When any Police-Officer, not removable from his office without the sanction of Our Government, is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duties, no Court shall take cognizance of such offence except with the previous sanction of Our Government.

71. It shall be the duty of every Officer in charge of a Police-station to keep a general diary in such form as shall, from time to time, be prescribed by Our Government and to record therein all complaints and charges preferred, the names of the complainants, the names of all persons arrested, the offences charged against them, the weapons or property that shall have been taken from

their possession or otherwise, and the names of witnesses who shall have been examined.

The District Magistrate shall be at liberty to call for and inspect such diary.

72. Our Government may direct the submission of such returns by the [Inspector General] and other Police-Officers as Our Government shall deem proper, and may prescribe the form in which such returns shall be made.

73. (1) Our Government may make Rules consistent with this Act.—
 Power of Government to make Rules. (a) to regulate the procedure to be followed by Magistrates and Police Officers in the discharge of any duty imposed upon them by or under the provisions of this Act;

(b) to prescribe the time, manner and conditions within and under which claims for compensation under Section 12 are to be made, the particulars to be stated in such claims, the manner in which the same are to be verified and the proceedings including local enquiries, if necessary, which are to be taken consequent thereon;

(c) to prescribe the proceedings including local enquiries, if necessary, which are to be taken in awarding compensation under Section 13; and

(d) generally for giving effect to the provisions of this Act.

(2) Such Rules shall be published in Our Government Gazette and thereupon shall have the force of law.

(3) Any Rule made under Sub-section (1) may be repealed, altered or amended by Our Government subject to the provisions of Sub-section (2)

ACT VI OF 1905.

AN ACT TO DEAL WITH CERTAIN GOLD COINS.

*Passed by His Highness the Maha Rajz of Travancore,
under date the 2nd Karkatakam 1095, corresponding
with the 17th July 1920, under Section
13 of Act I of 1095.*

Whereas it is expedient to declare that the gold
coins referred to in Section 3-A of
the British Coinage Act III of 1086,
as amended by Act I of 1091, shall
cease to be legal tender; We are pleased to enact as
follows:—

Notwithstanding anything contained in Section 3-A
of the British Coinage Act III of
1086, as amended by Act I of
1091, the gold coins referred to in
that Section shall cease to be legal
tender in payment or on account.

This Act was published in Part II of the Gazette dated
20-7-1920.

ACT IV OF 1096.

AN ACT TO AMEND THE ESTATES RENT RECOVERY ACT IV OF 1068.

*Passed by His Highness the Maha Raja of Travancore
under date the 17th Meenom 1096, corresponding
with the 30th March 1921, under Section 11
of Act I of 1095.*

Whereas it is expedient to amend the Estates Rent Recovery Act IV of 1068; It is hereby enacted as follows:—

The following shall be substituted for Section 7 of the Act.

“7. All charges and losses that may be incurred by Our Government in connection with Estates liable for any proceedings taken under Section charges on account of recovery. 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.”

ACT V OF 1096.

**AN ACT TO AMEND THE LAND ACQUISITION
ACT, XI OF 1086.**

*Passed by His Highness the Maha Raja of Travancore,
under date the 29th Mithunom 1096, corresponding
with the 12th July 1921, under Section
11 of Act I of 1095.*

Whereas it is expedient to amend the Land Acquisition Act, XI of 1089; It is hereby enacted as follows:—

Section 6. Number the last paragraph as (3), and substitute the words 'for a public purpose' for the words 'for such purpose.'

ACT VI OF 1096.

PUBLIC CANALS AND PUBLIC FERRIES.

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ACT VI OF 1096.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF PUBLIC CANALS AND PUBLIC FERRIES IN TRAVANCORE, FOR THE MANAGEMENT THEREOF, AND FOR THE REGULATION OF TRAFFIC THEREIN.

*Passed by His Highness the Maha Rajah of Travancore,
under date the 2nd Karkatakam 1096, corresponding
with the 17th July 1921, under Section 11
of Act I of 1095.*

Whereas it is expedient to amend the law relating
to the Establishment of Public Canals
and Public Ferries in Travancore,
the Management thereof, and the
Regulation of Traffic therein; It is hereby enacted as
follows :—

Act I of 1084 was the first enactment on the subject. Till 1084 water traffic was regulated by executive rules and orders. To regulate the increased water traffic consequent on the extension of the Railway to Quilon and Ernaculam the re-organisation of the then existing rules and orders on a legal basis was found necessary. Hence Act I of 1084 was passed. This Act was in force for a period of over twelve years. Act VI of 1096 in supersession of Act I of 1084 re-enacted the law on the subject.

Act VI of 1096. *Objects and Reasons.*—(1) "It has been found necessary to bring the Regulation into conformity with the Madras Act. Under the Regulation all vessels that ply for hire have to be registered irrespective of the size and capacity of the vessel, while vessels how-

ever big, need, if they do not ply for hire, no registration. It is thought desirable that every vessel unless exempted by Government should be either licensed or registered irrespective of the fact whether it plies for hire or not. Section 4 of the Regulation has therefore been modified. The Government however will have the power to exempt any vessel or class of vessels from the operation of the Section. Chapter V deals with duties of carrier of goods and Chapter VI with the duties of the owner or master of a vessel when any passenger leaves inadvertently any property in, the vessel. Steam and motor vessels form the chief means of conveyance in public canals. It has not been found possible to have an effective control over these vessels under the existing Regulation. Provisions specially

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Travancore Public Canals and Public Ferries Act of 1096".
Short title.

2. (1) It extends to the whole of Travancore.

Extent and commencement. (2) It shall come into force on the 1st Chingam 1097.

3. Act I of 1084 is hereby repealed :

Repeal. Provided that any appointment, Notification, Order, Rule, form, license or registration made, issued or effected under the said Act shall, so far as it is not inconsistent with the provisions of this Act, continue in force and be deemed to have been issued under the provisions of this Act unless and until it is superseded by any appointment, Notification, order, Rule, form, license or registration made, issued or effected under this Act.

4. In this Act--

Definitions. "Vessel" includes any ship, barge, boat, raft, timber, bamboos or floating materials propelled in any manner :

"Boiler" includes any cylinder or vessel for generating steam or wherein steam is generated under pressure and any steam chest or other apparatus closely attached thereto :

"Prime mover" includes any steam, oil, petrol, gas or electric engine, fly-wheel, first driving shaft or pulley attached to any such engine, and every appurtenance

applicable to steam and motor vessels have therefore been incorporated in the Bill on the lines of the Inland Steam Vessels Act, I of 1917. Every steam vessel is required to possess a certificate of inspection as to its being in proper condition. Every master, serang or engine-driver is required to possess certificates of competency or service for his respective du-

ties"—S. O. & R., T. G. G. dated 20-5-1919.

The Report of the Select Committee was published on 12-10-1920.

For Legislative proceedings see T. G. G. dated 15-4-1919; 30-3-1919; 18-1-1921 and 12-7-1921.

The Act was published in T. G. G. dated 19-7-1921,

necessary for the safe and efficient working of a prime mover :

“Owner” includes any agent or hirer using the vessel :

“Steam vessel” means every description of vessel propelled wholly or in part by the agency of steam, oil, petrol, gas or electricity :

“Machinery” includes boiler and its attachment, steam, motor, gas or electric engine shafts, propellers, pulleys and every other appurtenance necessary for the safe and efficient propelling of a vessel :

“Master” means any person having for the time being the charge or control of a vessel :

“Passenger” includes any person carried in a vessel other than the master and crew :

“Navigating” any vessel which is in a public canal, whether in motion or not, shall be deemed to be navigating that canal :

“Channel” includes any waterway, natural or artificial :

“Line of navigation” means any navigable channel or series of connected navigable channels, backwaters or rivers :

“Public canal” means a line of navigation which the public or a section of the public have a right to use and which is declared to be subject to the provisions of this Act :

“Ferry” means a place at which goods, animals or passengers are conveyed across a channel by means of vessels :

“Public ferry” means a ferry across a public canal, which is declared to be subject to the provisions of this Act :

“Prescribed” means prescribed by Rules made under this Act.

SEC. 5. PUBLIC CANALS AND PUBLIC FERRIES. CHAP. II

5. Our Government may, by Notification in Our Government Gazette, declare any line of navigation, which the public or a section of the public have a right to use, to be subject to the provisions of this Act from a date to be named in such Notification, and may in like manner cancel or modify any such Notification.

Power to apply Act to any line of navigation.

CHAPTER II.

LICENSING AND REGISTRATION.

6. All vessels that use a public canal shall be licensed or registered as Our Government may direct.

Vessels to be licensed.

7. Our Government may, from time to time,—

(a) fix rates of fees payable for the licensing or registration of vessels ; and

Power to fix fees.

(b) fix fees for the use of cranes, public landing places, wharves, piers, jetties, docks, basins, sidings, sheds or warehouses provided for the accommodation of vessels or goods and for demurrage on vessels or goods detained therein.

A Notification of such fees under Clause (b) of this Section shall be exhibited to public view in English and in Vernacular at the places where such fees are leviable.

8. All licenses granted and registrations effected under this Act shall be in such form, shall be valid for such time, and shall contain or be subject to such conditions as Our Government may, from time to time, direct.

Form, etc., of licenses and registrations.

9. Any person duly empowered by Our Government in this behalf may suspend or cancel the license or registration of any vessel in case of breach of any of the conditions thereof or of any Rules passed under this Act or in lieu of such suspension or

Power to suspend or cancel license or registration.

cancellation or of prosecution may recover from the person in charge of the vessel a penalty not exceeding fifty rupees in the case of steam vessels for each such breach and a penalty not exceeding five rupees in the case of other vessels.

CHAPTER III.

PUBLIC FERRIES AND TOLLS.

10. Our Government may establish stations at which tolls shall be levied on vessels passing along a public canal, or on vehicles, animals or goods landed therefrom and fix the rates of such tolls.

Establishment of toll-levying stations.

11. (1) Our Government may, by Notification in Our Government Gazette, declare any ferry across a public canal to be subject to the provisions of this Act from a date to be named in such Notification, and may define the limits of such ferry, and may, in like manner, cancel or modify any such Notification.

Power to apply Act to any ferry and define limits of ferry.

(2) From such date it shall be unlawful for any person, not duly authorised, to convey goods, animals or passengers by means of vessels across such canal within such limits while such Notification is in force.

Upon such Notification, unauthorised conveyance across such canal declared unlawful.

12. Our Government may provide for the management of public ferries or may authorise any person to convey goods, animals or passengers by means of vessels at such ferries. All vessels so used by such person shall be licensed, and Our Government may fix the fees payable for such licenses and also the tolls leviable upon passengers, animals, vehicles and goods conveyed across such ferries, provided that no tolls shall be levied on students going to or returning from school. A notification of such tolls shall be exhibited to public view in English and Vernacular on each side of the ferry.

Power to provide for management of ferries and fix fees and rates of toll.

SEC. 13. PUBLIC CANALS AND PUBLIC FERRIES. CHAP. IV

13. Our Government may appoint persons to collect tolls or fees payable under this Chapter. The collection of such tolls or fees other than license fees may, under such conditions as Our Government may, from time to time, prescribe, be leased out, and in such case the lessee, his agents and servants shall be deemed to be so appointed, and Our Government may also empower any officer drawing a salary of not less than Rs. 500 to compound for any period not exceeding one year with the owner or other person in charge of a vessel for a certain sum to be paid in advance by such person for any vessel kept, used or conveyed by him in lieu of the rates of tolls.

14. In case any tolls or fees other than license fees payable under this Chapter are not paid when demanded by a person duly appointed or empowered to collect or impose the same, such person may seize any vessel, goods, vehicles or animals in respect of which such toll or fee is payable or anything in the possession of a passenger or a person who is liable to such toll or fee, and any person empowered by Our Government in this behalf may sell the same by auction after fifteen days' public notice of the sale if such toll or fee is still unpaid. After deduction of such toll or fee and of the expenses of sale, the surplus proceeds, if any, shall, on demand within six months from the date of sale, be paid to the owner or person from whose possession the thing sold was taken. If no such demand was made, such surplus shall be forfeited to Our Government.

CHAPTER IV.

CONTROL.

15. Any person duly empowered by Our Government in this behalf may—
Inspection of vessels. (a) at any time board any vessel and inspect the same and every part thereof and the machinery and all equipments on board thereof;

(b) remove from any public canal any vessel which may be sunk or abandoned therein and recover any expenses incurred in so doing by the sale of such vessel by public auction after fifteen days' public notice of the sale, if such expenses still remain unpaid : a vessel left for more than fourteen days without a competent person in charge shall be held to be abandoned ;

Removal of any vessel sunk or abandoned.

(c) in case of emergency, remove from any public canal any obstruction or contrivance for fishing, or any overhanging tree or other thing which is an impediment to, or likely to endanger navigation ; or in other cases, serve notice upon the owner, if any, to remove any such thing within a reasonable time to be stated in the notice, failing which he may remove it himself : expenses incurred under this Clause shall be recoverable from the owner, provided always that in the case of interference with private rights reasonable compensation shall be payable ;

Removal of any other obstruction likely to endanger navigation.

(d) prohibit the construction of any contrivance for fishing or for any other purpose in a public canal, or any erection therein or on a tow-path or other land appurtenant thereto ;

(e) stop any vessel navigating a public canal in contravention of any of the provisions of this Act, or of any Rule made or any condition of license or registration prescribed thereunder, and detain it until the same is complied with, or until penalty has been paid or recovered under Section 9 or until the offence, if any, has been enquired into and disposed of.

Powers under this Section may be conferred either by name or in virtue of an office.

SEC. 16. PUBLIC CANALS AND PUBLIC FERRIES. CHAP. V.

All persons duly empowered under this Section shall be deemed to be public servants within the meaning of the Travancore Penal Code.

16. Subject to the Rules made by Our Government, it shall be lawful for the prescribed authority to grant permission for temporary occupation of a canal or canal bank or to erect temporary jetties, basins, etc. in a canal. The Prescribed authority to grant permission for temporary occupation of a canal or canal bank or to erect temporary jetties, basins, etc. in a canal. it shall be lawful for the prescribed authority to grant permission to any person or persons for the temporary occupation of any portion of a canal or canal bank for making any temporary erection thereon or for landing goods or passengers, subject to such conditions as he may prescribe for the safety or convenience of persons passing by or dwelling or working in the neighbourhood or of the interests of Our Government, and may at his discretion withdraw such permission.

Notwithstanding anything contained in the first paragraph, it shall be lawful for any Municipal or other local authority to exercise the powers mentioned in the first paragraph if the canal bank vests in such authority.

CHAPTER V.

HIRING AND PLYING FOR HIRE.

17. Whenever any goods shall have been received for conveyance or hire by the owner or other person in charge of a licensed vessel, the person receiving the same for conveyance or hire shall, if thereto required when the rate of conveyance shall have been paid, or an engagement to pay the same shall have been accepted, sign a receipt for the said goods, setting out therein the names and residence of himself and of the owner, and if such receipt is not given when required, the person so receiving the same for conveyance, in addition to any other liability which he may incur by such refusal, shall be liable to a fine not exceeding twenty rupees. Carriers to give receipt.

18. (1) When a complaint or prosecution is made before a Magistrate against any person employed on or in charge of any vessel other than a steam vessel under this Act the Magistrate may, if such person fails to appear, summon the owner to appear and produce him.

Requisition to the owner to produce the absent person in charge of a vessel.

(2) If the person summoned fails to appear or if the owner when called on to produce him fails to do so, he shall, failing reasonable excuse, be liable to a fine not exceeding fifty rupees, and the Magistrate may dispose of the complaint in the absence of the person summoned.

CHAPTER VI.

OF LOST PROPERTY.

19. The master or any other person in charge, of a vessel wherein any property is left by any passenger or other persons shall, within eighteen hours, carry such property to the nearest Canal office or Police-station and deposit it with the Officer on duty there and obtain a receipt duly signed by the Officer taking charge of the same.

20. The Canal or Police Officer in charge of the office or station referred to in the last foregoing Section shall forthwith enter in a book to be kept for that purpose—

Deposit with the Canal or Police Officer of property left by passengers in vessels.

The Canal or Police Officer to register particulars of property deposited with him and grant receipt.

- (a) the description of the property;
- (b) the name and address of the person who brings it ;
- (c) the name and address of the owner and the registered number of the vessel in which it was left ;
- (d) the day and hour when the property is brought ;

and shall give to the person bringing the property a receipt for the same.

SEC. 21. PUBLIC CANALS AND PUBLIC FERRIES. CHAP. VII

21. (1) It shall be the duty of every Canal or Police Officer taking charge of any property referred to in Section 19 to furnish without unreasonable delay an inventory of property referred to in Section 19 to a Magistrate.

Canal or Police Officer to furnish inventory of property referred to in Section 19.

(2) The provisions of Sections 401, 402 and 403 of the Criminal Procedure Code, Act V of 1067, shall, as nearly as may be practicable, be applied to all property taken charge of by the Canal or Police Officer under this Act.

22. The owner of every licensed vessel used for the conveyance of goods for hire shall, in the absence of any contract to the contrary, be liable for any loss or injury to any goods, articles or property whatsoever delivered to be carried therein for hire, which shall be occasioned by the neglect or criminal conduct of such owner or any of his agents or servants.

Liabilities of owners of vessels.

CHAPTER VII.

ADDITIONAL PROVISIONS RELATING TO STEAM VESSELS.

23. The provisions of this Chapter shall come into force on such day as Our Government may, by Notification in Our Government Gazette, direct.

Operation of the provisions of the Chapter.

24. Our Government may, from time to time, appoint so many persons as they think fit to be Inspectors for the purposes of this Chapter.

Appointment of Inspectors.

25. (1) No steam vessel shall navigate in any public canal or be used for any service unless she has under this Act a certificate of inspection in force and applicable to such navigation or service and a license under Act III of 1082.

Steam vessel not to navigate or to be used for service without certificate of inspection.

(2) Nothing in this Section shall apply to any steam vessel navigating a public canal or used for other service between the time at which her certificate of inspection expires and the time at which it is first practicable to have the certificate renewed.

26. (1) For the purposes of inspection under Section 25, the Inspector may, at any reasonable time, go on board any steam vessel, and may inspect the steam vessel and every part thereof, including the hull, boilers, engines and other machinery, and all equipments and articles on board :

Provided that he shall not unnecessarily hinder the loading or unloading of the steam vessel, or unnecessarily detain or delay her from proceeding on any voyage.

(2) The owner, master and officers of the steam vessel shall afford to the Inspector all reasonable facilities for inspection, and all such information respecting the steam vessel and other machinery or any part thereof, and all equipments and articles on board, as he may require for the purposes of inspection.

27. Before an inspection is commenced, the owner or master of the steam vessel to be inspected shall pay to such Officer as Our Government may, by Notification in Our Government Gazette, appoint in this behalf, a fee calculated in the prescribed manner and according to the rates that may be prescribed from time to time in this behalf.

28. When an examination of the steam vessel under the provisions of this Act is completed, the Inspector appointed under this Act shall forthwith, if satisfied that he can with propriety do so, give to the owner or master of the steam vessel examined, a certificate in the form prescribed under the Rules which should contain among others the following particulars, namely :—

(a) that the hull and machinery of the vessel are sufficient for the service intended and in good condition;

SEC. 29. PUBLIC CANALS AND PUBLIC FERRIES. CHAP. VII

- (b) that the equipments of the vessel and the certificate of the master and engine-driver are such and in such condition as may be required by the Rules framed under this Act.
- (c) the time, if less than one year, for which the hull, machinery and equipments of the vessel will be sufficient ;
- (d) the limit of time (if any) beyond which, as regards the hull, machinery and equipments, the vessel could not, in the judgment of the inspecting officer, be permitted to ply ;
- (e) the number of passengers the vessel is licensed to carry as per the Rules framed under this Act distinguishing, if necessary, between the respective numbers to be carried on the deck and in the cabins, and in different parts of the deck and cabins ; the number to be subject to such conditions and variations according to the time of the year, the nature of the voyage, the cargo carried, the conditions of the backwater or other circumstances as the case requires ; and
- (f) any other prescribed particulars.

29. (1) If the Inspector making an inspection of a steam vessel refuses to give a certificate or gives a certificate with which the owner or master is dissatisfied, the prescribed authority may, on the application of the owner or master and the payment by him of such fee, not exceeding twice the amount of the fee payable for the previous inspection, as the prescribed authority may require, direct two other Inspectors to inspect the steam vessel.

(2) The Inspectors so directed shall forthwith inspect the steam vessel and may, after the inspection, decide that the certificate shall be returned or that such certificate as may, under the circumstances seem to them proper, be issued.

(3) Any decision given under Sub-section (2) shall be final. The decision shall be communicated to the Inspector who made the previous inspection and he shall give effect to such decision as if it were passed by himself and grant a certificate or revise the one issued by him under Section 28.

30. The owner or master of every steam vessel for which a certificate of inspection in the form prescribed under the Rules has been granted by the Inspector shall, on the receipt of the certificate and after obtaining the license under Section 6, cause such certificate and the license to be affixed and kept affixed so long as it remains in force and the steam vessel is in use, on some conspicuous part of the vessel where they may be easily read by all persons on board thereof.

31. Over and above such periodical examination for the granting of certificates, it shall be lawful for a Canal Officer or any Inspector appointed under this Chapter to examine any vessel or its boiler, engine or equipment or any part thereof during the period for which a certificate may have been granted and to order the vessel to be stopped for such examination, and it shall be lawful for the Canal Officer or Inspector to order the working of the boiler, engine or other machinery to be suspended when that shall, in his opinion be indispensable for the examination of the same.

32. A certificate of inspection shall not be in force —

Term of certificates of inspection. (a) after the expiration of one year from the date thereof ;

(b) after the expiration of the period (if less than one year), for which the hull, boilers, engines or other machinery, or any of the equipments of the steam vessel to which the certificate relates have been stated in the certificate to be sufficient ; or

(c) after notice has been given by the prescribed authority to the owner or master of such steam vessel that he has cancelled or suspended it.

SEC. 33. PUBLIC CANALS AND PUBLIC FERRIES. CHAP. VII

33. After a certificate of inspection has ceased to be in force, the same shall be renewed after a fresh inspection of the steam vessel to which the certificate relates has been held in accordance with the provisions of this Chapter, save so far as any relaxation thereof may be prescribed.

34. A certificate of inspection may be suspended or cancelled by the prescribed authority if he has reason to believe—

Renewal of certificates of inspection.

Power to suspend or cancel certificate of inspection.

(a) that the certificate by the Inspector as to the sufficiency and good condition of the hull, boilers, engines, or other machinery or as to any of the equipments of the steam vessel has been fraudulently or erroneously granted; or

(b) that the certificate has otherwise been granted upon false or erroneous information; or

(c) that, since the granting of the certificate, the hull, boilers, engines, or other machinery, or any of the equipments of the steam vessel have sustained any material injury, or have otherwise become insufficient.

35. Our Government may from time to time appoint examiners for the purpose of examining the qualifications of persons desirous of obtaining certificates (hereinafter called certificates of competency) to the effect that they are competent to act as masters or serangs or as engine drivers, as the case may be, on board steam vessels and may also fix fees to be paid by applicants for such examination.

Appointment of examiners for testing qualifications of masters, serangs, drivers, etc.

36. The prescribed authority appointed in this behalf may grant to every person reported by the examiners to possess the necessary qualifications a certificate of competency in such form as may be prescribed by the Rules to be framed under this Act to the effect that he is competent

Grant of masters,' serangs' or engine drivers' certificates of competency.

to act as a master, serang, or engine driver, as the case may be, of a steam vessel.

37. (1) The prescribed authority may, in his discretion, grant without examination, to any person who has served as a master, serang, or as an engine-driver of a steam vessel before the date of passing of this Act, a certificate (hereinafter called a certificate of service) to the effect that he is, by reason of his having so served, competent to act as a master or serang or as an engine-driver, as the case may be, on board a steam vessel.

(2) A certificate of service so granted shall have the same effect as a certificate granted under this Act after examination.

38. Every certificate of competency or service granted under this Act shall be made in duplicate, and one copy shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded in the prescribed manner.

39. Whenever a master or serang, or an engine-driver, proves to the satisfaction of the authority which granted his certificate, that he has, without fault on his part, lost or been deprived of it, a copy of the certificate to which, according to the record kept under Section 38, he appears to be entitled, shall be granted to him, and shall have the same effect as the original.

40. (1) Any certificate granted under Section 36 or 37 may be suspended or cancelled by the prescribed authority—

(a) if the wreck or abandonment of, or loss or damage to, any vessel, or loss of life has been caused by the wrongful act or default of the holder of such certificate, or if the holder of such certificate is incompetent or has been guilty of any gross act of drunkenness, tyranny or other misconduct, or

SEC. 41. PUBLIC CANALS AND PUBLIC FERRIES. CHAP. VII.

(b) if the holder of such certificate is proved to have been convicted of any non-bailable offence, or

(c) if in the case of a person holding a certificate of competency or service, such person is, or has become, in the opinion of the prescribed authority, unfit to act as master or serang, or as an engine-driver, as the case may be.

(2) The prescribed authority may at any time revoke an order of suspension or cancellation made under Sub-section (1), or grant without an examination to any person whose certificate was so cancelled, a new certificate.

(3) A certificate granted under Sub-section (2) shall have the same effect as a certificate of competency granted under this Act after examination.

41. Every certificate of inspection which has expired or which has been suspended or cancelled under Section 34 and every certificate of competency or service which has been suspended or cancelled under Section 40 shall be delivered up by the owner, master, serang or engine-driver, as the case may be, to the prescribed authority or to any Officer empowered by him in this behalf.

42. Whenever—

Occurrence of accident or casualty to a vessel, boiler, machinery or any part thereof to be reported.

(a) any accident to a steam vessel or to the boiler or machinery or to any apparatus attached thereto which is calculated to weaken the strength of such vessel, boiler, machinery or apparatus, is caused, or

(b) by reason of any casualty happening on board of any steam vessel, death or grievous hurt has been caused to any person, or

(c) any steam vessel has caused loss or material damage to any other vessel, or

(d) any steam vessel has been wrecked, abandoned or materially damaged,

it shall be the duty of every master or other person in charge of a steam vessel to report in writing, within twelve hours of the occurrence, such accident, casualty, death, hurt, wreck, abandonment or damage, to the nearest Canal or Police Officer.

CHAPTER VIII.

PENALTIES.

43. The owner and master of any vessel navigating a public canal in contravention of Section 6 of this Act shall each be punishable with fine not exceeding one hundred rupees, and any person establishing or working a ferry in contravention of Section 11 of this Act shall be punishable with fine not exceeding five hundred rupees.

44. Any person who fails, refuses or evades payment of any toll or fee payable under this Act shall be punishable with fine not exceeding fifty rupees.

45. Any person who, without authority, levies any toll or fee under colour of this Act, or being empowered to collect tolls or fees under this Act, collects or receives any sum in excess of the lawful due, shall be punishable with imprisonment for a term not exceeding two months, or with fine not exceeding two hundred rupees, or with both.

46. The owner or the master of a vessel who shall for the purpose of deception use any fraudulent mark or have in any vessel counterfeit letters or figures resembling or intended to resemble any letters or figures affixed under this Act or any Rule framed thereunder shall be punishable

SEC. 47. PUBLIC CANALS AND PUBLIC FERRIES. CHAP. VIII

with fine not exceeding two hundred rupees, or with imprisonment for a term which may extend to two months, or with both.

47. (1) The owner and the master of a vessel who shall use or fraudulently retain any expired license shall each be punishable with fine not exceeding one hundred rupees, or with imprisonment for a term not exceeding one month, or with both.

Penalty for using expired licenses or certificate, etc.

(2) Any person who lends, gives away, pledges or sells any expired or unexpired license or certificate of inspection to any other person or vessel and every person who keeps or uses any license or certificate of any other vessel shall be punishable with fine not exceeding one hundred rupees, or with imprisonment for a term not exceeding one month, or with both.

48. Whoever without the permission of the prescribed authority or in disregard of the condition subject to which such permission is given does any of the acts prohibited in Section 16 shall be punishable with fine not exceeding fifty rupees besides being evicted from such occupation, the cost of such eviction being recouped by the person or persons evicted.

Penalty for breach of Section 16.

49. The master or other person in charge of a vessel who fails to perform any of the duties mentioned in Section 19 shall be punishable with fine not exceeding fifty rupees, or with imprisonment for a period which may extend to one month, or with both.

Penalty for failure to perform duties mentioned in Section 19.

50. If any steam vessel navigates a public canal or is used for any service in contravention of Section 25, the owner and the master of the steam vessel shall each be punishable with fine not exceeding five hundred rupees.

Penalty for breach of Section 25.

51. The owner and the master of a vessel who refuse to suffer inspection of any vessel under Section 31 shall each be punishable with fine not exceeding two hundred rupees.

Penalty for refusal to suffer inspection.

52. If a vessel has on board thereof or in any part thereof a number of passengers which is greater than the number of passengers specified in the license or certificate of inspection, the owner and the master shall, for every passenger over and above that number, be each liable to a fine not exceeding ten rupees in the case of a steam vessel and two rupees in the case of any other vessel.

Penalty for having excessive number of passengers on board.

53. If the certificate of inspection granted under this Act or the license is not kept affixed in any steam vessel as required by Section 30, the owner and the master shall each be liable to a fine not exceeding fifty rupees.

Penalty for not affixing certificates at a conspicuous part of the vessel.

54. The owner and the master in charge of a steam vessel who fail to give notice of any structural alteration or renewal thereof shall each be punishable with fine not exceeding three hundred rupees.

Penalty for failure to give notice of any structural alteration or renewal.

55. Any master, serang or engine-driver of a steam vessel who refuses or fails to produce any certificate of competency or service when called on to do so by an Inspector or Canal Officer shall be punishable with fine not exceeding one hundred rupees

Penalty for failure to produce certificate of competency or service on demand.

56. Any owner, master, serang or engine-driver of a steam vessel who fails to deliver up a certificate as required by Section 41 shall be punishable with fine not exceeding one hundred rupees.

Penalty for failure to deliver up certificate under Section 41.

57. If any master wilfully fails to give notice as required by Section 42 of any wreck, abandonment, damage, casualty or loss, he shall be punishable with fine not exceeding five hundred rupees, and in default of payment of such fine, with simple imprisonment for a term which may extend to three months.

Penalty for master failing to give notice of wreck or casualty.

SEC. 58. PUBLIC CANALS AND PUBLIC FERRIES, CHAP. VIII

58. If any person—

Penalty for serving or engaging a person to serve as master or engine-driver without certificate. (a) proceeds on any voyage in a steam vessel as the master, serang, or engine-driver of such vessel without being at the time entitled to, and possessed of, a master's or serang's or engine-driver's certificate, as the case may be, as required under this Act, or

(b) employs as the master, serang or engine-driver of a steam vessel any person without ascertaining that he is at the time entitled to, and possessed of such certificate, he shall be punishable with fine which may extend to five hundred rupees.

59. If any person employed or engaged in any capacity on board a steam vessel, by wilful breach of duty, or by neglect of duty, or by reason of drunkenness,—

Penalty for misconduct, endangering a vessel or life or limb of any person on board thereof.

(a) does any act tending to the immediate wreck, destruction or material damage of the vessel, or tending immediately to endanger the life or limb of any person belonging to, or on board, the vessel, or

(b) refuses or omits to do any lawful act proper and requisite to be done by him for preserving the vessel from immediate wreck, destruction or material damage or for preserving any person belonging to, or on board of, the vessel from immediate danger to life or limb,

he shall be punished with fine which may extend to five hundred rupees, and with imprisonment for a term which may extend to one year, or with both.

60. Any person who acts in contravention of any of the provisions of this Act or of any Rule or order made under this Act shall be punishable with fine not exceeding one hundred rupees in case of a single offence, and, in case of a continuing offence, not exceeding ten rupees for every day during which such offence continues. If the offence is such as to endanger human life, the punishment may extend to imprisonment of either description for one year, or to a fine of five hundred rupees, or both.

Penalty for breach of any provision of Act or Rules or offences not otherwise provided for.

61. On conviction of any offence under this Act, the Court may order that any vessel or other thing used in the commission of such offence shall be confiscated.

The Court may order confiscation of vessel, etc.

62. Where the owner or master or other person in charge of a steam vessel is convicted of an offence under this Act or the Rules made under this Act committed on board of, or in relation to that steam vessel, and sentenced to pay a fine, the Magistrate may, in addition to any other power he may have, for the purpose of compelling payment of the fine, direct the amount thereof to be levied by distress and sale of the vessel and the tackle, apparel and furniture thereof. or so much thereof, as is necessary.

Fine to be levied by distress and sale of the vessel.

CHAPTER IX.
OF PROSECUTION.

63. No prosecution under this Act shall be instituted without the previous sanction of Our Government or the prescribed authority or of any Officer empowered by Our Government in this behalf either by name or by virtue of his office.

Prosecution not to be instituted without sanction.

SEC. 64. PUBLIC CANALS AND PUBLIC FERRIES. CHAP. X.

64. The imposition of a penalty or the suspension, or cancellation of the license, registration or certificate issued, effected or granted under any Section of this Act, shall not be held to prevent the prosecution of the owner or master or other person in a vessel or any part thereof for any offence committed under this Act :

Prosecution not excused on the ground of fines, suspension, etc.

Provided, however, that, if any penalty has been levied under Section 9, the Court may take the same into consideration in awarding the sentence.

65. 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 or from being liable under such other law to any higher punishment or penalty than that prescribed by this Act or the Rules made thereunder :

Operation of other Acts or laws not barred.

Provided that no person shall be punished by a Magistrate twice for the same offence.

CHAPTER X.

RULES.

65. Our Government may make Rules in respect of any public canal or public ferry for the following among other purposes,—

Rules.

- (i) declaring the powers to be exercised by any person employed under this Act ;
- (ii) providing for the registering of, the grant of license to and the inspection of, vessels using a public canal, their maintenance in good condition and their efficient control and management ;
- (iii) regulating the dimensions and free-board of vessels using such canal or ferry, the equipment of the same and the number of passengers and the nature and quantity of cargo to be carried therein ;

- (iv) defining the line of navigation and regulating the navigation of vessels to prevent danger to other vessels or to the banks, channels, navigation marks or any property, movable or immovable, in or abutting on navigable channels ;
- (v) defining the limits within which certain vessels may navigate ;
- (vi) regulating the speed at which vessels shall be moved, the lights to be exhibited by vessels moving or at anchor, the working of locks, the mooring of vessels, and the construction and use of landing places, cranes, wharves, piers, jetties, docks, lie-byes, basins, sidings, sheds or warehouses ;
- (vii) the disposal of vessels or other things confiscated or seized under this Act ;
- (viii) for the convenience and safety of passengers and their property, and the protection of Government interests ; and
- (ix) generally for the purpose of this Act not otherwise specifically provided for.

67. (1) Our Government may make Rules to regulate the making of inspections under

Power for Govern-
ment to make Rules
as to inspection.

Chapter VII.

(2) In particular and without prejudice to the generality of the foregoing power, such Rules may prescribe—

- (a) the times and places at which, and the manner in which, inspections of steam vessels are to be made ;
- (b) the duties of the Inspector making such inspection, and where two Inspectors are employed, the respective duties of each such Inspector and their mutual relation ;
- (c) the form in which certificates of inspection are to be framed, and the nature of the particulars to be stated therein under Section 28 ;

SEC. 68. PUBLIC CANALS AND PUBLIC FERRIES. CHAP. X.

(d) the rates according to which the fees payable in respect of inspections are to be calculated in case of all or any of the places of inspection within the State ; and

(e) the cases in, and the extent to, which an inspection may be dispensed with before the grant of a new certificate.

68. (1) Our Government may make Rules to regulate the granting of certificates of competency under Chapter VII.

Power for Government to make Rules as to grant of certificates of competency.

(2) In particular and without prejudice to the generality of the foregoing power, such Rules may prescribe.—

(a) the times and places of holding and the mode of conducting examination of persons desirous of obtaining certificates of competency ;

(b) the qualifications to be required of persons desirous of obtaining such certificates ;

(c) the examination fee to be paid by such persons ; and

(d) the forms in which such certificates are to be framed, and the authority by which and the manner in which, copies are to be kept and recorded under Section 38.

69. Our Government may make Rules to regulate the granting of certificates of service under Section 37 and may by such

Power for Government to make Rules as to grant of certificates of service.

Rules prescribe in particular—

(a) the fees to be paid for such certificates ; and

(b) the forms in which such certificates are to be framed, and the authority by whom, and the manner in which, copies are to be kept and recorded under Section 38.

70. (1) Our Government may also make Rules for the protection of steam vessels against explosion, fire collision and other accidents.

Power for Government to make Rules for protection of steam vessels from accidents.

(2) In particular and without prejudice to the generality of the foregoing power, such Rules may prescribe—

- (a) the conditions on and subject to which dangerous goods may be carried on board steam vessels ;
- (b) precautions to be taken to prevent explosions or fires on board steam vessels ; and
- (c) the apparatus which is to be kept on board steam vessels for the purpose of extinguishing fires.

71. (1) Our Government may make Rules to regulate the carriage of passengers in steam vessels.

Power for Government to make Rules as to carriage of passengers in steam vessels.

(2) In particular and without prejudice to the generality of the foregoing power, such Rules may—

- (a) prescribe the cases in which, passengers may be refused admission to, or may be required to leave, steam vessels ;
- (b) provide for the payment of fares, and the exhibition of tickets or receipts (if any) showing the payments of their fares by passengers in steam vessels ; and
- (c) regulate generally the conduct of passengers in steam vessels.

(3) Any Rule made under this Section may contain a provision that any person committing a breach of it shall be punishable with fine which may extend to twenty rupees.

(4) The master or any other officer of a steam vessel, and any person called by him to his assistance may arrest any person who has committed a breach of

SEC. 72. PUBLIC CANALS AND PUBLIC FERRIES. CHAP. X.

any Rule made under this Section, if the name and address of such person are unknown to the master or such other officer.

(5) The procedure prescribed by Section 40 of the Code of Criminal Procedure (Act V of 1067) in the case of arrest by private Persons shall apply to every arrest made under this Section.

72. Our Government may make Rules—

Power to make Rules to Provide for appeals and revisions from orders made by any person other than a Magistrate, (1) to provide for appeals and revisions from orders made under this Act by any person other than a Magistrate ;

(2) prescribing the time within which such appeals ought to be preferred ; and

(3) regulating the powers of the appellate authority and the procedure to be followed by such authority.

73. All Rules made under this Chapter shall be published in Our Government Gazette and thereupon have the force of law. Such Rules may be amended, cancelled or varied by like Notification.

74. Any Rules made under this Chapter may contain a provision that any person committing a breach of it shall be punishable with fine which may extend to three hundred rupees.

CHAPTER XI.

MISCELLANEOUS.

75. All moneys other than fines and penalties recoverable under this Act shall be treated as arrears of public revenue within the meaning of Act I of 1063 and be recovered as such.

Mode of recovery of moneys other than fines and penalties.

76. Our Government may invest either temporarily or permanently any Officer appointed under this Act and drawing a salary of not less than one hundred rupees with the following powers and may withdraw the same, *viz.*,—

Investing officers with powers
 the powers of a Civil Court to compel the attendance of witnesses and the production of documents ;

powers to investigate or hold enquiries into the offences under the Act or the infringement of the Rules thereunder and in the course of such enquiries to receive and record evidence from any other person supposed to be acquainted with the facts and circumstances of the case, and such person shall be bound to answer truly all questions relating to such case put to him by such Officer.

Any evidence recorded under 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 Criminal Procedure Code,

77. It shall be the duty of all Police-Officers to give immediate information to the Canal Officer of any offence against the provisions of this Act and they shall be legally bound to assist the Canal Officers, when required to do so, in carrying out the provisions of this Act.

Police and other Officers to give information of offences and otherwise assist the Canal Officers.

78. Except in the case of an offence against any Rule made under Section 71, no Magistrate shall try an offence relating to steam vessels under this Act or any Rule made thereunder, unless he is a Magistrate whose powers are not less than those of a Magistrate of the First Class.

Jurisdiction of Magistrates.

79. If any person commits an offence against this Act or any Rule made thereunder, he shall be triable for the offence in any place in which he may be found or which Our Government, by Notification in Our

Place of trial-

SEC. 80. PUBLIC CANALS AND PUBLIC FERRIES. CHAP. XI.

Government Gazette, appoints in this behalf, or in any other place in which he might be tried under any other enactment for the time being in force.

80. (1) Our Government may, by Notification in Our Government Gazette, and subject to such conditions as they may deem fit, exempt from the operation of Sections 6, 25, 36 or 37 of the Act any vessels or class of vessels using a public canal or a portion of a public canal.

(2) For breach of any of the conditions referred to in Sub-section (1), it shall be competent to Our Government to withdraw such exemption.

81. Any Officer appointed under this Act and specially empowered by Our Government in this behalf, may, without name and residence. orders from a Magistrate, and without a warrant, arrest any person reasonably suspected of having committed an offence under this Act if such person refuses to give his name and residence or gives a name or residence which there is reason to believe to be false or if there is reason to believe he will abscond.

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 the station shall then act according to law.

82. Any Officer appointed under this Act and drawing a salary of not less than one hundred rupees who or whose subordinate has arrested any person under the provisions of Section 81, may release such person 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.

83. 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.

Bar of actions.

IMPERIAL BANK OF INDIA PROCLAMATION.

By His Highness the Maharaja of Travancore, issued under date the 20th January 1921 corresponding with the 7th Makarom 1096.

Whereas the Bank of Madras is a Bank now constituted and regulated by an Act of the Legislature of British India entitled "The Presidency Banks Act, 1876" and subsequent amending Acts thereto;

And whereas an Act of the said Legislature entitled "The Imperial Bank of India Act, 1920" has provided for the constitution of an Imperial Bank of India for the purpose of taking over the undertakings of the said Bank of Madras and of the Bank of Bengal and the Bank of Bombay as constituted by the said Presidency Banks Act, 1876, and subsequent amending Acts thereto, and to carry on the business of banking in accordance with the provisions of the said Act ;

And whereas it is provided by the said Imperial Bank of India Act, 1920, that, subject to the provisions of the said Act, as from the appointed day as thereby defined the undertaking of the said Bank of Madras shall be transferred to and shall vest in the said Imperial Bank of India ;

And whereas the said Bank of Madras maintains branches in Travancore at Alleppey and Trivandrum, and carries on business and owns and possesses property in Travancore ;

And whereas it is expedient to make provision for the transfer to the said Imperial Bank of India of the undertaking of the said Bank of Madras in Travancore from the said appointed day ;

This Proclamation was published in the Gazette dated 25th January 1921.

SEC. 1. IMPERIAL BANK OF INDIA PROCLAMATION. 7

We are hereby pleased to command as follows :—

1. This Proclamation may be cited as "The Imperial Bank of India Proclamation."

Short title.

2. (i) This Proclamation shall come into force on the same date as The Imperial Bank of India Act, 1920, shall come into operation in British India.

(ii) A notification in Our Government Gazette over the signature of the Chief Secretary to Our Government of the date on which the said Imperial Bank of India Act, 1920, shall have come into operation shall be conclusive proof of the said date for the purposes of this Proclamation.

3. In this Proclamation, unless the context otherwise requires.—

Interpretation.

(i) The expression "appointed day" means the day on which The Imperial Bank of India Act, 1920, shall come into operation in British India.

(ii) The expression "the Bank" means The Imperial Bank of India as constituted by the Act of the Legislature of British India entitled "The Imperial Bank of India Act, 1920," and any Act or Acts amending or substituted for the said Act.

(iii) The expression "the Bank of Madras" means the Bank of Madras as constituted and regulated by the Act of the Legislature, of British India entitled "The Presidency Banks Act, 1876," and amending Acts thereto.

4. (i) Subject to the provisions of this Proclamation, the undertaking in Travancore of the Bank of Madras shall, as from the appointed day, be transferred to and shall vest in the Bank.

Transfer of undertaking of Bank of Madras in Travancore to the Imperial Bank of India.

(ii) The said undertaking, shall be deemed to include all rights,

IMPERIAL BANK OF INDIA PROCLAMATION. SEC. 5.

powers, authorities, and privileges, and all property, movable and immovable, including cash balances, reserve funds, investments, and all other interests, and rights in or arising out of such property as may be in the possession of the Bank of Madras immediately before the appointed day, and all books, accounts, and documents relating thereto, and shall also be deemed to include all debts, liabilities and obligations of whatsoever kind then existing of such undertaking.

- (iii) If on the appointed day any suit, appeal, or legal proceeding of whatever nature is pending by or against the Bank of Madras, the same shall not abate, be discontinued, or be in any way prejudicially affected by reason of the transfer to the Bank of the said undertaking or of anything in this Proclamation or in the said Imperial Bank of India Act, 1920, but the suit, appeal, or proceeding may be continued, prosecuted, and enforced by or against the Bank.
- (iv) All contracts, deeds, bonds, agreements, and other instruments of whatever nature subsisting or having effect immediately before the appointed day, and to which the Bank of Madras is a party, shall be of, as full force and effect against or in favour of the Bank, as the case may be, and may be enforced as fully and effectually as if, instead of the Bank of Madras the Bank had been a party thereto.

5. Every officer and servant employed immediately before the appointed day by the Bank of Madras, who shall under or by virtue of the Imperial Bank of India Act, 1920, become an officer or servant of the Bank, shall from the appointed day be deemed an officer or servant of the Bank for the purpose of this Proclamation.

Officers in employment of Bank of Madras in Travancore at commencement of Proclamation.

purpose of this Proclamation.

SEC. 6. IMPERIAL BANK OF INDIA PROCLAMATION.

6. As from the appointed day no person shall make, assert, or take any claims, demands, or proceedings against the Bank of Madras, or against a director or officer thereof in his capacity as such director or officer, except in so far as may be necessary for enforcing the provisions of this Proclamation or of the Imperial Bank of India Act, 1920, so far as the same may be enforceable in Travancore.

7 (i) All references to the Bank of Madras contained in any enactment or in any Rules made under or by virtue of any enactment shall from the appointed day be deemed to be references to the Bank so far as the context permits.

Stay of proceedings against Bank of Madras.
References to Bank of Madras in enactments and instruments.

(ii) Where by any instrument power is given to invest in, to hold, or to exercise any rights in regard to shares or stock in the Bank of Madras, then that power may be exercised as if the same power were given by such instrument in regard to shares in the Bank.

(iii) A power of attorney in favour of the Bank of Madras or in favour of the Bank of Madras and its officers shall be deemed, as the case may be, to be a power of attorney in favour of the Bank or of the Bank and its officers.

8. The Bank shall on the appointed day pay to Our Government such sum as shall, in the opinion of Our Dewan, be equivalent to the amount of the stamp duty which would have been payable had the Bank of Madras executed a transfer in favour of the Bank of its immovable property in Travancore.

Payment in lieu of stamp duty.

ACT VII OF 1096.

REGISTRATION OF BIRTHS AND DEATHS,

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SEC. 1. REGISTRATION OF BIRTHS AND DEATHS.

1. This Act may be called "The Travancore Registration of Births and Deaths Act of 1926".
Title.

2. Our Government may, by Notification, extend this Act or any portion thereof, to any local area beyond the limits of the Municipalities constituted under [the Travancore District Municipalities Act, 1116 (XXIII of 1116) or the limits of the city of Trivandrum as defined in the Trivandrum City Municipal Act (IV of 1116)] and may, by like Notification, exclude any such local area from the operation of the Act or any portion thereof.
Extension and withdrawal of Act.

3. In this Act, unless there is something repugnant to Interpretation Clause. the subject or context.—

"Village" means any local area which for purposes of revenue administration is now recognised as a Pakuthi or which may hereafter be declared by Our Government to be a village, and in which local area this Act or any portion thereof is in force :

"Registrar" means a person appointed Registrar of Births and Deaths [for a village or ward] under Section 5 of this Act.

["Taluk" means any local area which for purposes of Revenue administration is now recognised as a Taluk or which may hereafter be declared by Our Government to be a Taluk and in which local area this Act or any portion thereof is in force ;

whose guidance and direction in respect of these matters are expected to be of considerable value. In order to achieve this object certain amendments are necessary in the existing Act." S. O. & R, T. G. G. dated 29-5-1945.

For Legislative proceedings— See A. P. Vol. XXVI, P. 72; C. P. Vol. XXV. Pp. 129-130.

The Act was published in T. G. G. dated 31-7-1945.

Act XX of 1124. The Adaption of Laws Act, XX of 1124

was published in T. G. G. dated 15-3-1949.

Sec. 2. The words bracketed were substituted for the words "the Travancore Municipal Regulation, V of 1095" by Sec. 2, Act XXIX of 1120.

Sec. 3. In the definition of 'Registrar' the bracketed words were inserted by Sec. 3, Act XXIX of 1120. The bracketed definitions were also added by the same amending section.

“Taluk Registrar” means a person appointed Taluk Registrar of Births and Deaths for a Taluk under Section 5 of this Act ;

“District” means any local area which for purposes of Revenue administration is now recognised as a Division or which may hereafter be declared by Our Government to be a Division and in which local area this Act or any portion thereof is in force ;

“District Registrar” means a person appointed District Registrar of Births and Deaths for a District under Section 5 of this Act ;

“Registrar-General” means a person appointed Registrar-General of Births and Deaths for Travancore under Section 5 of this Act ;

“Prescribed” means prescribed by Rules made under this Act.]

4. On the publication of a Notification under Section 2 extending this Act or any portion thereof to any local area, [Our Government] shall cause to be proclaimed in the Vernacular language by notice posted at some conspicuous place and by beat of drum in every village within the area so notified and by publication in Our Government Gazette the date from which registration of births and deaths will be compulsory in the said area.

[Our Government] to proclaim that registration will be compulsory.

15. (1) [Our Government] shall appoint any person either by name or by virtue of any office he may hold to be :—

Appointments-

- (i) Registrar-General,
- (ii) District Registrar,
- (iii) Taluk Registrar,
- (iv) Registrar.

Sec. 5. This section was substituted by Sec. 4 Act XXIX of 1120. The old section read as follows :

“5. (1) *Appointment of Registrars.* On the publication of such Notification, the Dewan shall appoint a person either by name or by virtue of any office

he may hold to be Registrar of Births and Deaths for each village, or may, if he sees fit divide any village into wards and appoint a person either by name or by virtue of any office he may hold to be Registrar of Births and Deaths for each ward.

SEC. 6. REGISTRATION OF BIRTHS AND DEATHS.

(2) [Our Government] may also if it sees fit, divide any village into wards, and appoint a person either by name or by virtue of any office he may hold to be Registrar for each ward.

(3) Every Registrar appointed under Sub-sections (1) and (2) shall keep such Registers and send such returns of births and deaths to such authority in such manner and within such time as may be prescribed.]

6. Every such Registrar shall, unless otherwise expressly authorised by the [Registrar-General] in writing, reside within the village or ward of which he is the Registrar, and shall cause his name, with the addition of Registrar of Births and Deaths for the village or ward for which he is so appointed written in the Vernacular language, to be placed in some conspicuous place on or near the outer door of his office.

7. (1) The [Registrar-General] shall cause to be printed and supplied a sufficient number of register books for making entries of births and deaths according to such forms and instructions as may, from time to time, be prescribed by Our Government.

Division Peishkar to have registers printed and supplied.

(2) A copy of such Forms in the Vernacular language shall be posted in some conspicuous place on or near the outer door of the office of every Registrar.

Copy of such forms to be posted in the office of the Registrar.

8. The father or karanavan of every child, or in case of death, illness, absence or inability of the father or karanavan, the midwife who was present at the birth, and in her default, every adult male

Information of birth to be given within two weeks.

“(2) Registrars to keep register in the prescribed form. Every Registrar so appointed shall keep in the prescribed form a register of births and deaths for his village or ward, as the case may be.”

The corresponding Section of the Madras Act was similar to the Section extracted above.

Sec. 6. The words “Registrar-General” was substituted for “Division Peishkar” by Sec. 5, Act XXIX of 1120.

Sec. 7. The word ‘Registrar-General’ was substituted for ‘Division Peishkar’ by Sec. 5, Act XXIX of 1120.

member of the family resident in the house in which the child was born and any person having charge of the child, or in default of the above, the mother shall, within two weeks next after the day of such birth, give or cause to be given, either orally or in writing, information to the Registrar, according to the best of his knowledge and belief, of the several particulars required to be entered in the Forms prescribed under Section 7 :

Provided that a person not required to give information in the first instance but only in default of some other person shall not be bound to give information under this Act, if he had reasonable cause to suppose that the information had been or would be duly given by such other person :

Provided also that, in the case of an illegitimate child, it shall in the first instance be the duty of the mother of such child to give information under this Act, and no person shall, as father of such child, be required to give information under this Act concerning the birth of such child, and the Registrar shall not enter in the register the name of the person as father of such child, unless at the joint request of the mother and of the person acknowledging himself to be the father of such child, and unless such person shall sign the register together with the mother.

9. In case any new-born child is found exposed, it shall be the duty of any person finding such child and of any person in whose charge such child may be placed, to give, to the best of his knowledge and belief, to the Registrar within seven days after the finding of such child, such information of the particulars required to be registered concerning the birth of such child as the informant possesses.

10. The nearest adult relative present at the death, or in attendance during the last illness, of any person dying in a village, or, in case of the default of such relative, every adult male person present at the death, or, in case of their default, the

Information to be given respecting new born child found exposed.

Information of death to be given within four days.

SEC. 11. REGISTRATION OF BIRTHS AND DEATHS.

occupier of the house, or in his default every adult male person living in the house in which such death has happened or in case of the default of such inmate the person undertaking the disposal of the corpse shall, within four days from the date of death, give or cause to be given, either orally or in writing, information to the Registrar, according to the best of his knowledge and belief, of the several particulars required to be entered in the Forms prescribed under Section 7 :

Provided that a person not required to give information in the first instance, but only in default of some other person, shall not be bound to give information under this Act if he had reasonable cause to suppose that the information had been or would be duly given by such other person.

11. In case any person is found dead in a village under circumstances not covered by Section 10, it shall be the duty of the Proverthicar of the village to give forthwith, to the best of his knowledge and belief, to the Registrar, such information of the particulars required to be registered concerning such death as the informant possesses.

12. Notwithstanding anything contained in Sections 8 and 10 of this Act.

(1) in case of a child being born or of a person dying in any hospital, it shall be the duty of the Medical Officer in charge forthwith to send to the Registrar a notice in writing of the occurrence of such birth or death containing the several particulars required to be entered in the Forms prescribed under Section 7 ;

(2) in case of a child being born or of a person dying in any choultry, chatram, hotel, boarding-house, lodging-house, tavern, arrack or toddy shop or place of public resort, it shall be the duty of the owner, keeper or person in charge thereof, to give the information required under Sections 8 and 10 in the manner specified therein within forty-eight hours of the birth or death as the case may be.

13. Every person who has orally given to a Registrar any information required under this

A person giving oral information to write his name in the register.

Act shall write in the register his name, description and place of abode, and, if he cannot write, shall put his mark in the register to his name,

description and place of abode, these particulars being in such case entered by the Registrar.

14. The Registrar shall, as soon as the registration of

When Registrar to give extract free of charge.

the birth of a child has been completed, give, on application, free of all charge, to the person who gives information of the birth an extract

under his hand from the register relating to such birth.

15. Every Registrar shall without fee or reward

Registrar to register information without fee or reward and inform himself of every birth and death.

register all information furnished to him under Sections 8 to 13, and it shall also be his duty to inform himself carefully of every birth and of every death which takes place in his village or ward, and he shall as-

certain and register, as soon as conveniently may be after the event, the particulars required to be registered according to the Forms prescribed under Section 7 touching every such birth and death, as the case may be, which has not already been registered.

16. When the birth of any child has been registered

Entry of name of child.

without name, the parent or guardian of such child may, within twelve months next after the registration of

birth, require the Registrar to enter in the register the name of such child and the Registrar shall thereupon enter the name, and shall initial and date the entry.

17. Subject to any Rules which Our Government may

Search of birth and and death registers.

make under Section 20, any person may, at all reasonable times, on payment of a fee of seven chuckrams for

each visit, search any register of births and deaths, and may on payment of a further fee of seven chuckrams obtain an extract from such register relating to any birth or death registered therein.

SEC. 18. REGISTRATION OF BIRTHS AND DEATHS.

All copies of extracts given under this Section shall be certified to be true copies of such extracts and may be produced in proof of the entries of which they purport to be copies.

18. Any person who—

Penalty for omission to give information, etc., (1) fails without reasonable cause to give any information which it is his duty to give under Sections 8, 9, 10, 11 and 12 of this Act ; or

(2) gives, or causes to be given, for the purpose of being inserted in any register of births or deaths any information which is false and which he knows or believes to be false touching any of the particulars required to be known and registered ; or

(3) refuses to write his name, description and place of abode or to put his mark in the register as required by Section 13 ;

shall, on conviction before a Magistrate, be liable to a fine not exceeding ten rupees.

19. (1) No prosecution in respect of any offence punishable under this Act shall be instituted except under the order of the [District Registrar] having jurisdiction over the village in which the offence was committed or of any Officer to whom the [District Registrar] is subordinate.

Prosecutions not to be instituted except under the order of [District Registrar] or [Registrar General].

The [Registrar-General] or any Officer generally or specially empowered by him in this behalf may stay such prosecution.

(2) In prosecutions for offences under the provisions of this Act, the accused person may appear and be defended by agents. Accused persons may appear and be defended by agents. of right be defended by an agent ;

Provided that the Magistrate may at any stage of the proceedings, for reasons to be recorded in writing, direct the personal attendance of the accused.

Sec. 19. The word "District Registrar" was substituted for the word 'Tahsildar' and the words "Registrar General" for 'division Peishkar' by Sec. 6, Act XXIX of 1120.

(3) The [District Registrar] may accept, from any person against whom a reasonable suspicion exists that he has committed an offence against this Act or any Rule framed hereunder, a sum of money not exceeding ten rupees by way of composition for such offence.

Power to compound offences.

20. Our Government may, after previous publication, make Rules—

Power of Government to frame Forms and make Rules.

(1) [with reference to all matters expressly required or allowed by this Act to be prescribed ;

(2) defining the powers, duties and functions of the Registrar-General, District Registrars, Taluk Registrars and Registrars];

(3) for the conduct of the duties of the Registrar during his absence on other duty or on account of illness or other cause ;

(4) for the custody, production and transfer of the registers and other records kept by Registrars ;

(5) for the correction of clerical errors which may be discovered in the registers of births or registers of deaths ; and

(6) generally to carry out the provisions of this Act.

Sec. 20. Clauses (1) and (2) were substituted by Sec. 7 Act XXIX of 120. The old clauses ran as follows "(i) prescribing the Forms of registers of births and deaths required to be kept under this Regulation (ii) for the inspection and examination of the registers maintained under Section 5."

ACT IX OF 1096

AN ACT TO AMEND THE TRAVANCORE ANCHAL ACT IX OF 1089.

*Passed by His Highness the Maha Raja of Travancore
under date the 23rd Karkatakam 1096, correspond-
ing with the 7th August 1921, under Section 11
of Act I of 1095.*

Whereas it is expedient to amend the Travancore Anchal Act, IX of 1089; It is hereby enacted as follows :—

With effect from the first day of Kanni 1097, for the Schedule to the Travancore Anchal Act, IX of 1089, substitute the Schedule appended to this Act.

SCHEDULE OF ANCHAL RATES.

(See Section 8).

	Rs.	chs.	c.	Rs.	as.	ps.
Anchal cards	6	...	...	2 10/19

LETTERS.

For a weight not exceeding one tola...	...	...	12	...	...	5 1/19
For a weight exceeding one tola and not exceeding five tolas	...	...	1 8	...	...	10 2/19
For every five tolas or fraction thereof exceeding five tolas	...	...	1 8	...	...	10 2/19

BOOK, PATTERN AND SAMPLE PACKETS.

For a weight not exceeding ten tolas.	...	...	12	...	...	5 1/19
For every ten tolas or fraction thereof exceeding ten tolas	...	...	12	...	...	5 1/19

(Note.—Book packets—maximum 400 tolas. Pattern and sample packets—maximum 40 tolas).

NEWSPAPERS.

For a weight not exceeding eight tolas	...	...	6	...	...	2 10/19
For a weight exceeding eight tolas and not exceeding forty tolas	...	...	12	...	...	5 1/19
For every forty tolas or fraction thereof exceeding forty tolas	...	...	12	...	...	5 1/19

PARCELS.

For a weight not exceeding twenty tolas	...	...	3	...	...	1 8 4/19
For a weight exceeding twenty tolas and not exceeding forty tolas	...	...	4 8	...	...	2 6 6/19
For every forty tolas or fraction thereof exceeding forty tolas	...	...	4 8	...	...	2 6 6/19

(Note.—Parcels—maximum 600 tolas.)

REGISTRATION.

On all articles	...	...	3	...	...	1 8 4/19
Acknowledgment	...	...	1	...	...	6 14/19

HUNDIS.

	Rs.	chs.	c.	Rs.	as.	ps.
For an amount not exceeding five British rupees	1 8	...	...	102 1/19
For an amount exceeding five British rupees and not exceeding ten British rupees	3	...	...	1 8 4/19
For an amount exceeding ten British rupees and not exceeding fifteen British rupees	4 8	...	2	66 1/19
For an amount exceeding fifteen British rupees and not exceeding twenty five British rupees	6	...	...	3 4 8/19
(Note.—Maximum amount of an order—British rupees five hundred.)						

ACT X OF 1096.

AN ACT FURTHER TO AMEND THE PREVENTION OF
CRUELTY TO ANIMALS ACT, IV OF 1079, AS
AMENDED BY ACT II OF 1089.

*Passed by His Highness the Maha Raja of Travancore
under date the 23rd Karkatakam 1096, correspond-
ing with the 7th August 1921, under Section
11 of Act I of 1095.*

Whereas it is expedient further to amend the Pre-
vention of Cruelty to Animals Act, IV of 1079, as amended
by Act II of 1089 ; It is hereby enacted as follows :—

1. Substitute the following for Section 8 of the exist-
ing Act :—

“8. (1) A prosecution for an offence under this Act
may be instituted by or under the
Prosecution. 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.”

2. Add the following as Section 8-A :—

“8-A. (1) Any Police-Officer may arrest without a
warrant any person committing in
Arrest without his view any offence under this Act
warrant. 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 execu-
ting 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.

SEC. 3. THE PREVENTION OF CRUELTY TO ANIMALS.

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."

3. Section 9. Substitute "Commissioner of Police" for "Superintendent of Police", and "District Superintendent of Police" for "Assistant Superintendent of Police."
Substitution of terms.

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ACT I OF 1097.

AN ACT TO MAKE PROVISION FOR FACILITATING AND REGULATING THE SUPPLY AND USE OF ELECTRICAL ENERGY FOR LIGHTING AND OTHER PURPOSES.

Passed by His Highness the Maha Raja of Travancore, under date the 29th Chingom 1097 corresponding with the 14th September 1921, under Section 13 of Act I of 1095.

Preamble. Whereas it is expedient to make provision for facilitating and regulating the supply and use of electrical energy for lighting and other purposes :

We are pleased to enact as follows :—

PART I.

PRELIMINARY.

1. (1) This Act may be called "The Travancore Electricity Act, 1097.

Short title, extent and commencement.

(2) It extends to the whole of Travancore.

(3) It shall come into force on such date as Our Government may, by Notification in Our Government Gazette, direct in this behalf.

Act I of 1097. This Act was passed direct by His Highness the Maha Raja. It was published in *T. G. G. dated 20-9-1921*. It follows closely the Indian Electricity Act IX of 1910.

It may be noted that a Bill was introduced in the Council and referred to a Select Committee. It was then pointed out by the Committee that measures affecting the Railways or the Telegraphs not being within the cognisance of the Council, had to be deleted and should be provided for otherwise. But the official member was of opi-

nion that the Act should be self-contained. Hence permission was sought for to withdraw the Bill and it was granted. *Vide T. G. G. dated 7-9-1920; 18-1-1921 and 6-9-1921.*

It may also be noted that the Electricity (Emergency) Proclamation, 1119 was issued empowering the Electrical Engineer to regulate, restrict etc. the use or consumption of electrical energy from any State owned electrical energy supply. This Proclamation is still in force. For Proclamation see *supra*.

2. Unless otherwise provided for in this Act, expressions defined in the British Telegraph Protection Act, III of 1091, have the meanings assigned to them in that Act, and, unless there is anything repugnant in the subject or context,—

Definitions.

- (a) "Aerial line" means any electric supply-line which is placed above ground and in the open air ;
- (b) "Area of supply" means the area within which alone a licensee is for the time being authorised by his license to supply energy ;
- (c) "Consumer" means any person who is supplied with energy by a licensee, or whose premises are for the time being connected for the purposes of a supply of energy with the works of a licensee :
- (d) "Daily fine" means a fine for each day on which an offence is continued after conviction therefor :
- (e) "Distributing main" means the portion of any main with which a service line is, or is intended to be, immediately connected :
- (f) "Electric supply-line" means a wire, conductor or other means used for conveying, transmitting or distributing energy, together with any casing, coating, covering, tube, pipe or insulator enclosing, surrounding or supporting the same or any part thereof, or any apparatus connected therewith for the purpose of so conveying, transmitting or distributing such energy :
- (g) "Energy" means electrical energy when generated, transmitted, supplied or used for any purpose except the transmission of a message :
- (h) "Licensee" means any person licensed under Part II to supply energy :

- (i) "Main" means any electric supply-line through which energy is, or is intended to be, supplied by a licensee to the public :
- (j) "Prescribed" means prescribed by Rules made under this Act :
- (k) "Public lamp" means an electric lamp used for the lighting of any street :
- (l) "Service line" means any electric supply-line through which energy is, or is intended to be, supplied by a licensee—
- (i) to a single consumer either from a distributing main or immediately from the licensee's premises, or
 - (ii) from a distributing main to a group of consumers on the same premises, or on adjoining premises supplied from the same point of the distributing main :
- (m) "Street" includes any way, road, lane, square, court, alley, passage or open space, whether a thorough-fare or not, over which the public have a right of way, and also the roadway, and footway over any public bridge or causeway :
- (n) "Telegraph" means an electric, galvanic or magnetic telegraph, and includes appliances and apparatus for making, transmitting or receiving telegraphic, telephonic or other communications by means of electricity, galvanism or magnetism : and
- (o) "Works" includes electric supply-lines and any buildings, machinery or apparatus required to supply energy and to carry into effect the objects of a license granted under Part II.

PART II.

SUPPLY OF ENERGY.

Licenses.

3. (1) Our Government may, on application made in the prescribed form and on payment of the prescribed fee (if any), grant to any person a license to supply energy in any specified area, and also to lay down or place electric supply-lines for the conveyance and transmission of energy,—

- (a) where the energy to be supplied is to be generated outside such area, from a generating station situated outside such area to the boundary of such area, or
- (b) where energy is to be conveyed or transmitted from any place in such area to any other place therein, across an intervening area not included therein, across such area.

(2) In respect of every such license and the grant thereof the following provisions shall have effect, namely:—

- (a) any person applying for a license under this Part shall publish a notice of his application in the prescribed manner and with the prescribed particulars, and the license shall not be granted until all objections received by Our Government with reference thereto have been considered by them ;

Provided that no objection shall be so considered unless it is received before the expiration of three months from the date of the first publication of such notice as aforesaid ;

- (b) where an objection is received from any local authority concerned, Our Government shall, if in their opinion the objection is insufficient, record in writing, and communicate to such local authority their reasons for such opinion ;

- (c) no application for a license under this Part, shall be made by any local authority except in pursuance of a resolution passed at a meeting of such authority held after one month's previous notice of the same and of the purpose thereof has been given in the manner in which notices of meetings of such local authority are usually given ;
- (d) a license under this Part—
- (i) may prescribe such terms as to the limits within which, and the conditions under which, the supply of energy is to be compulsory or permissive, and as to the limits of price to be charged in respect of the supply of energy, and generally as to such matters as Our Government may think fit ; and
 - (ii) save in cases in which under Section 10, Clause (b), the provisions of Sections 5 and 7 or either of them, have been declared not to apply, every such license shall declare whether any generating station to be used in connection with the undertaking shall or shall not form part of the undertaking for the purpose of purchase under Section 5 or Section 7 ;
- (e) the grant of a license under this Part for any purpose shall not in any way hinder or restrict the grant of a license to another person within the same area of supply for a like purpose ;
- (f) the provisions contained in the Schedule shall be deemed to be incorporated with, and to form part of, every license granted under this Part, save in so far as they are expressly added to, varied or excepted by the license, and shall, subject to any such additions, variations or exceptions which Our Government are hereby empowered to make, apply to the undertaking authorised by the license ;

Provided that, where a license is granted in accordance with the provisions of Clause IX of the Schedule for the supply of energy to other licensees for distribution by them, then, in so far as such license relates to such supply, the provisions of Clauses IV, V, VI, VII, VIII and XIII of the Schedule shall not be deemed to be incorporated with the license.

4. (1) Our Government may, if in their opinion the public interest so requires, revoke a license in any of the following cases, namely :—

Revocation or amendment of licenses.

- (a) where the licensee, in the opinion of Our Government, makes wilful and unreasonably prolonged default in doing anything required of him by or under this Act ;
- (b) where the licensee breaks any of the terms or conditions of his license the breach of which is expressly declared by such license to render it liable to revocation ;
- (c) where the licensee fails, within the period fixed in this behalf by his license or any longer period which Our Government may substitute therefor by order under Sub-section (3), Clause (b), and before exercising any of the powers conferred on him thereby in relation to the execution of works,—
 - (i) to show, to the satisfaction of Our Government, that he is in a position fully and efficiently to discharge the duties and obligations imposed on him by his license, or
 - (ii) to make the deposit or furnish the security required by his license ;
- (d) where the licensee is, in the opinion of Our Government, unable, by reason of his insolvency, fully and efficiently to discharge the duties and obligations imposed on him by his license.

(2) Where Our Government might, under Sub-section (1), revoke a license, they may, instead of revoking the license, permit it to remain in force subject to such further terms and conditions as they think fit to impose, and any further terms or conditions so imposed shall be binding upon, and be observed by, the licensee, and shall be of like force and effect as if they were contained in the license.

(3) Where in their opinion the public interest so permits, Our Government may, on the application or with the consent of the licensee, and, if the licensee is not a local authority, after consulting the local authority (if any) concerned.—

(a) revoke a license as to the whole or any part of the area of supply upon such terms and conditions as they think fit ; or

(b) make such alterations or amendments in the terms and conditions of a license, including the provisions specified in Section 3, Sub-section (2), Clause (f), as they think fit.

5. Where Our Government revoke, under section 4, Sub-section (1), the license of a licensee, not being a local authority, the following provisions shall have effect, namely :—

Provisions where license of licensee not being a local authority is revoked.

(a) Our Government shall serve a notice of the revocation upon the licensee, and, where the whole of the area of the supply is included in the area for which a single local authority is constituted, upon that local authority also, and shall in the notice fix a date on which the revocation shall take effect; and on and with effect from that date, all the powers and liabilities of the licensee under this Act shall absolutely cease and determine ;

(b) where a notice has been served on a local authority under Clause (a), the local authority may, within three months after the service of the notice and with the written consent of Our Government, by notice in

writing, require the licensee to sell, and thereupon the licensee shall sell, the undertaking to the local authority on payment of the value of all lands, buildings, works, materials and plant of the licensee suitable to, and used by him for, the purposes of the undertaking, other than a generating station declared by the license not to form part of the undertaking for the purpose of purchase, such value to be in case of difference or dispute, determined by arbitration :

Provided that the value of such lands, buildings, works, materials and plant shall be deemed to be their fair market-value at the time of purchase, due regard being had to the nature and condition for the time being of such lands, buildings, works, materials and plant, and to the state of repair thereof, and to the circumstance that they are in such a position as to be ready for immediate working, and to the suitability of the same for the purposes of the undertaking, but without any addition in respect of compulsory purchase or of good-will or of any profits which may be or might have been made from the undertaking, or of any similar considerations ;

- (c) where no purchase has been effected by the local authority under Clause (b), and any other person is willing to purchase the undertaking, Our Government may, if they think fit, with the consent of the licensee, or without the consent of the licensee in case the price is not less than that for which the local authority might have purchased the same, require the licensee to sell, and thereupon the licensee shall sell, the undertaking to such other person ;
- (d) where no purchase has been effected under Clause (b) or Clause (c) within such time as Our Government may consider reasonable, or where the whole of the area of

supply is not included in the area for which a single local authority is constituted, Our Government shall have the option of purchasing the undertaking and if Our Government elect to purchase, the licensee shall sell the undertaking to Our Government upon terms and conditions similar to those set forth in Clause (b) ;

(e) where a purchase has been effected under any of the preceding Clauses :—

(i) the undertaking shall vest in the purchasers free from any debts, mortgages or similar obligations of the licensee or attaching to the undertaking :

Provided that any such debts, mortgages or similar obligations shall attach to the purchase-money in substitution for the undertaking ; and

(ii) the revocation of the license shall extend only to the revocation of the rights, powers, authorities, duties and obligations of the licensee from whom the undertaking is purchased, and, save as aforesaid, the license shall remain in full force and the purchaser shall be deemed to be the licensee. Provided that where Our Government elect to purchase under Clause (d), the license shall, after purchase, in so far as Our Government are concerned, cease to have any further operation ;

(f) where no purchase has been effected under any of the foregoing Clauses, the licensee shall have the option of disposing of all lands, buildings, works, materials and plant belonging to the undertaking in such manner as he may think fit :

Provided that, if the licensee does not exercise such option within a period of six months from the date on which the same became exercisable, Our Government may

forthwith cause the works of the licensee in, under, over, along or across any street to be removed and every such street to be reinstated, and recover the cost of such removal and reinstatement from the licensee ;

(g) if the licensee has been required to sell the undertaking, and if the sale has not been completed by the date fixed in the notice issued under Clause (a), the purchaser may, with the previous sanction of Our Government, work the undertaking pending the completion of the sale.

6. (1) Where Our Government revoke the license of a local authority under Section 4, Sub-section (1), and any person is willing to purchase the undertaking, Our Government may, if they think fit, require the local authority to sell, and thereupon the local authority shall sell the undertaking to such person on such terms as Our Government think just.

Provisions where license of local authority is revoked.

(2) Where no purchase has been effected under Sub-section (1), the licensee shall have the option of disposing of all lands, buildings, works, materials and plant belonging to the undertaking in such manner as he may think fit :

Provided that, if the licensee does not exercise such option within a period of six months from the date on which the same became exercisable, Our Government may forthwith cause the works of the licensee in, under, over, along or across any street to be removed and every such street to be reinstated, and recover the cost of such removal and reinstatement from the licensee.

7. (1) Where a license has been granted to any person not being a local authority, and the whole of the area of supply is included in the area for which a single local authority is constituted, the local authority shall, on the expiration of such period, not exceeding fifty years and, of every such subsequent period not exceeding

Purchase of undertaking.

twenty years, as shall be specified in this behalf in the license, have the option of purchasing the undertaking, and, if the local authority, with the previous sanction of Our Government, elects to purchase, the licensee shall sell the undertaking to the local authority on payment of the value of all lands, buildings, works, materials and plant of the licensee suitable to, and used by him, for the purpose of the undertaking, other than a generating station declared by the license not to form part of the undertaking, for the purposes of purchase, such value to be in case of difference or dispute, determined by arbitration :

Provided that the value of such lands, buildings, works, materials and plant shall be deemed to be their fair market-value at the time of purchase, due regard being had to the nature and condition for the time being of such lands, buildings, works, materials and plant, and to the state of repair thereof and to the circumstance that they are in such a position as to be ready for immediate working, and to the suitability of the same for the purposes of the undertaking :

Provided also that there shall be added to such value as aforesaid such percentage, if any, not exceeding twenty per centum on that value as may be specified in the license, on account of compulsory purchase.

(2) Where—

- (a) the local authority does not elect to purchase under Sub-section (1), or
- (b) the whole of the area of supply is not included in the area for which a single local authority is constituted, or
- (c) a licensee supplies energy from the same generating station to two or more areas of supply, each controlled by its own local authority and has been granted a license in respect of each area of supply,

Our Government shall have the like option upon the like terms and conditions.

(3) Where a purchase has been effected under Sub-section (1) or Sub-section (2),—

(a) the undertaking shall vest in the purchasers free from any debts, mortgages or similar obligations of the licensee or attaching to the undertaking :

Provided that any such debts, mortgages or similar obligations shall attach to the purchase-money in substitution for the undertaking ; and

(b) save as aforesaid, the license shall remain in full force, and the purchaser shall be deemed to be the licensee :

Provided that, where Our Government elect to purchase under Sub-section (2), the license shall, after purchase, in so far as Our Government are concerned, cease to have any further operation.

(4) Not less than two years' notice in writing of any election to purchase under this Section shall be served upon the licensee by the local authority or Our Government, as the case may be.

(5) Notwithstanding anything hereinbefore contained, a local authority may, with the previous sanction of Our Government, waive its option to purchase and enter into an agreement with the licensee for the working by him of the undertaking until the expiration of the next subsequent period referred to in Sub-section (1), upon such terms and conditions as may be stated in such agreement.

8. Where, on the expiration of any of the periods referred to in Section 7, Sub-section

Provisions where no purchase and license revoked with consent of licensee.

(1), neither a local authority nor Our Government purchase the undertaking and the license is, on the application or with the consent of the licensee, revoked, the licensee shall have the option of disposing of all lands, buildings, works, materials and plant belonging to the undertaking in such manner as he may think fit :

Provided that, if the licensee does not exercise such option within a period of six months, Our Government may proceed to take action as provided in Section 5, Clause (f), Proviso.

9 (1) The licensee shall not, at any time without the previous consent in writing of Our Government, acquire, by purchase or otherwise, the license or the undertaking of, or associate himself so far as the business of supplying energy is concerned with, any person supplying, or intending to supply, energy under any other license, and, before applying for such consent, the licensee shall give not less than one month's notice of the application to every local authority, both in the licensee's area of supply, and also in the area or district in which such other person supplies, or intends to supply, energy :

Provided that nothing in this Sub-section shall be construed to require the consent of Our Government for the supply of energy by one licensee to another in accordance with the provisions of Clause IX of the Schedule.

(2) The licensee shall not at any time assign his license or transfer his undertaking, or any part thereof, by sale, mortgage, lease, exchange or otherwise without the previous consent in writing of Our Government.

(3) Any agreement relating to any transaction of the nature described in Sub-section (1) or Sub-section (2), unless made with, or subject to such consent as aforesaid, shall be void.

10. Notwithstanding anything in Sections 5, 7, and 8, Our Government may, in any license to be granted under this Act,—
 General power for Government to vary terms of purchase.

(a) vary the terms and conditions upon which, and the periods on the expiration of which the licensee shall be bound to sell his undertaking, or

(b) direct that, subject to such conditions and restrictions (if any) as they may think fit to impose, the provisions of the said Sections or any of them shall not apply.

11. (1) Every licensee shall, unless expressly exempted from the liability by his license, or by order in writing of Our Government, prepare and render to Our Government, or to such authority as Our Government may appoint in this behalf on or before the prescribed date in each year, an annual statement of accounts of his undertaking made up to such date, in such form, and containing such particulars as may be prescribed in this behalf.

(2) The licensee shall keep copies of such annual statement at his office, and sell the same to any applicant at a price not exceeding five rupees per copy.

Works.

12. (1) Any licensee may, from time to time but subject always to the terms and conditions of his license, within the area of supply, or when permitted by the terms of his license to lay down or place electric supply-lines without the area of supply, without that area.—

Provisions as to the opening and breaking up of streets, railways and tramways.

- (a) open and break up the soil and pavement of any street, railway or tramway ;
- (b) open and break up any sewer, drain or tunnel in or under any street, railway or tramway ;
- (c) lay down and place electric supply-lines and other works ;
- (d) repair, alter or remove the same ; and
- (e) do all other acts necessary for the due supply of energy.

(2) Nothing contained in Sub-section (1) shall be deemed to authorise or empower a licensee, without the consent of the local authority or of the owner and occupier

concerned, as the case may be, to lay down or place any electric supply-line or other work in, through or against any building, or on, over or under any land not dedicated to public use whereon, wherever or whereunder any electric supply-line or work has not already been lawfully laid down or placed by such licensee :

Provided that any support of an aerial line or any stay or strut required for the sole purpose of securing in position any support of aerial line may be fixed on any building or land or, having been so fixed, may be altered, notwithstanding the objection of the owner or occupier of such building or land, if the District Magistrate by order in writing so directs :

Provided also that, if at any time the owner or occupier of any building, or land on which any such support, stay or strut has been fixed shows sufficient cause, the District Magistrate may, by order in writing direct any such support, stay or strut to be removed or altered.

(3) When making an order under Sub-section (2), the District Magistrate shall fix the amount of compensation or of annual rent, or of both, which should in his opinion be paid by the licensee to the owner or occupier.

(4) Every order made by a District Magistrate under Sub-section (2) shall be subject to revision by Our Government.

(5) Nothing contained in Sub-section (1) shall be deemed to authorise or empower any licensee to open or break up any street not repairable by Our Government or a local authority, or any railway or tramway, except such streets, railways or tramways (if any), or such parts thereof, as he is specially authorised to break up by his license without the written consent of the person by whom the street is repairable or of the person for the time being entitled to work the railway or tramway, unless with the written consent of Our Government :

Provided that Our Government shall not give any such consent as aforesaid, until the licensee has given notice by advertisement or otherwise as Our Government may direct, and within such period as Our Government may fix in this behalf, to the person above referred to and

until all representations or objections received in accordance with the notice have been considered by Our Government.

13. (1) Where the exercise of any of the powers of a licensee in relation to the execution of any works involves the placing of any works in, under, over, along or across any street, part of a street, railway, tramway canal or waterway, the following provision shall have effect, namely;—

(a) not less than one month before commencing the execution of the works (not being a service-line immediately attached, or intended to be immediately attached, to a distributing main, or the repair, renewal or amendment of existing works of which the character or position is not to be altered), the licensee shall serve upon² the person responsible for the repair of the street or part of a street (hereinafter in this Section referred to as "the repairing authority") or upon the person for the time being entitled to work the railway, tramway, canal or waterway (hereinafter in this Section referred to as the "the owner") as the case may be, a notice in writing describing the proposed works, together with a section and plan thereof on a scale sufficiently large to show clearly the details of the proposed works, and not in any case smaller than one inch to eight feet vertically and sixteen inches to the mile horizontally and intimating the manner in which, and the time at which, it is proposed to interfere with or alter any existing works, and shall, upon being required to do so by the repairing authority or owner, as the case may be, from time to time, give such further information in relation thereto as may be desired;

(b) if the repairing authority intimates to the licensee that it disapproves of such works, section or plan or approves thereof subject

to amendment, the licensee may, within one week of receiving such intimation, appeal to Our Government, whose decision, after considering the reasons given by the repairing authority for its action, shall be final ;

- (c) if the repairing authority fails to give notice in writing of its approval or disapproval to the licensee within one month, it shall be deemed to have approved of the works, section and plan, and the licensee, after giving not less than forty-eight hours' notice in writing to the repairing authority, may proceed to carry out the works in accordance with the notice and the section and plan served under Clause (a) ;
- (d) if the owner disapproves of such works, section or plan, or approves thereof subject to amendment, he may, within three weeks after the service of the notice under Clause (a), serve a requisition upon the licensee demanding that any question in relation to the works or to compensation, or to the obligations of the owner to others in respect thereof, shall be determined by arbitration, and thereupon the matter shall, unless settled by agreement, be determined by arbitration ;
- (e) where no requisition has been served by the owner upon the licensee under Clause (d), within the time named, the owner shall be deemed to have approved of the works, section and plan, and in that case, or where after a requisition for arbitration the matter has been determined by arbitration, the works may, upon payment or securing of compensation, be executed according to the notice and the section and plan, subject to such modifications as may have been determined by arbitration or agreed upon between the parties ;

- (f) where the works to be executed consist of the laying of any underground service-line immediately attached, or intended to be immediately attached, to a distributing main, the licensee shall give to the repairing authority or the owner, as the case may be, not less than forty-eight hours' notice in writing of his intention to execute such works ;
- (g) where the works to be executed consist of the repair, renewal or amendment of existing works of which the character or position is not to be altered, the licensee shall, except in cases of emergency, give to the repairing authority, or to the owner, as the case may be, not less than forty-eight hours' notice in writing of his intention to execute such works, and, on the expiry of such notice, works shall be commenced forthwith and shall be carried on, with all reasonable despatch, and, if possible, both by day and by night, until completed.

(2) Where the licensee makes default in complying with any of these provisions, he shall make full compensation for any loss or damage incurred by reason thereof, and, where any difference or dispute arises as to the amount of such compensation, the matter shall be determined by arbitration.

(3) Notwithstanding anything in this Section, the licensee may, in case of emergency due to the breakdown of an underground electric supply-line after giving notice in writing to the repairing authority or the owner, as the case may be, of his intention to do so, place an aerial line without complying with the provisions of Subsection (1) :

Provided that such aerial line shall be used only until the defect in the underground electric supply-line can be made good, and in no case (unless with the written consent of Our Government) for a period exceeding six weeks, and shall be removed as soon as may be after such defect is removed.

14. (1) Any licensee may alter the position of any pipe (not forming, in case where the licensee is not a local authority, part of a local authority's main sewer), or of any wire under or over any place which he is authorised to open or break up, if such pipe or wire is likely to interfere with the exercise of his powers under this Act; and any person may alter the position of any electric supply-lines or works of a licensee under or over any such place as aforesaid, if such electric supply-lines or works are likely to interfere with the lawful exercise of any powers vested in him.

(2) In any such case as aforesaid, the following provisions shall, in the absence of an agreement to the contrary between the parties concerned, apply, namely:—

- (a) not less than one month before commencing any alteration, the licensee or other person desiring to make the same (hereinafter in this Section referred to as "the operator") shall serve upon the person for the time being entitled to the pipe, wire, electric supply-lines or works as the case may be (hereinafter in this Section referred to as "the owner"), a notice in writing, describing the proposed alteration, together with a section and plan thereof on a scale sufficiently large to show clearly the details of the proposed works, and not in any case smaller than one inch to eight feet vertically and sixteen inches to the mile horizontally, and intimating the time when it is to be commenced, and shall subsequently give such further information in relation thereto as the owner may desire;
- (b) within fourteen days after the service of the notice, section and plan upon the owner, the owner may serve upon the operator a requisition to the effect that any question arising upon the notice, section or plan shall be determined by arbitration, and thereupon the matter shall, unless settled by agreement, be determined by arbitration;

- (c) every arbitrator to whom a reference is made under Clause (b) shall have regard to any duties or obligations which the owner is under, and may require the operator to execute any temporary or other works so as to avoid as far as possible, interference therewith ;
- (d) where no requisition is served upon the operator under Clause (b) within the time named, or where such a requisition has been served and the matter has been settled by agreement or determined by arbitration, the alteration may, upon payment or securing of any compensation accepted or determined by arbitration, be executed in accordance with the notice, section and plan and subject to such modifications as may have been determined by arbitration or agreed upon between the parties ;
- (e) the owner may, at any time before the operator is entitled to commence the alteration, serve upon the operator a statement in writing to the effect that he desires to execute the alteration himself and requires the operator to give such security for the repayment of any expenses as may be agreed upon or, in default of agreement, determined by arbitration ;
- (f) where a statement is served upon the operator under Clause (e), he shall, not less than forty-eight hours before the execution of the alteration is required to be commenced, furnish such security and serve upon the owner a notice in writing intimating the time when the alteration is required to be commenced, and the manner in which it is required to be made; and thereupon the owner may proceed to execute the alteration as required by the operator ;

- (g) where the owner declines to comply, or does not, within the time and in the manner prescribed by a notice served upon him under Clause (f), comply with the notice, the operator may himself execute the alteration;
- (h) all expenses properly incurred by the owner in complying with a notice served upon him by the operator under Clause (f) may be recovered by him from the operator.

(3) Where the licensee or other person desiring to make the alteration makes default in complying with any of these provisions, he shall make full compensation for any loss or damage incurred by reason thereof, and, where any difference or dispute arises as to the amount of such compensation, the matter shall be determined by arbitration.

15. (1) Where—

Laying of electric supply lines or other works near sewers, pipes or other electric supply-lines or works

(a) the licensee requires to dig or sink any trench for laying down any new electric supply-lines or other works near to which any sewer, drain, water course or work under the control of Our Government or of any local authority, or any pipe, syphon, electric supply-line or other work belonging to any duly authorised person, has been lawfully placed, or

- (b) any duly authorised person requires to dig or sink any trench for laying down or constructing any new pipes or other works near to which any electric supply-lines or works of a licensee have been lawfully placed,

the licensee or such duly authorised person, as the case may be (hereinafter in this Section referred to as "the operator"), shall unless it is otherwise agreed upon between the parties interested or in case of sudden emergency, give to Our Government or local authority, or to such duly authorised person or to the licensee, as the case may be (hereinafter in this Section referred to as "the

owner"), not less than forty-eight hours' notice in writing before commencing to dig or sink the trench, and the owner shall have the right to be present during the execution of the work, which shall be executed to the reasonable satisfaction of the owner.

(2) Where the operator finds it necessary to undermine, but not to alter, the position of any pipe, electric supply-line or work, he shall support it in position during the execution of the work, and before completion shall provide a suitable and proper foundation for it where so undermined.

(3) Where the operator (being the licensee) lays any electric supply-line across, or so as to be liable to touch, any pipes, lines or service-pipes or service-lines belonging to any duly authorised person or to any person supplying, transmitting or using energy under this Act, he shall not, except with the written consent of such person and in accordance with Section 35, Sub-section (1), lay his electric supply-lines so as to come into contact with any such pipes, lines, or service-pipes or service-lines.

(4) Where the operator makes default in complying with any of the provisions of this Section, he shall make full compensation for any loss or damage incurred by reason thereof.

(5) Where any difference or dispute arises under this Section, the matter shall be determined by arbitration.

(6) Where the licensee is a local authority, the references in this Section to the local authority and to sewers, drains, water-courses or works under its control shall not apply.

16. (1) Where any person, in exercise of any of the powers conferred by or under this Act, opens or breaks up the soil or pavement of any street, railway or tramway, or any sewer, drain or tunnel, he shall,

Streets, railways, tramways, sewers, drains or tunnels broken up to be reinstated without delay.

(a) immediately cause the part opened or broken up to be fenced and guarded;

- (b) before sunset cause a light or lights, sufficient for the warning of passengers, to be set up and maintained until sunrise against or near the part opened or broken up;
- (c) with all reasonable speed fill in the ground and reinstate and make good the soil or pavement, or the sewer, drain or tunnel, opened or broken up, and carry away the rubbish occasioned by such opening or breaking up; and
- (d) after reinstating and making good the soil or pavement or the sewer, drain or tunnel broken or opened up, keep the same in good repair for three months and for any further period, not exceeding nine months, during which subsidence continues.

(2) Where any person fails to comply with any of the provisions of Sub-section (1), the person having the control or management of the street, railway, tramway, sewer, drain or tunnel in respect of which the default has occurred, may cause to be executed the work which the defaulter has delayed or omitted to execute, and may recover from him the expenses incurred in such execution.

(3) Where any difference or dispute arises as to the amount of the expenses incurred under Sub-section (2), the matter shall be determined by arbitration.

17. (1) A licensee shall, before laying down or placing, within ten yards of any part of any telegraph line, any electric supply-line or other works (not being either service lines or electric supply-lines for the repair, renewal or amendment of existing works of which the character or position is not to be altered), give not less than ten days' notice in writing to the telegraph authority specifying—

- (a) the course of the works or alteration proposed,
- (b) the manner in which the works are to be utilised,

- (c) the amount and nature of the energy to be transmitted, and
- (d) the extent to, and manner in, which (if at all) earth returns are to be used ; and the licensee shall conform with such reasonable requirements, either general or special, as may be laid down by the telegraph authority within that period for preventing any telegraph line from being injuriously affected by such works or alterations :

Provided that, in case of emergency (which shall be stated by the licensee in writing to the telegraph authority) arising from defects in any of the electric supply-lines or other works of the licensee, the licensee shall be required to give only such notice as may be possible after the necessity for the proposed new works or alterations has arisen.

(2) Where the works to be executed consist of the laying or placing of any service-line, the licensee shall, not less than forty-eight hours before commencing the work, serve upon the telegraph authority a notice in writing of his intention to execute such works.

18. (1) Save as provided in Section 13, Sub-section (3), nothing in this Part shall be deemed to authorise or empower a licensee to place any aerial line along or across any street, railway, tramway, canal or waterway unless and until Our Government have communicated to him a general approval in writing of the methods of construction which he proposes to adopt :

Provided that the communication of such approval shall in no way relieve the licensee of his obligations with respect to any other consent required by or under this Act.

(2) Where any aerial line has been placed or maintained by a licensee in breach of the provisions of Sub-section (1), Our Government may require the licensee forthwith to remove the same, or may cause the same to be removed, and recover from the licensee the expenses incurred in such removal.

(3) Where any tree standing or lying near an aerial line or where any structure or other object which has been placed or has fallen near an aerial line subsequently to the placing of such line interrupts or interferes with or is likely to interrupt or interfere with the conveyance or transmission of energy, or the accessibility of any works, a Magistrate of the First Class may on the application of the licensee, cause the tree, structure or object to be removed or otherwise dealt with as he thinks fit.

(4) When disposing of an application under Sub-section (3), the Magistrate shall, in the case of any tree in existence before the placing of the aerial line, award to the person interested in the tree such compensation as he thinks reasonable, and such person may recover the same from the licensee.

Explanation.—For the purposes of this Section, the expression “tree” shall be deemed to include any shrub, hedge, jungle-growth or other plant.

19. (1) A licensee shall, in exercise of any of the powers conferred by or under this Act, cause as little damage, detriment or inconvenience as may be, and shall make full compensation for any damage, detriment or inconvenience caused by him or by any one employed by him.

(2) Save in the case provided for in Section 12, Sub-section (3), where any difference or dispute arises as to the amount or the application of such compensation, the matter shall be determined by arbitration.

Supply.

20. For the purposes of this Act, the point at which the supply of energy by a licensee to a consumer shall be deemed to commence shall be determined in such manner as may be prescribed.

Point where supply is delivered.

21. (1) A licensee or any person duly authorised by a licensee may, at any reasonable time, and on informing the occupier of his intention, enter any premises to which energy is or has been supplied by him, for the purpose of :—
- Power for licensee to enter premises and to remove fittings or other apparatus of licensee.
- (a) inspecting and testing the electric supply-lines, meters, fittings, works and apparatus for the supply of energy belonging to the licensee ; or
 - (b) ascertaining the amount of energy supplied or the electrical quantity contained in the supply ; or
 - (c) removing, where a supply of energy is no longer required, or where the licensee is authorised to take away and cut off such supply, any electric supply-lines, meters, fittings, works or apparatus belonging to the licensee.

(2) A licensee or any person authorised as aforesaid may also, in pursuance of a special order in this behalf made by the District Magistrate, and after giving not less than twenty-four hours' notice in writing to the occupier enter any premises to which energy is or has been supplied or is to be supplied, by him for the purpose of examining and testing the electric-wires, fittings, works and apparatus for the use of energy belonging to the consumer.

(3) Where a consumer refuses to allow a licensee or any person authorised as aforesaid to enter his premises in pursuance of the provisions of Sub-section (1) or Sub-section (2), or, when such licensee or person has so entered, refuses to allow him to perform any act which he is authorised by those Sub-sections to perform, or fails to give reasonable facilities for such entry or performance, the licensee may, after giving not less than twenty-four hours' notice in writing to the consumer, cut off the supply to the consumer for so long as such refusal or failure continues, but for no longer.

22. (1) A licensee shall not be entitled to prescribe any special form of appliance for utilising energy supplied by him, or save as provided by Section 24, Sub-section (2), or by Section 27, Sub-section (7), in any way to control or interfere with the use of such energy :

Restrictions on licensee's controlling or interfering with use of energy.

Provided that no person may adopt any form of appliance, or use the energy supplied to him, so as unduly or improperly to interfere with the supply by the licensee of energy to any other person;

(2) Subject to the provisions of Sub-section (1), a licensee may, with the previous sanction of Our Government, make conditions not inconsistent with this Act or with his license or with any Rules made under this Act, to regulate his relations with persons who are or intend to become consumers, and may with the like sanction add to or alter or amend any such conditions ; and any conditions made by a licensee without such sanction shall be null and void.

(3) Our Government may cancel any condition or part of a condition previously sanctioned under Sub-section (2) after giving to the licensee not less than one month's notice in writing of their intention so to do.

(4) Where any difference or dispute arises as to whether a licensee has prescribed any appliance or controlled or interfered with the use of energy in contravention of Sub-section (1) the matter shall be either referred to the Electric Inspector and decided by him or, if the licensee or consumer so desires, determined by arbitration.

23. Where energy is supplied by a licensee, every person within the area of supply shall except in so far as is otherwise provided by the terms and conditions of the license, be entitled, on application, to a supply on the same terms as those on which any other person in the same area is entitled in similar circumstances to a corresponding supply :

Obligation on licensee to supply energy.

Provided that no person shall be entitled to demand or to continue to receive, from a licensee a supply of energy for any premises having a separate supply unless he has agreed with the licensee to pay to him such minimum annual sum as will give him a reasonable return on the capital expenditure, and will cover other standing charges incurred by him in order to meet the possible maximum demand for those premises, the sum payable to be determined in case of difference or dispute by arbitration.

24. (1) A licensee shall not, in making any agreement for the supply of energy, show undue preference to any person, but may, save as aforesaid, make such charges for the supply of energy as may be agreed upon, not exceeding the limits imposed by his license.

Charges for energy to be made without undue preference.

(2) No consumer shall, except with the consent in writing of the licensee, use energy supplied to him under one method of charging in a manner for which a higher method of charging is in force.

(3) In the absence of an agreement to the contrary a licensee may charge for energy supplied by him to any consumer —

- (a) by the actual amount of energy so supplied, or
- (b) by the electrical quantity contained in the supply, or
- (c) by such other method as may be approved by Our Government.

(4) Any charges made by a licensee under Subsection (3) may be based upon, and vary in accordance with any one or more of the following considerations, namely :—

- (a) the consumer's load factor, or
- (b) his total consumption of energy during any stated period, or
- (c) the hours at which the supply of energy is required.

25. (1) Where any person neglects to pay any charge for energy or any sum other than a charge for energy, due from him to a licensee in respect of the supply of energy to him, the licensee may, after giving not less than seven clear days' notice in writing to such person and without prejudice to his right to recover such charge or other sum by suit, cut off the supply and for that purpose cut or disconnect any electric supply-line or other works, being the property of the licensee, through which energy may be supplied, and may discontinue the supply until such charge or other sum, together with any expenses incurred by him in cutting off and re-connecting the supply, are paid, but no longer.

(2) Where any difference or dispute has been referred under this Act to the Electric Inspector before notice as aforesaid has been given by the licensee, the licensee shall not exercise the powers conferred by the Section until the Inspector has given his decision :

Provided that the prohibition contained in this Sub-section shall not apply in any case in which the consumer has failed to comply with a request by the licensee for a deposit with the Electric Inspector of the amount of the licensee's charges or other sums in dispute or with any subsequent request for the deposit of the licensee's further charges for energy as they accrue.

26. Where any electric supply-lines, meters, fittings, works or apparatus belonging to a licensee are placed in or upon any premises, not being in the possession of the licensee, for the purpose of supplying energy, such electric supply-lines, meters, fittings, works and apparatus shall not be liable to be taken in execution under any process of any Civil Court or in any proceedings in insolvency against the person in whose possession the same may be.

27. (1) In the absence of an agreement to the contrary, the amount of energy supplied to a consumer or the electrical quantity contained in the supply shall be ascertained by means of a correct meter, and the licensee shall, if required by the consumer, cause the consumer to be supplied with such a meter:

Meters.

Provided that the licensee may require the consumer to give his security for the price of a meter and enter into an agreement for the hire thereof, unless the consumer elects to purchase a meter.

(2) Where the consumer so enters into an agreement for the hire of a meter, the licensee shall keep the meter correct, and, in default of his doing so, the consumer shall, for so long as the default continues, cease to be liable to pay for the hire of the meter.

(3) Where the meter is the property of the consumer, he shall keep the meter correct and, in default of his doing so, the licensee may, after giving him seven days' notice for so long as the default continues, cease to supply energy through the meter.

(4) The licensee or any person duly authorised by the licensee shall, at any reasonable time and on informing the consumer of his intention, have access to, and be at liberty to inspect and test, and for that purpose, if he thinks fit, take off and remove, any meter referred to in Sub-section (1) ; and, except where the meter is so hired as aforesaid, all reasonable expenses of, and incidental to, such inspecting, testing, taking off and removing shall, if the meter is found to be otherwise than correct be recovered from the consumer; and, where any difference or dispute arises as to the amount of such reasonable expenses, the matter shall be referred to the Electric Inspector, and the decision of such Inspector shall be final :

Provided that the licensee shall not be at liberty to take off or remove any such meter if any difference or dispute of the nature described in Sub-section (6) has arisen until the matter has been determined as therein provided.

(5) A consumer shall not connect any meter referred to in Sub-section (1) with any electric supply-line through which energy is supplied by a licensee, or disconnect the same from any such electric supply-line, without giving to the licensee not less than forty-eight hours' notice in writing of his intention.

(6) Where any difference or dispute arises as to whether any meter referred to in Sub-section (1) is or is not correct, the matter shall be decided, upon the application of either party, by the Electric Inspector, or by a competent person specially appointed by Our Government in this behalf, and, where the meter has, in the opinion of such Inspector or person, ceased to be correct, such Inspector or person shall estimate the amount of the energy supplied to the consumer or the electrical quantity contained in the supply, during such time as the meter shall not in the opinion of such Inspector or person, have been correct; and where the matter has been decided by any person other than the Electric Inspector, an appeal shall lie to the Inspector whose decision shall in every case be final: but save as aforesaid, the register of the meter shall, in the absence of fraud, be conclusive proof of such amount or quantity:

Provided that, before either a licensee or a consumer applies to the Electric Inspector under this Sub-section, he shall give to the other party not less than seven days' notice of his intention so to do.

(7) In addition to any meter which may be placed upon the premises of a consumer in pursuance of the provisions of Sub-section (1), the licensee may place upon such premises such meter, maximum demand indicator or other apparatus as he may think fit for the purpose of ascertaining or regulating either the amount of energy supplied to the consumer, or the number of hours during which the supply is given, or the rate per unit of time at which energy is supplied to the consumer, or any other quantity or time connected with the supply:

Provided that the meter-indicator or apparatus shall not, in the absence of an agreement to the contrary, be placed otherwise than between the distributing mains of the licensee and any meter referred to in Sub-section (1):

Provided also, that, where the charges for the supply of energy depend wholly or partly upon the reading or indication of any such meter, indicator or apparatus as aforesaid, the licensee, shall, in the absence of an agreement to the contrary, keep the meter, indicator or apparatus correct: and the provisions of Sub-sections (4), (5) and (6) shall in that case apply as though the meter, indicator or apparatus were a meter referred to in Sub-section (1).

Explanation.—A meter shall be deemed to be “correct” if it registers the amount of energy supplied, or the electrical quantity contained in the supply, within the prescribed limits of error, and a maximum demand indicator or other apparatus referred to in Sub-section (7) shall be deemed to be “correct” if it complies with such conditions as may be prescribed in the case of any such indicator or other apparatus.

28. Notwithstanding anything in this Act, Our Government may, by order in writing, and subject to such conditions and restrictions, if any, as they think fit to impose, authorise any licensee to supply energy to any person outside the area of supply, and to lay down or place electric supply-lines for that purpose:

Provided, first, that no such authority shall be conferred on the licensee within the area of supply of another licensee without that licensee’s consent unless Our Government consider that his consent has been unreasonably withheld:

Provided, secondly, that such authority shall not be conferred unless the person to whom the supply is to be given has entered into a specific agreement with the licensee for the taking of such supply:

Provided, thirdly, that a licensee on whom such authority has been conferred shall not be deemed to be empowered outside the area of supply to open or break up any street, or any sewer, drain or tunnel or under any street, railway or tramway, or to interfere with any telegraph line without the written consent of the local

authority or person by whom such street, sewer, drain or tunnel is repairable, or of the telegraph authority, as the case may be, unless Our Government consider that such consent has been unreasonably withheld :

Provided, fourthly, that, save as aforesaid, the provisions of this Act shall apply in the case of any supply authorised under this Section as if the said supply were made within the area of supply.

PART III.

SUPPLY, TRANSMISSION AND USE OF ENERGY BY NON-LICENSEES.

29. (1) No person other than a licensee, shall engage in the business of supplying energy except with the previous sanction of Our Government and in accordance with such conditions as Our Government may fix in this behalf and any agreement to the contrary shall be void :

Sanction required by non-licensees in certain cases.

Provided that such sanction shall not be given within the area for which a local authority is constituted, without that local authority's consent, or within the area of supply of any licensee, without that licensee's consent, unless Our Government consider that consent has been unreasonably withheld.

(2) Where any difference or dispute arises as to whether any person is or is not engaging, or about to engage, in the business of supplying energy within the meaning of Sub-section (1), the matter shall be referred to Our Government, and the decision of Our Government thereon shall be final.

30. (1) The local authority may, by order in writing, confer and impose upon any person who has obtained the sanction of Our Government under Section 29 to engage in the business of supplying energy, all or any of the powers and liabilities of a licensee

Power for non-licensees to break up streets.

under Sections 12 to 19, (both inclusive), and the provisions of the said Sections shall thereupon apply as if such person were a licensee under Part II.

(2) A local authority, not being a licensee, shall, for the purpose of lighting any street, have the powers and be subject to the liabilities respectively conferred and imposed by Sections 12 to 19, (both inclusive), so far as applicable, as if it were a licensee under Part II.

(3) In cases other than those for which provision is made by Sub-section (1), the person responsible for the repair of any street may, by order in writing, confer and impose upon any person who proposes to transmit energy in such street all or any of the powers and liabilities of a licensee under Sections 12 to 19, (both inclusive), in so far as the same relate to—

- (a) opening or breaking up of the soil or pavement of such street, or
- (b) laying down or placing electric supply-lines in, under, along or across such street, or
- (c) repairing, altering or removing such electric supply-lines,

and thereupon the provisions of the said Sections shall, so far as aforesaid, apply to such person as if he were a licensee under Part II.

(4) If no order is made within fourteen days after the receipt of an application for the same under Sub-section (1) or Sub-section (3), the order so applied for shall be deemed to have been refused, and every order, and every refusal to make an order, under Sub-section (1) or Sub-section (3) shall be subject to revision by Our Government.

31. (1) No person, other than a licensee duly authorised under the terms of his license, shall transmit or use energy at a rate exceeding two hundred and fifty watts—

Control of transmission and use of energy.

- (a) in any street, or

Sec. 31. Under Clause (1) mines falling under the Indian (b), the Indian Act, includes Mines Act 1901.

- (b) in any place,
- (i) in which one hundred or more persons are likely ordinarily to be assembled, or
 - (ii) which is a factory within the meaning of the Travancore Factories Act V of 1089 or
 - (iii) to which Our Government, by general or special order, declare the provisions of this Sub-section to apply,

without giving not less than seven clear days' notice in writing of his intention to the District Magistrate and complying with such of the provisions of Part IV, and the Rules made thereunder, as may be applicable :

Provided that Our Government may, by general or special order and subject to such conditions and restrictions as may be specified therein, exempt from the application of this Section or of any such provision or Rule as aforesaid any person or class of persons using energy on premises upon or in connection with which it is generated, or using energy supplied under Part II in any place specified in Clause (b).

(2) Where any difference or dispute arises as to whether a place is or is not one in which one hundred or more persons are likely ordinarily to be assembled, the matter shall be referred to Our Government, and the decision of Our Government thereon shall be final.

PART IV.

GENERAL.

Protective Clauses.

32. No person shall, in the generation, transmission, supply or use of energy, in any way injure any railway, tramway, canal or water-way or any dock, wharf or pier vested in or controlled by a local authority, or obstruct or interfere with the traffic on any railway, tramway, canal or water-way.

Protection of rail-ways and canals, docks, wharves and piers.

33. (1) Every person generating, transmitting, supplying or using energy (hereinafter in this Section referred to as the "operator") shall take all reasonable precautions in constructing, laying down and placing his electric supply lines and other works and in working his system so as not injuriously to affect, whether by induction or otherwise the working of any wire or line used for the purpose of telegraphic, telephonic or electric signalling communication, or the currents in such wire or line.

(2) Where any difference or dispute arises between the operator and the telegraph authority as to whether the operator has constructed, laid down or placed his electric supply-lines or other works, or worked his system, in contravention of Sub-section (1) or as to whether the working of any wire, line or current is or is not injuriously affected thereby, the matter shall be referred to Our Government ; and Our Government, unless they are of opinion that the wire or line has been placed in unreasonable proximity to the electric supply-lines or work of the operator after the construction of such lines or works, may direct the operator to make such alterations in, or additions to his system as may be necessary in order to comply with the provisions of this Section, and the operator shall make such alterations or additions accordingly :

Provided that nothing in this Sub-section shall apply to the repair, renewal or amendment of any electric supply-line so long as the course of the electric supply-line and the amount and nature of the energy transmitted thereby are not altered.

(3) Where the operator makes default in complying with the requirements of this Section, he shall make full compensation for any loss or damage incurred by reason thereof, and, where any difference or dispute arises as to the amount of such compensation, the matter shall be determined by arbitration.

Explanation.—For the purposes of this Section, a telegraph line shall be deemed to be injuriously affected

if telegraphic, telephonic or electric signalling communication by means of such line is, whether through induction or otherwise prejudicially interfered with by an electric supply-line or work or by any use made thereof.

34. (1) If any accident occurs in connection with the generation, transmission, supply or use of energy in, or in connection with any part of the electric supply-lines or other works of any person, and the accident results or is likely to have resulted in loss of life or personal injury, such person shall give notice of the occurrence, and of any loss of life or personal injury actually occasioned by the accident, in such form and within such time and to such authorities as Our Government may, by general or special order, direct.

(2) Our Government may, if they think fit, require the Electric Inspector, or any other competent person appointed by them in this behalf, to inquire and report—

(a) as to the cause of any accident affecting the safety of the public, which may have been occasioned by or in connection with the generation, transmission, supply or use of energy, or

(b) as to the manner in and extent to which the provisions of this Act or of any license or Rules thereunder, so far as those provisions affect the safety of any person, have been complied with.

35. (1) No person shall in the generation, transmission, supply or use of energy, permit any part of his electric supply-lines to be connected with earth except so far as may be prescribed in this behalf or may be specially sanctioned by Our Government.

Prohibition of connection with earth and power for Government to interfere in certain cases of default.

(2) If at any time it is established to the satisfaction of Our Government,—

(a) that any part of an electric supply-line is connected with earth contrary to the provisions of Sub-section (1), or

- (b) that any electric supply-lines or other works for the generation, transmission, supply or use of energy are attended with danger to the public safety or to human life or injuriously affect any telegraph line, or
- (c) that any electric supply-lines or other works are defective so as not to be in accordance with the provisions of this Act or of any Rule thereunder,

Our Government may, by order in writing, specify the matter complained of and require the owner or user of such electric supply-lines or other works to remedy it in such manner as shall be specified in the order, and may also in like manner forbid the use of any electric supply-line or works until the order is complied with or for such time as is specified in the order.

Administration and Rules.

36. Our Government may, for the whole of Travancore by Notification in Our Government Advisory Board. Gazette, constitute an advisory Board.

(2) Such Board shall consist of a chairman and not less than two other members.

(3) Our Government may, by general or special order:—

- (a) determine the number of members of which such Board shall be constituted and the manner in which such members shall be appointed,
- (b) define the duties and regulate the procedure of such Board,
- (c) determine the tenure of office of the members of such Board, and
- (d) give directions as to the payment of fees to, and the travelling expenses incurred by, any member of such Board in the performance of his duty.

37. (1) Our Government may, by Notification in Our Government Gazette, appoint a duly qualified person to be the Electric Inspector and the Electric Inspector so appointed shall exercise the powers and perform the functions of the Electric Inspector under this Act within such areas and subject to such restrictions as Our Government may direct.

(2) In the absence of express provision to the contrary in this Act or any Rule thereunder, an appeal shall lie from the decision of the Electric Inspector to Our Government or, if Our Government so direct, to the Advisory Board.

38. (1) Our Government may make Rules, for the whole or any part of Travancore, to regulate the generation, transmission supply and use of energy, and generally, to carry out the purposes and objects of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such Rules may—

- (a) prescribe the form of applications for the licenses and the payments to be made in respect thereof;
- (b) regulate the publication of notices;
- (c) prescribe the manner in which objections with reference to any application under Part II are to be made;
- (d) provide for the preparation and submission of accounts by licensees in a specified form ;
- (e) provide for the securing of a regular, constant and sufficient supply of energy by licensees to consumers and for the testing at various parts of the system of the regularity and sufficiency of such supply, and for the examination of the records of such tests by consumers ;

Sec. 38. Under the Indian Act inserted by Act X of 1937, power to make Rules is conferred on the Central Electricity Board. Sec. 36-A of the Indian Act inserted by Act X of 1937 provides for the constitution etc. of the Central Electricity Board.

- (f) provide for the protection of persons and property from injury by reason of contact with, or the proximity of, or by reason of the defective or dangerous condition of, any appliance or apparatus used in the generation, transmission, supply or use of energy ;
- (g) for the purpose of electric traction regulate the employment of insulated returns or un-insulated metallic returns of low resistance, in order to prevent fusion or injurious electrolytic action of or on metallic pipes, structures, or substances, and to minimise, as far as is reasonably practicable, injurious interference with the electric wires, supply-lines and apparatus of parties other than the owners of the electric traction system, or with the currents therein, whether the earth is used as a return or not ;
- (h) provide for preventing telegraph lines and magnetic observatories or laboratories from being injuriously affected by the generation, transmission, supply or use of energy ;
- (i) prescribe the qualifications to be required of the Electric Inspector ;
- (j) authorise the Electric Inspector or other Officer of a specified rank and class to enter, inspect and examine any place, carriage or vessel in which he has reason to believe any appliance or apparatus used in the generation, transmission, supply or use of energy, to be and to carry out tests therein, and to prescribe the facilities to be given to such Inspector or Officer for the purposes of such examinations and tests ;
- (k) authorise and regulate the levy of fees for any such testing or inspection and, generally for the services of the Electric Inspector under this Act ; and
- (l) provide for any matter which is to be or may be prescribed.

(3) In making any Rule under this Act Our Government may direct that every breach thereof shall be punishable with fine, which may extend to three hundred rupees, and in the case of a continuing breach, with a further daily fine which may extend to fifty rupees.

39. (1) The power to make Rules under Section 38 shall be subject to the condition of the Rules being made after previous publication.

Further provision respecting Rules.

(2) The date to be specified in accordance with Clause (c) of Section 6 of the General Clauses Act II of 1072, as that after which a draft of Rules proposed to be made under Section 38 will be taken into consideration shall not be less than three months from the date on which the draft of the proposed Rules was published for general information.

(3) Any Rule to be made under this Act shall, before it is published for criticism under Sub-section (2), be referred to the Advisory Board (if any) constituted for the whole of Travancore, or, if no such Board has been constituted, then to such board or boards (if any) as Our Government may direct; and the Rule shall not be so published until such Board (if any) has reported as to the expediency of making the proposed Rule and as to the suitability of its provisions.

(4) All Rules made under Section 38 shall be published in Our Government Gazette, and on such publication shall have effect as if enacted in this Act

Criminal Offences and Procedure.

40. Whoever dishonestly abstracts, consumes or uses any energy shall be deemed to have committed theft within the meaning of the Travancore Penal Code; and any consumer for whose benefit any artificial means of abstraction is proved to exist shall, until the contrary is proved, be presumed to be guilty of dishonest abstraction.

Theft of energy.

41. Whoever maliciously causes energy to be wasted or diverted, or, with intent to cut off the supply of energy, cuts or injures, or attempts to cut or injure, any electric supply-line or works, shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

42. Whoever, in contravention of the provisions of Section 29, engages in the business of supplying energy shall be punishable with fine which may extend to three thousand rupees, and, in the case of a continuing contravention, with a daily fine which may extend to three hundred rupees.

43. Whoever—
 (a) being a licensee, save as permitted under Section 28 or Section 52 or by his license, supplies energy or lays down or places any electric supply-line or works outside the area of supply ; or

(b) being a licensee, in contravention of the provisions of this Act or of the Rules thereunder or in breach of the conditions of his license and without reasonable excuse, the burden of proving which shall lie on him, discontinue the supply of energy or fails to supply energy ; or

(c) makes default in complying with any order issued to him under Section 35, Sub-section (2) ;

shall be punishable with fine which may extend to one thousand rupees, and, in the case of continuing offence or default, with a daily fine which may extend to one hundred rupees.

44. Whoever, in contravention of the provisions of Section 31, transmits or uses energy without giving the notice required thereby, shall be punishable with fine which may extend to five hundred rupees and, in the case of a continuing offence, with a daily fine which may extend to fifty rupees.

45. Whoever—

Penalty for interference with meters or licensee's works and for improper use of energy.

(a) connects any meter referred to in Section 27, Sub-section (1), or any meter, indicator or apparatus referred to in Section 27, Sub-section (7), with any electric supply-line through which energy is supplied by a licensee, or disconnects the same from any such electric supply-line, without giving to the licensee forty-eight hours' notice in writing of his intention ; or

(b) lays, or causes to be laid, or connects up any works for the purpose of communicating with any other works belonging to a licensee, without such licensee's consent; or

(c) maliciously injures any meter referred to in Section 27, Sub-section (1), or any meter, indicator or apparatus referred to in Section 27, Sub-section (7), or wilfully or fraudulently alters the index of any such meter, indicator or apparatus, from duly registering ; or

(d) improperly uses the energy of a licensee ; shall be punishable with fine which may extend to one thousand rupees, and in the case of a continuing offence, with a daily fine which may extend to one hundred rupees ; and if it is proved that any artificial means exist for making such connection as is referred to in Clause (a), or such communication as is referred to in Clause (b), or for causing such alteration or prevention as is referred to in Clause (c), or for facilitating such improper use as is referred to in Clause (d) and that the meter, indicator or apparatus is under the custody or control of the consumer whether it is his property or not, it shall be presumed,

until the contrary is proved, that such connection, communication, alteration, prevention or improper use, as the case may be, has been knowingly and wilfully caused by such consumer.

46. Whoever maliciously extinguishes any public lamp shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to three hundred rupees, or with both.

Penalty for extinguishing public lamps.

47. Whoever negligently causes energy to be wasted or diverted, or negligently breaks, throws down or damages any electric supply-line, post, pole or lamp or other apparatus connected with the supply of energy, shall be punishable with fine which may extend to two hundred rupees.

Penalty for negligently wasting energy or injuring works.

48. Whoever, in any case not already provided for by Section 40 to 47, (both inclusive), makes default in complying with any of the provisions of this Act, or with any order issued under it, or, in the case of a licensee, with any of the conditions of his license, shall be punishable with fine which may extend to one hundred rupees, and, in the case of a continuing default, with a daily fine which may extend to twenty rupees:

Penalty for offences not otherwise provided for.

Provided that, where a person has made default in complying with any of the provisions of Sections 13, 14, 15, 17 and 33, as the case may be, he shall not be so punishable if the Court is of opinion that the case was one of emergency, and that the offender complied with the said provisions as far as was reasonable in the circumstances.

49. The penalties imposed by Sections 41 to 48, (both inclusive), shall be in addition to, and not in derogation of, any liability in respect of the payment of compensation, or, in the case of a licensee, the revocation of his license, which the offender may have incurred.

Penalties not to affect other liabilities.

50. The provisions of Sections 40, 41, 45, 46 and 47 shall, so far as they are applicable, be deemed to apply also when the acts made punishable thereunder are committed in the case of energy supplied by, or of works belonging to, Our Government.

Penalties where works belong to Government.

51. No prosecution shall be instituted against any person for any offence against this Act or any Rule, license or order thereunder, except at the instance of Our Government or the Electric Inspector, or of a person aggrieved by the same.

Institution of prosecution.

Supplementary.

52. Notwithstanding anything in Sections 12 to 16, (both inclusive) and Sections 18 and 19, Our Government may, by order in writing, for the placing of appliances and apparatus for the transmission of energy, confer upon any public officer or licensee, subject to such conditions and restrictions (if any) as Our Government may think fit to impose, and to the provisions of the British Telegraph Protection Act, III of 1091, any of the powers which the telegraph authority possesses under that Act, with respect to the placing of telegraph lines and posts for the purposes of a telegraph established or maintained by the British Government or to be so established or maintained.

Exercise in certain cases of powers of telegraph authority.

53. Where any matter is, by or under this Act, directed to be determined by arbitration the matter shall, unless it is otherwise expressly provided in the license of a licensee, be determined by such person or persons as Our Government may nominate in that behalf on the application of either party; but in all other respects the arbitration shall be subject to the provisions in Chapter XXXVI of the Code of Civil Procedure, (Act II of 1065), relating to arbitration.

Arbitration.

54. (1) Every notice, order or document by or under this Act required or authorised to be addressed to any person may be served by Anchal or Post or left,—

Service of notices,
orders or documents.

- (a) where Our Government is the addressee, at the office of the Chief Secretary to Our Government ;
- (b) where a local authority is the addressee, at the office of the local authority ;
- (c) where a company is the addressee, at the registered office of the Company or, in the event of the registered office of the company not being in Travancore, at the head office of the Company in Travancore ;
- (d) where any other person is the addressee, at the usual or last known place of abode or business of the person.

(2) Every notice, order or document by or under this Act required or authorised to be addressed to the owner or occupier of any premises shall be deemed to be properly addressed if addressed by the description of the "owner" or "occupier" of the premises (naming the premises), and may be served by delivering it, or a true copy thereof, to some person on the premises or if there is no person on the premises to whom the same can with reasonable diligence be delivered, by affixing it on some conspicuous part of the premises.

55. Every sum declared to be recoverable by Section 5, Clause (f), Section 6, Sub-section (2), Section 14, Sub-section (2), Clause (h), Section 16, Sub-section (2), Section 18, Sub-section (2), or Sub-section (4), or Section 27, Sub-section (4), and every fee leviable under this Act, may be recovered, on application to a Magistrate having jurisdiction where the person liable to pay the same is for the time being resident, by the distress and sale of any movable property belonging to such person.

Recovery of sums
recoverable under
certain provisions of
Act.

56. Our Government may, by general or special order, authorise the discharge of any of their functions under Section 13 or Section 18, or Section 35, Sub-section (2), or Clause V, Sub-clause (2) or Clause XIV of the Schedule by the Electric Inspector.

Delegation of certain functions of Government to the Electric Inspector.

57. No suit, prosecution or other proceeding shall lie against any public Officer, or any servant of a local authority, for anything done, or in good faith purporting to be done, under this Act.

Protection for acts done in good faith.

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SCHEDULE.

PROVISIONS TO BE DEEMED TO BE INCORPORATED
WITH, AND TO FORM PART OF, EVERY LICENSE
GRANTED UNDER PART II, SO FAR AS NOT
ADDED TO, VARIED OR EXCEPTED BY
THE LICENSE.

[See Section 3, Sub-section (2), Clause (f).]

SECURITY AND ACCOUNTS.

I. Where the licensee is not a local authority, the following provisions as to giving security shall apply namely :—

Security for execution of works of licensee not being local authority.

(a) The licensee shall, within the period fixed in that behalf by his license, or any longer period which the Government may substitute therefor by order under Section 4, Sub-section 3, Clause (b), of the Travancore Electricity Act, before exercising any of the powers by the license conferred on him in relation to the execution of works, show, to the satisfaction of the Government, that he is in a position fully and efficiently to discharge the duties and obligations imposed upon him by the license throughout the area of supply.

(b) The licensee shall also, within the period fixed in that behalf by his license, or any longer period which the Government may substitute therefor by order under Section 4, Sub-section 3, Clause (b), of the Travancore Electricity Act, and before exercising any of the powers conferred on him in relation to the execution of works, deposit or secure to the satisfaction of the Government such sum (if any) as may be fixed by the license or, if not so fixed, by the Government.

- (c) The said sum deposited or secured by the licensee under the provisions of this Clause shall be repaid or released to him on the completion of the works or at such earlier date or dates and by such instalments, as may be approved by the Government.

II. Where the licensee is not a local authority, the following provisions as to the audit of accounts shall apply namely:—
 Audit of accounts of licensee not being local authority.

- (a) The annual statement of accounts of the undertaking shall, before being rendered under Section 11 of the Travancore Electricity Act, be examined and audited by such person as the Government may appoint or approve in this behalf, and the remuneration of the auditor shall be such as the Government may direct, and his remuneration and all expenses incurred by him in or about the execution of his duties, to such an amount as the Government shall approve, shall be paid by the licensee on demand.
- (b) The licensee shall afford to the auditor, his clerks and assistants, access to all such books and documents relating to the undertaking as are necessary for the purposes of the audit, and shall, when required, furnish to him and them all vouchers and information requisite for that purpose, and afford to him and them all facilities for the proper execution of his and their duty.
- (c) The audit shall be made and conducted in such manner as the Government may direct.

- (d) Any report made by the auditor, or such portion thereof as the Government may direct, shall be appended to the annual statement of accounts of the licensee, and shall thenceforth form part thereof.
- (e) Notwithstanding the foregoing provisions of this Clause, the Government may, if they think fit, accept the examination and audit of an auditor appointed by the licensee.

III. The licensee shall, unless the Government otherwise direct, at all times keep Separate accounts. the accounts of the capital employed for the purposes of the undertaking distinct from the accounts kept by him of any other undertaking or business.

Compulsory Works and supply.

IV. The licensee shall, within a period of three years after the commencement of the license, execute to the satisfaction of the Government all such works as may be specified in the license in this behalf or, if not so specified, as the Government may, order in writing issued within six months of the date of the commencement of the license, direct.

V. (1) Where, after the expiration of two years and six months from the commencement of the license, a requisition is made by six or more owners or occupiers of premises in or upon any street or part of a street within the area of supply or by the Government or a local authority charged with the public lighting thereof, requiring the licensee to provide distributing mains throughout such street or part thereof, the licensee shall comply within six months with the requisition, unless,—

- (a) where it is made by such owners or occupiers as aforesaid, the owners or occupiers making it do not, within fourteen clear days

after the service on them by the licensee of a notice in writing in this behalf, tender to the licensee a written contract duly executed and with sufficient security binding themselves to take, or guaranteeing that there shall be taken a supply of energy for not less than two years to such amount as will in the aggregate produce annually, at the current rates charged by the licensee, a reasonable return to the licensee ; or

(b) where it is made by the Government or a local authority, the Government or local authority as the case may be, does not, within the like period, tender, a like contract binding themselves or itself to take a supply of energy for not less than seven years for the public lamps in such street or part thereof.

(2) Where any difference or dispute arises between the licensee and such owners or occupiers as to the sufficiency of the security offered under this Clause, or as to the amount of energy to be taken or guaranteed as aforesaid, the matter shall be referred to the Government, and either decided by them or, if they so direct, determined by arbitration.

(3) Every requisition under this Clause shall be signed by the maker or makers thereof and shall be served on the licensee.

(4) Every requisition under this Clause shall be in a form to be prescribed by Rules under the Travancore Electricity Act ; and copies of the form shall be kept at the office of the licensee and supplied free of charge to any applicant.

VI. (1) Where a requisition is made by the owner or occupier of any premises situate within the area of supply requiring the licensee to supply energy for such premises, the licensee shall, within one month from the making of the requisition or within such longer period as the Electric Inspector may

Requisition for supply to owners or occupiers in vicinity.

allow, supply, and, save in so far as he is prevented from doing so by cyclones, floods, storms or other occurrences beyond his control, continue to supply, energy in accordance with the requisition :

Provided, first, that the licensee shall not be bound to comply with any such requisition unless and until the person making it.

- (a) within fourteen days after the service on him by the licensee of a notice in writing in this behalf, tenders to the licensee a written contract, in a form approved by the Government, duly executed and with sufficient security, binding himself to take a supply of energy for not less than two years to such amounts as will produce, at current rates charged by the licensee, a reasonable return to the licensee, and,
- (b) if required by the licensee so to do, pays to the licensee the cost of so much of any service-line as may be laid down or placed for the purposes of the supply upon the property in respect of which the requisition is made, and of so much of any service-line as it may be necessary for the said purposes to lay down or place beyond one hundred feet from the licensee's distributing main, although not on that property :

Provided, secondly, that the licensee shall be entitled to discontinue such supply—

- (a) if the owner or occupier of the property to which the supply is made has not already given security, or if any security given by him has become invalid or insufficient, and such owner or occupier fails to furnish security or to make up the original security to a sufficient amount, as the case may be within seven days after the service upon him of notice from the licensee requiring him so to do, or

- (b) if the owner or occupier of the property to which the supply is made adopts any appliance, or uses the energy supplied to him by the licensee for any purposes, or deals with it in any manner so as unduly or improperly to interfere with the efficient supply of energy to any other person by the licensee, or
- (c) if the electric wires, fittings, works and apparatus in such property are not in good order and condition, and are consequently likely to affect injuriously the use of energy by the licensee, or by other persons, or
- (d) if the owner or occupier makes any alterations of, or additions to, any electric wires, fittings, works, or apparatus within such property as aforesaid, and does not notify the same to the licensee before the same are connected to the source of the supply, with a view to their being examined and tested :

but the licensee shall reconnect the supply with all reasonable speed on the cessation of the act or default or both, as the case may be, which entitled him to discontinue it :

Provided, thirdly, that the maximum rate per unit of time at which the owner or occupier shall be entitled to be supplied with energy shall not exceed what is necessary for the maximum consumption on his premises, and where the owner or occupier has required a licensee to supply him at a specified maximum rate, he shall not be entitled to alter that maximum, except after one month's notice in writing to the licensee, and the licensee may recover from the owner or occupier any expenses incurred by him by reason of such alteration in respect of the service-lines by which energy is supplied to the property beyond one hundred feet from the licensee's distributing main, or in respect of any fittings or apparatus of the licensee upon that property : and

Provided, fourthly, that, in the event of any requisition being made for a supply of energy from any distributing main of which the licensee can prove, to the satisfaction of the Electric Inspector—

(a) that it is already loaded up to its full current-carrying capacity, or

(b) that, in case of a larger amount of current being transmitted by it, the loss of pressure will seriously affect the efficiency of the supply to other consumers in the vicinity,

the licensee may refuse to accede to the requisition for such reasonable period not exceeding six months, as such Inspector may think sufficient for the purpose of amending the distributing main, or laying down or placing a further distributing main.

(2) Any service-line laid for the purpose of supply, in pursuance of a requisition under Sub-clause (1) shall, notwithstanding that a portion of it may have been paid for by the person making the requisition, be maintained by the licensee.

(3) Where any difference or dispute arises as to the amount of energy to be taken or guaranteed as aforesaid, or as to the cost of any service-line or as to the sufficiency of the security offered by any owner or occupier, or as to the improper use of energy, or as to any alleged defect in any wires, fittings, works or apparatus, or as to the amount of the expenses incurred under the third Proviso to Sub-clause (1), the matter shall be referred to the Electric Inspector and decided by him.

(4) Every requisition under this Clause shall be signed by the maker or makers thereof and shall be served on the licensee.

(5) Every requisition under this Clause shall be in a form to be prescribed by Rules under the Travancore Electricity Act; and copies of the form shall be kept at the office of the licensee and supplied free of charge to any applicant.

VII. The licensee shall, before commencing to lay down or place a service line in any street in which a distributing main has not already been laid down or placed, serve upon the local authority (if any) and upon the owner or occupier of all premises abutting on so much of the street as lies between the points of origin and termination of the service-lines so to be laid down or placed one month's notice stating that the licensee intends to lay down or place a service-line, and intimating that, if, within the said period the local authority or any two or more of such owners or occupiers require in accordance with the provisions of the license that a supply shall be given for any public lamps or to their premises, as the case may be, the necessary distributing main will be laid down or placed by the licensee at the same time as the service line.

VIII. (1) Where a requisition is made by the Government or by a local authority requiring the licensee to supply for a period of not less than seven years, energy for any public lamps within the area of supply, the licensee shall supply, and, save in so far as he is prevented from doing so by cyclones, floods, storms, or other occurrences beyond his control, continue to supply, energy for such lamps in such quantities as the Government or the local authority, as the case may be, may require.

(2) The provisions of Sub-clause (b) of the first Proviso, of Sub-clauses (c) and (d) of the second Proviso, and of the third and fourth Provisos to Sub-clause (1) and the provisions of Sub-clauses (2) and (3) of Clause VI shall, so far as may be, apply to every case in which a requisition for the supply of energy is made under this Clause as if the Government or local authority were an owner or occupier within the meaning of those provisions.

Supply by Bulk-licensees.

IX. (1) Where, and in so far as, the licensee (hereinafter in this Clause referred to as "the bulk-licensee") is authorised by his license to supply energy to other licensees for distribution by them (hereinafter in this Clause referred to as "distributing-licensees"), the following provisions shall apply, namely :—

- Special provisions applying to supply by bulk-licensees.
- (a) any distributing-licensees within the bulk-licensee's area of supply may make a requisition on the bulk-licensee requiring him to give a supply of energy and specifying the point, and the maximum rate per unit of time, at which such supply is required, and the date upon which the supply is to commence, such date being fixed after the date of receipt of the requisition so as to allow an interval that is reasonable with regard to locality and to the length of the electric supply-line and the amount of plant required ;
- (b) such distributing-licensee shall, if required by the bulk-licensee so to do, enter into a written agreement to receive and pay for a supply of energy for a period of not less than seven years of such an amount that the payment to be made for the same at the rate of charge for the time being charged for such supply shall not be less than such an amount as will produce a reasonable return to the bulk-licensee on the outlay (excluding expenditure on generating plant then existing and any electric supply-line then laid down or placed) incurred by him in making provision for such supply ;
- (c) the maximum rate per unit of time at which a distributing-licensee shall be entitled to be supplied with energy shall not exceed what is necessary for the purposes for which the supply is required by him, and need not be

increased except upon a fresh requisition made in accordance with the foregoing provisions ;

- (d) if any difference or dispute arises under this Clause, it shall be determined by arbitration, and in the event of such arbitration the arbitrator shall have regard to the following amongst other considerations, namely :—
- (i) the period for which the distributing-licensee is prepared to bind himself to take energy ;
 - (ii) the amount of energy required and the hours during which the bulk-licensee is to supply it ;
 - (iii) the capital expenditure incurred or to be incurred by the bulk-licensee in connection with the aforesaid supply of energy; and
 - (iv) the extent to which the capital expended or to be expended by the bulk-licensee in connection with such supply may become unproductive upon the discontinuance thereof.

(2) Notwithstanding anything in Sub-clause (1), the bulk-licensee shall give a supply of energy to any distributing-licensee within his area of supply applying therefor, even although the distributing licensee desires to be supplied with only a portion of the energy required for distribution by him ;

Provided that the distributing-licensee shall, if so required by the bulk-licensee, enter into an agreement to take such energy upon special terms (including a minimum annual sum to be paid to the bulk-licensee) to be determined, if necessary, by arbitration in the manner laid down in Sub-clause (1) (d).

(3) The maximum price fixed by a license for energy supplied to a distributing-licensee shall not apply to any partial supply, given under Sub-clause (2).

(4) Every distributing-licensee, who is supplied with energy by bulk-licensee and intends to discontinue to receive such supply, shall give not less than twelve months' notice in writing of such intention to the bulk-licensee :

Provided that, where the distributing-licensee has entered into a written agreement with the bulk-licensee to receive and pay for a supply of energy for a certain period, such notice shall be given so as not to expire before the end of that period.

CHARGES.

X. (1) Where the licensee charges by any method so approved by the Government in accordance with Section 24, Sub-section (3), Clause (c), of the Travancore Electricity Act, any consumer who objects to that method may, by not less than one month's notice in writing, require the licensee to charge him, at the licensee's option, either by the actual amount of energy supplied to him or by the electrical quantity contained in the supply, and thereafter the licensee shall not, except with the consent of the consumer, charge him by another method.

(2) Before commencing to supply energy through any distributing main, the licensee shall give notice by public advertisement, of the method by which he proposes to charge for energy so supplied ; and, where the licensee has given such notice, he shall not be entitled to change that method of charging without giving not less than one month's notice in writing of such change to the Government, to the local authority (if any) concerned, and to every consumer of energy who is supplied by him from such distributing main.

(3) If the consumer is provided with a meter in pursuance of the provisions of Section 27, Sub-section (1), of the Travancore Electricity Act, and the licensee changes the method of charging for the energy supplied by him from the distributing main, the licensee shall bear the expense of providing a new meter, or such other apparatus as may be necessary by reason of the new method of charging.

XI. Save as provided by Clause IX, Sub-clause (3), the prices charged by the licensee for energy supplied by him shall not exceed the maxima fixed by his license, or in the case of a method of charge approved by

the Government, such maxima as the Government shall fix on approving the method :

Provided that, if, at any time after the expiration of seven years from the commencement of the license, the Government consider that the maxima so fixed or approved as aforesaid should be altered, they shall refer the matter to the Advisory Board, and if the Board recommends any alteration, may make an order in accordance with such recommendation, which shall have effect from such date as may be mentioned therein :

Provided also, that, where an order in pursuance of the foregoing Proviso has been made, no further order altering the maxima fixed thereby shall be made until the expiration of another period of five years.

XII. A licensee may charge a consumer a minimum charge for energy of such amount and determined in such manner as may be specified by his license, and such minimum charge shall be payable notwithstanding that no energy has been used by the consumer during the period for which such minimum charge is made.

XIII. The price to be charged by the licensee and to be paid to him for energy supplied for the public lamps, and the mode in which those charges are to be ascertained, shall be settled by agreement between the licensee and Our Government or the local authority, as the case may be, and, where any difference or dispute arises the matter shall be determined by arbitration.

TESTING AND INSPECTION.

XIV. The licensee shall establish at his own cost and keep in proper condition such number of testing stations, situated at such places within reasonable distance from any distributing main, as the Government may direct, for the purpose of testing the pressure or periodicity of the supply of energy in the distributing main, and shall supply and keep in proper condition thereat, and on all

premises from which he supplies energy, such instruments for testing as the Electric Inspector may approve, and shall supply energy to each testing station for the purpose of testing.

XV. The licensee shall afford all facilities for inspection and testing of his work and
 Facilities for testing. for the reading, testing and inspection of his instruments, and may on each occasion of the testing of his works or the reading, testing or inspection of any instruments, be represented by an agent, who may be present, but shall not interfere with the reading, testing or inspection.

XVI. On the occasion of the testing of any works of the licensee by the Electric Inspector reasonable notice thereof shall
 Testing of works. be given to the licensee: and the testing shall be carried out at such suitable hours as, in the opinion of the Electric Inspector, will least interfere with the supply of energy by the licensee, and in such manner as the Electric Inspector may think fit; but, except under the provisions of an order made in each case in that behalf by the Government, the Electric Inspector shall not be entitled to have access to, or interfere with, the works of the licensee at any points other than those at which the licensee himself has access to the same.

Provided that the licensee shall not be held responsible for any interruption or irregularity in the supply of energy which may be occasioned by, or required by the Electric Inspector for the purpose of any such testing as aforesaid:

Provided also, that the testing shall not be made in regard to any particular portion of the works oftener than once in any three months, unless in pursuance of an order made in each case in that behalf by the Government.

PLANS.

XVII. (1) The licensee shall, after commencing to supply energy, forthwith cause a plan to be made of the area of supply, and shall cause to be marked thereon the alignment and, in the case of underground works, the approximate depth below the surface of all his then existing electric supply-lines, street-distributing boxes and other works, and shall once in every year cause that plan to be duly corrected so as to show the electric supply-lines, street-distributing boxes and other works for the time being in position. The licensee shall also, if so required by the Electric Inspector, cause to be made sections showing the approximate level of all his existing underground works other than service-lines.

(2) Every such plan shall be drawn to such scale as the Government may require: Provided that no scale shall be required unless maps of the locality on that scale are for the time being available to the public.

(3) Every such section shall be drawn to horizontal and vertical scales which shall be such as the Government may require.

(4) Every plan and section so made or corrected, or a copy thereof, marked with the date when it was so made or corrected, shall be kept by the licensee at his principal office or place of business within the area of supply, and shall at all reasonable times be open to the inspection of all applicants, and copies thereof shall be supplied on such terms and conditions as may be prescribed by Rules under the Travancore Electricity Act.

(5) The licensee shall, if required by the Electric Inspector and, where the licensee is not a local authority, by the local authority (if any) concerned, supply free of charge to the Electric Inspector or local authority a copy of every such plan or section duly corrected so as to agree with the original kept at the principal office or place of business of the licensee.

ADDITIONAL NOTICE OF CERTAIN WORKS.

XVIII. On the day next preceding the commencement of any such works as are referred to in Section 13 of the Travancore Electricity Act, the licensee shall in addition to any other notices which he may be required to give, serve upon the Electric Inspector, or such Officer as the Government may appoint in this behalf for the area of supply, a notice in writing stating that he is about to commence the works, and the nature and position of the same.

ACT III OF 1097.

GOVERNMENT LAND ASSIGNMENT ACT.

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ACT III OF 1097.

AN ACT TO PROVIDE FOR THE ASSIGNMENT OF GOVERNMENT LANDS.

Passed by His Highness the Maha Raja of Travancore, under date the 26th Vrischikam 1097 corresponding with the 11th December 1921, under Section 11 of Act I of 1095.

Whereas it is expedient to regulate the assignment of Government lands and to remove any doubt as to the validity of limitations and restrictions imposed upon land assigned by Government or under their authority; It is hereby enacted as follows:—

Preamble.

Prior to the year 1040, grants of lands for the cultivation of coffee were made under the memorandum dated 8-3-1862 of Dewan Sir T. Madhava Row. (for the Memorandum see I., R. M. Vol. II. P. 1.). Under it the annual tax per acre was 3/4th of a rupee. A notification regarding proposed auction sale of land for cultivation of coffee was issued on 15-12-1864 declaring that "from 16-12-1864 waste lands suited for the cultivation of coffee shall until further notice, be sold by public auction to the highest bidder under Rules which will be shortly published at an upset price of one Br. Rupee per acre but in all other respects under the same conditions as those described in the memo dated 8-3-1862." The Rules referred to above were issued on 24-4-1865 simultaneously with the enactment of Act II of 1040 providing for the adjudication of claims to waste lands. (For

the Rules referred to. see I. R. M. Vol. II, P. 3.)- Rule 17 of the Rules laid down that claims of private proprietorship or of exclusive occupancy or of any right affecting the sale of the land under the Rules should be disposed of under the provisions of Act II of 1040. These Rules were superseded by Rules dated 28-11-1913. (Vide L. R. M., Vol. II, P 1035).

Act II of 1040 was "practically of very little application * * * as, with the completion of Revenue Settlement including Cherikkal Settlement, the passing of the Land Conservancy Regulation, II of 1067, and the reservation of Forests under the Forest Regulation, all lands falling under the category of 'lands at the disposal of Government' as distinguished from 'registered lands' which involve private rights, have been distinctly ascertained and recorded, and

GOVERNMENT LAND ASSIGNMENT ACT.

grants of lands for coffee, tea, rubber and other special products are now made from lands which are really at the disposal of Government." L. R. M. Vol. I, P. 7. Act II of 1040 was therefore repealed by Act III of 1097.

Act III of 1097.—Objects and Reasons.—"With a view to benefit some of the backward communities the Government have, by their Proceedings No. 2290 L. R., dated 13th April 1917 directed registry in favour of some of such communities without payment of *tharavila*. If, however, the properties are alienated to strangers, *tharavila* will be levied. This does not afford sufficient protection to the registry holders concerned. It is also desirable that any restriction or limitation imposed on a Government grant should not be declared by a Court of Law to be of no effect. To remove any doubt in the matter and to prevent undue advantage being taken over the backward communities it is thought necessary to declare that any restrictions or limitations imposed on land at the time of assignment are legally valid. Puduval Rules are now regarded as administrative Rules. It is desirable in the interest of all concerned that they should have the effect of law. Further from before the date of the ruling in 12 T. L. R., 118 F. B., it was the established rule for over 25 years that all suits to set aside orders of Revenue Officers in the matter of Puduval registries by persons who were parties to the proceedings should be brought within one year from the date

of the order. The ruling in 7 T. L. J., 169 has now declared that the decision of a Revenue Officer that a particular land is Government land need not be set aside if the land is found to have been already registered, and that a suit may be filed within 12 years even by persons who were parties to the proceedings. There can be little doubt that a shorter period of limitation is desirable in such cases. The same principle has been adopted in other Regulations as well (*vide* the Land Conservancy Regulation). The present Bill has been drafted to secure the above objects." - S. O. & R., T. G. G. dated 19-10-1920.

In introducing the Bill, the member in charge further explained the object of the legislation as follows:—

"The Bill proposes to regulate the assignment of Government lands. The object of the Bill is two fold. *viz.*, (1) to make the existing Puduval Rules statutory and (2) to declare that the restrictions that may be imposed whenever any Government land is assigned should be legally valid and should not be considered invalid on grounds of public policy. These are the two main objects that the Bill proposes to achieve.

"With reference to the first, *viz.*, that the Puduval Rules should be made statutory, I wish to bring to the notice of the Council that there had been repeated observations from the High Court that the Puduval Rules are only administrative and are not statutory and that

ACT III OF 1097.

any irregularity in the observance thereof may not vitiate the assignment. Secondly, the fact that the Rules are not statutory will also affect the period of limitation that will be applicable in some cases. I will explain this point a little more clearly. For over a quarter of a century, the High Court have been repeatedly holding that, if, in the assignment of any particular land, the Revenue Officer goes into the question of title and decides that it is Government land and therefore liable to be registered even though other people may object, it is incumbent upon the person aggrieved by the decision to file a suit within one year from the date of the order, if he was a party or privy to such order. The above decision of the High Court was passed by a Full Bench and is reported in 11 T. L. R. 70. Subsequently, a case came up before the High Court, and there again the question was definitely referred to a Full Bench as to whether the rule of limitation should be one year or twelve years. The Full Bench again upheld the prior ruling in 11 T. L. R. 70 and said that, if it was necessary for an executive officer to decide whether a particular land was Government land or not, then, the rule of limitation that should be applied would be Article 10 and that therefore the suit would have to be filed within one year (12 T. L. R. 120). There have been subsequent decisions on the point not less than fourteen in number but all to the same effect. Lately another Full Bench sat over the question, reconsidered the former

decisions and came to the conclusion that the order need not be set aside, on the ground that the Puduval Rules are merely administrative and that, if any land belonging to a private individual was registered as Puduval land, the party might come within 12 years even though he was a party to the order, on the ground that Article 10 of the Limitation Regulation would apply only to such orders as were passed by executive officers under a law or under a Rule having the force of law. This ruling is reported in 33 T. L. R. All the three Judges in that case say that Puduval Rules are only administrative Rules. This complaint has been brought against Government in various decisions. The Bill therefore proposes to make Puduval Rules statutory. It is not necessary for us to consider, which is the correct view of the law, the earlier rulings or the latest ruling. It may be an academical question and may not be necessary for us to decide. But the point that has to be borne in mind is whether, in a case of this kind, where a uniform current of decision has been established by the High Court and on the strength of which parties began to act and vested interests have accrued, it is desirable that the law should be changed by the High Court. Of course, it is open to the High Court to take their own view. But, so far as parties are concerned, if the latest ruling is accepted, it is an unnecessary interference with vested rights. In the case of Puduval decisions which had already become final

SEC. 1. GOVERNMENT LAND ASSIGNMENT ACT.

1. (1) This Act may be called the "Government Land Assignment Act III of 1097".
Short title.

(2) It extends to the whole of Travancore.

Extent.

2. (1) All public roads, streets, lanes and paths, the ditches, dykes and fences on or beside the same ;

Definitions. the bed of the sea and of harbours and creeks below highwater marks ; the beds and banks

in 1083 or 1084, the party having obtained vested interests might have put up costly buildings and made valuable improvements, and if he is to be told now on the strength of the above ruling that he would be evicted, it is hard. In such cases, the rule of *stare decisis* ought to be applied and I am supported by the Privy Council rulings on the subject, *viz.*, that in all these cases the uniform current of decisions cannot be upset even supposing that the same is wrong. That being the case, the Puduval Rules should be declared statutory. Further, the trend of all the previous decisions which have been approved by many Chief Justices in our High Court is to make the orders in Puduval proceedings final after the lapse of one year. In the 33 T. L. R. case, the late Chief Justice observes that it is for the Legislature to make the Puduval Rules statutory, so that Article 10 may become applicable.

"Next as to the second object. Government, of late, have been issuing orders to register lands free of *tharavila* for the use of the depressed classes. Government have been registering lands in their names, but there was I remember, a complaint

last year in the Assembly that although the depressed classes got properties registered, influential persons managed to get them alienated by those people and that restrictions should be imposed on alienations. The idea is that so far as the depressed classes are concerned there must be a restriction as to the alienation of properties registered in their names. Once the land is registered, the right of alienation is one of the incidental rights of the owner himself. The restriction may not be upheld in a Court of law and will be declared invalid as being opposed to public policy. Unless there is a Statute declaring that such restriction may be imposed, the object of Government in registering lands free in favour of the depressed classes will be frustrated. It is with that view that the last Section is put in, empowering Government to impose any restrictions when assigning any land." *L. C. P. dated 11-11-1920.*

The Report of the Select Committee was published on 3-5-1921.

For legislative proceedings see *T. G. G. dated 18-1-1921; 12-7-1921 and 20-12-1921.*

The Act was published in *T. G. G. dated 20-12-1921.*

of rivers, streams, irrigation and drainage channels, canals, tanks, lakes, backwaters and water-courses ; and all lands wherever situated ; save in so far as the same are the property of—

- (a) proprietors of Edavagais or Jenmis or holders of Inams or any person claiming through or holding under any of them ; or
- (b) all holders of land in any way subject to the payment of land revenue to Our Government ; or
- (c) any other registered holder of land in proprietary right ; or
- (d) any person holding land under grant from Our Government otherwise than by way of license ;

are, and are hereby declared to be, Government lands, except as may be otherwise provided by any law for the time being in force subject to all rights of way and other public rights and to the natural and easement rights of other land owners and to all customary rights legally subsisting.

Explanation I.—Lands registered in the name of a person but subsequently abandoned or relinquished and all lands held by right of escheat, purchase, resumption, reversion or acquisition under Act XI of 1089 are Government lands with'n the meaning of the Section.

Explanation II.—In this Section, the expression 'high watermark' means the highest point reached by the ordinary spring-tide at any season of the year.

Explanation III —Land in excess of the registered measurement or extent, but lying within the specified boundaries of a registered land, does not fall within this definition.

SEC. 3. GOVERNMENT LAND ASSIGNMENT ACT.

- (2) 'Assignment' includes a transfer of land by way of lease.
- (3) 'Assignee' includes his heirs.
- (4) 'Prescribed' means prescribed by Rules made under this Act.

3. Government land may be assigned by Our Government or by any prescribed authority either absolutely or subject to such restrictions, limitations and conditions as the assigning authority may deem fit.

Assignment of Government land.

Explanation.—Any restriction as to alienation, whether voluntary or otherwise, of the rights of the assignee is within the meaning of this Section.

4. (1) When any Government land is proposed to be assigned, the Tahsildar of the Taluk in which the land is situate or any Officer empowered by Our Government in this behalf shall notify in the prescribed manner that such land will, by public auction or otherwise, be assigned and call upon those who have got any claim to such land to prefer to him their objections, if any, in writing, within a time to be fixed by such Notification.

Procedure to be followed before Government lands are assigned.

(2) If any objection is preferred within the time fixed in the Notification, the Tahsildar or such other Officer shall enquire into such claims and pass an order in writing either accepting or rejecting the claim and intimate in writing the fact of such disposal to the claimant.

(3) For the purposes of enquiry under Sub-section (1) the Officer making the enquiry shall have all the powers conferred upon Division Peisakars and Tahsildars by Act V of 1063.

5. (a) When the time fixed in the Notification under Order of assignment. Section 4 has elapsed and no claim has been preferred ; or

(b) when the claim is rejected—

(i) and the time for appealing from the order has elapsed and no appeal has been preferred ;
or

(ii) when an appeal has been preferred and the appeal is rejected by the appellate authority ;

the land may, subject to such Rules as may be framed by Our Government in this behalf, be assigned by the prescribed authority.

6. No suit against Government shall be entertained in any of Our Civil Courts in respect of any order passed under this Act except upon the ground that—

Bar of suit.

(a) the order is in breach of any completed agreement to assign, or

(b) the land in respect of which such order has been passed is not a Government land :

Provided that any such suit by a person who was a party or privy to, and had due notice of the proceeding under this Act shall be instituted within two years from the date of service of the notice of such order.

7. (1) Our Government may make Rules—

(a) prescribing the manner in which assignment of land may be made whether by public auction or otherwise ;

Rules.

(b) prescribing the authority by which such assignments may be made ;

(c) prescribing the procedure to be followed in assigning the land ;

SEC. 7. GOVERNMENT LAND ASSIGNMENT ACT.

- (d) providing for the publication of Notifications and service of notices ;
- (e) prescribing the procedure to be followed in enquiry regarding claims preferred ;
- (f) prescribing the rates at which the land may be assigned and the rates at which tree growths may be valued ;
- (g) providing for the protection of royalties on the land assigned ;
- (h) prescribing the restrictions, limitations and conditions subject to which an assignment could be made in any case or class of cases ;
- (i) providing for appeals from the orders of any authority competent to assign any land ;
- (j) prescribing the time within which appeals ought to be preferred ;
- (k) regulating the powers of the appellate authority and the procedure to be followed by such authority ;
- (l) providing for revision by Our Government of any order passed by the prescribed authority, and the time within which such revisional power may be exercised ;
- (m) regulating the issue of Pattah or other title deed evidencing the assignment ;
- (n) prescribing Forms where Forms are necessary ;
and
- (o) generally for carrying out the purposes of this Act.

(2) All Rules made under this Act shall be published in Our Government Gazette and thereupon they shall have the force of law.

8. All provisions, restrictions, conditions and limitations over, contained in any Pattah or other document evidencing an assignment of Government land shall be valid and take effect according to their tenor, any rule of law or usage to the contrary notwithstanding.
- Assignment to take effect with restrictions, conditions, etc., according to their tenor.
9. The Waste Lands Act, II of 104³, is hereby repealed.
- Repeal of Act I of 1040.
-

ACT IV OF 1921.

AN ACT FURTHER TO AMEND THE LEPERS ACT, III OF 1917, AS AMENDED BY ACT III OF 1919.

Passed by His Highness the Maha Raja of Travancore under date the 26th Vrischikam 1917 corresponding to the 11th December 1921, under Section 11 of Act I of 1915.

Whereas it is expedient further to amend the Lepers Act, III of 1917, as amended by Act III of 1919; It is hereby enacted as follows.—

1. Sub-section (3) of Section 1 shall be omitted.

Amendment of Section 1.

2. In Clause (1) of Section 2, the words 'in whom the process of ulceration has commenced' shall be omitted.

Amendment of Section 2.

3. For Section 3 of the Act, the following Section shall be substituted, namely :—

Substitution of new Section for Section 3.

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."

Appointment of leper asylum by Government.

4. In Section 5, substitute "an assistant surgeon" for "an apothecary."

Amendment of section 5.

5. Section 6. (a) In Sub-section (1), after the words 'Sub-Inspector' the words 'or any other person specially empowered by Our Government by order in writing in this behalf' shall be inserted.

Amendment of Section 6.

(b) In Sub-section (2), after the words 'Police-Officer' in lines 1 and 4, the words 'or other person so empowered' shall be inserted.

6. In Section 9, Sub-section (1), add the following :—

Amendment of Section 9. Clause (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 ;"

Clause (f) "Or follow or be engaged in the occupation of dhoby or washerman or ironer of clothes for the public."

7. In Section 13 of the Act, for the words "by any

Amendment of Section 13. Police-Officer without a warrant" the words "without a warrant by any Police-Officer or by any other person specially empowered by Our Government by order in writing in this behalf," shall be substituted.

ACT V OF 1897.

AN ACT TO AMEND THE IRRIGATION ACT, III OF 1072,
AS AMENDED BY ACT VI OF 1090.

*Passed by His Highness the Maha Raja of Travancore,
under date the 2nd Dhanu 1097, corresponding to
the 16th December 1921, under Section 11 of
Act I of 1095.*

Whereas, with a view to associate the ryots in matters connected with irrigation it is deemed expedient to amend the Irrigation Act, III of 1072, as amended by Act VI of 1090; It is hereby enacted as follows :—

Section 1. In Section 3, line 3, insert between 'office' and 'with' the words 'or any Board constituted under this Act or any member thereof'.

Section 2. Add the following as Section 32 :—

"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.

(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 ;

ACT V OF 1097.

- (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 VIII OF 1097.

AN ACT TO AMEND THE TRAVANCORE FOREST ACT II OF 1068, AS AMENDED BY ACT IV OF 1071, IX OF 1085 AND IV OF 1089.

*Passed by His Highness the Maha Raja of Travancore,
under date the 12th Dhanu 1097, corresponding to
the 26th December 1921, under Section 11 of
Act I of 1095.*

Whereas it is expedient to further amend the Travancore Forest Act, II of 1068, as amended by Act IV of 1071, IX of 1085 and IV of 1089; It is hereby enacted as follows:—

1. Section 2 (c). Substitute the following for the definition of the term "Forest produce":—

"'Forest produce' includes—

- (a) the following, whether found in, or brought from, a forest or not, that is to say—timber of royalties as defined in Section 31;
- (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 hereinbefore 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) peat, 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".

2. Section 6. Insert "in English and in Malayalam" between "publish" and "in" in line 2.

3. Section 7. Delete "fresh" between "no" and "clearings" in line 1 of paragraph 3.

4. Section 9. Substitute "(b) the powers of a Civil Court in the trial of suits" for the existing Clause (b).

5. Section 11. Substitute "District" for "Zillah" in line 2, and "Rs. 1000", for Rs. "500," in line 4.

6. Section 15. Add the following at the end of the Section as a separate paragraph :—

"For the purpose of so acquiring such land—

(a) the Forest Settlement Officer shall be deemed to be a Division 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 ;

7. After Section 17, the following shall be added as Section 17-A :—

"17-A. Whenever any right of way or to a water-course or of pasture or to forest produce admitted under Section 16 or Commutation of such rights. 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 :

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."

8. Section 18-A. Between "Section 6" and "shall" in line 2, the following shall be inserted :—

"and of the existence of which no knowledge has been acquired by inquiry under Section 8."

9. After Section 18 C, the following new Section shall be added as Section 18-D :—

"18-D. Our Government may within five years from the publication of any Notification Power to revise the publication of any Notification arrangement made under Section 18, revise any arrangement made under Section 15, 16 or 17. arrangement made under Section 15, 16 or 17, and may, for this purpose rescind or modify any order made under Section 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."

10. Section 21.

(1) Delete the word "fresh" in Sub-clause (a).

(2) Delete the word "or" between "uproots" and "burns" in Clause (d), and insert "saws or converts" between "burns" and "any".

(3) Delete the word "or" between Clause (h) and Clause (i), and insert as Clause (j) the following :—

"or causes any damage by negligence in felling any tree or cutting or dragging any timber."

(4) The following shall be added as the last paragraph of the Section :—

"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."

11. (1) Section 21-A shall be renumbered as Section 21-A (1), and in the same Section for the words "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."

the following words shall be substituted, namely :—

' 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 ;

(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."

(2) To the same Section the following Sub-section shall be added, namely :—

" (2) Any person who being bound so to do, without lawful excuse (the burden of proving which shall lie 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”.

12. Section 26. Last line. Substitute “District Court” for “Zillah Court.”

13. Section 31. Insert the words “and teeth” after the word “ivory” in line 2 of paragraph 1.

14. Section 33.

Insert the words “or imported into” after the words “exported from” in Sub-section (2).

15. After Section 33, the following Section shall be added—

“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.”

Holders of passes to produce the same for inspection.

16. After Chapter V, the following new Chapter shall be added ;—

CHAPTER V-A.

OF THE COLLECTION OF DRIFT AND STRANDED TIMBER.

33-B. All timber found adrift, beached, stranded or sunk,

Certain kinds of timber to be deemed property of Government until title there-to proved, and may be collected accordingly.

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 un-marked timber, shall be deemed to be the property of Our 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 account of such rejection, or the detention or removal of any timber, or the delivery thereof to any other person under this Section.

On rejection of claim to such timber, claimant may institute suit,

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."

17. Section 35. (1) Insert "provisions of Section 33-A, or the" between "infringement of the" and "Rules" in line 1.

(2) Insert "and Section 33-G" between "Section 33" and "shall."

18. After Section 36, the following shall be added as Section 36-A:—

"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."

19. Section 42. Insert before "Any" in line 1 the following:—

"The Officer who made the seizure under Section 36 or any of his official superiors or."

20. Substitute the following Sections for Section 46:—

"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 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.

Killing, wounding or capturing wild elephants by persons not authorised thereto.

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.

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."

Power to frame Rules for killing or wounding wild elephants.

21. After Section 47, the following shall be inserted as Section 47-A :—

"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 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."

Power to release on bonds persons arrested under Section 47.

22. For Section 56, the following shall be substituted :—

"56. 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.

Indemnity for acts done in good faith.

23. Section 59. (1) Substitute "not inferior in rank to that of an Assistant Conservator" for "drawing a salary of not less than one hundred rupees" in lines 2 and 3.

(2) Insert the following as Clause (a) and renumber the subsequent Clauses :—

“(a) power to enter upon any land and to survey, demarcate and make a map of the same.”

24. Section 60. Substitute the words “belonging to Our Government” for the words “which are royalties” in Clause (d).

25. Add the following as Section 68 :—

Decision or order of Forest Settlement Officer to have the effect of District Court decree.	“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.”
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ACT IX OF 1097.

ELECTIONS OFFENCES AND INQUIRIES.

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ACT IX OF 1097.

AN ACT TO PROVIDE FOR THE PUNISHMENT OF MALPRACTICES IN CONNECTION WITH ELECTIONS AND TO MAKE FURTHER PROVISION FOR THE CONDUCT OF INQUIRIES IN REGARD TO DISPUTED ELECTIONS TO THE LEGISLATIVE COUNCIL, CONSTITUTED UNDER THE LAW FOR THE TIME BEING IN FORCE.

Passed by His Highness the Maha Raja of Travancore under date the 12th Dhanu 1097, corresponding with the 26th December 1921, under Section 11 of Act I of 1095.

Whereas it is expedient to provide for the punishment of malpractices in connection with elections, and to make further provision for the conduct of inquiries in regard to disputed elections to the Legislative Council constituted under the Law for the time being in force; It is hereby enacted as follows :—

Year	No.	Short title.	Effect of subsequent legislation.
1097	IX	Election Offences and Inquiries Act.	Repealed in part by S. 2 and Schedule I of Act VIII of 1117.

Act IX of 1097. Objects and Reasons. "Quite recently provision has been made to appoint members to public bodies by means of elections held for the purpose. It is expedient that elections should be free from malpractices and misconduct in order to ensure purity and honesty in electoral contests where, owing to various causes temptations are many and insistent to introduce undesirable

practices. This has been the experience in all countries where elections are held, and Laws and Rules are without exception, introduced in such countries to punish and prohibit misconduct."—S. O. & R. T. G. G. dated 11-10-1921.

For legislative proceedings see T. G. G. dated 20-12-1921.

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

SEC. 2. ELECTIONS OFFENCES AND INQUIRIES.

PRELIMINARY.

1. (1) This Act may be called "The Travancore Elections Offences and Inquiries Act 1097."
Short title and extent. (2) It extends to the whole of Travancore.

PART I.

Amendment of the Travancore Penal Code and the Code of Criminal Procedure.

2. (1) In Section 15 of the Travancore Penal Code, after the fifth entry, the following shall be inserted, namely, "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," the present sixth entry being renumbered as the *seventh*; and after Explanation II, the following shall be added, namely :—

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."

- (2) After Chapter IX of the same Code, the following Chapter shall be inserted, namely :--

"CHAPTER IX—A.

OF OFFENCES RELATING TO ELECTION.

164-A. For the purposes of this Chapter—

- "Candidate," and "Electoral right" defined. (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:

(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.

(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.

Undue influence
at elections.

(2) Without prejudice to the generality of the provision 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

SEC. 2. ELECTION OFFENCES AND INQUIRIES ACT.

(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".

3. [*Repealed by Section 2 and Schedule I of Act VIII of 1117.*]

Sec 3. This Sec. as originally enacted amended the Criminal Procedure Code, Act V of 1067. Criminal Procedure Code, Act VIII of 1117 repealed Act V of 1067. Sec. 2 and Schedule I of Act VIII of 1117 repealed this Sec.

SEC. 4. ELECTION OFFENCES AND INQUIRIES ACT.

PART II.

ELECTION INQUIRIES AND OTHER MATTERS.

4. In this Part unless there is anything repugnant
Definitions. in the subject or context :—

(a) "Costs" means all costs, charges and expenses of, or incidental to, an inquiry :

(b) "Election" means an election to the Legislative Council constituted under the law for the time being in force :

(c) "Inquiry" means an inquiry in respect of an election by commissioners appointed for that purpose by Our Government.

(d) "Pleader" means any person entitled to appear and plead for another in a Civil Court.

5. Commissioners appointed to hold an inquiry shall
Powers of Commis- have the powers which are vested in
sioners. a Court under the Code of Civil
Procedure when trying a suit in
respect of the following matters :—

(a) discovery and inspection,

(b) enforcing the attendance of witnesses, and requiring the deposit of their expenses,

(c) compelling the production of documents,

(d) examining witnesses on oath,

(e) granting adjournments,

(f) reception of evidence taken on affidavit, and

(g) issuing commissions for the examination of witnesses, and may summon and examine *suo moto* any person whose evidence appears to them to be material ; and shall be deemed to be a Civil Court other than the High Court within the meaning of Sections 359 and 361 of the Code of Criminal Procedure.

Explanation.—For the purposes of enforcing the attendance, of witnesses, the local limits of the Commissioners' jurisdiction shall extend to the whole of Travancore.

6. An enquiry held under Section 5 shall be deemed to be a judicial enquiry, and the law of evidence for the time being in force shall apply to such enquiry.

Law of evidence for the time being in force applicable to enquiry under Section 5.

7. Notwithstanding anything in any enactment to the contrary, no document shall be inadmissible in evidence on the ground that it is not duly stamped or registered.

Documentary evidence.

8. (1) No witness shall be excused from answering any question as to any matter relevant to a matter in issue in an inquiry upon the ground that the answer to such question will criminate, or may tend, directly or indirectly, to criminate him; or that it will expose, or tend, directly or indirectly, to expose him to a penalty or forfeiture of any kind:

Obligation of witness to answer and certificate of indemnity.

Provided that—

- (i) no person who has voted at an election shall be required to state for whom he has voted; and
- (ii) a witness who, in the opinion of the Commissioners, has answered truly all questions which he has been required by them to answer shall be entitled to receive a certificate of indemnity, and such certificate may be pleaded by such person in any Court and shall be deemed to be a full and complete defence to or upon any charge under Chapter IX-A of the Travancore Penal Code arising out of the matter to which such certificate relates, nor shall any such answer be admissible in evidence against him in any suit or other proceeding, if such certificate has been granted.

SEC. 9. 'ELECTION OFFENCES AND INQUIRIES ACT.

(2) Nothing in Sub-section (1) shall be deemed to relieve a person receiving a certificate of indemnity from any disqualification in connection with an election imposed by any Law or any Rule having the force of Law.

9. Any appearance, application or act before the Commissioners may be made or done by the party in person or by a pleader duly appointed to act on his behalf :
Appearance by pleader.

Provided that any such appearance shall, if the Commissioners so direct, be made by the party in person.

10. The reasonable expenses incurred by any person in attending to give evidence may be allowed by the Commissioners to such person, and shall, unless the Commissioners otherwise direct, be deemed to be part of the costs.
Expenses of witnesses.

11. (1) Costs shall be in the discretion of the Commissioners, and the Commissioners shall have full power to determine by and to whom and to what extent such costs are to be paid and to include in their report all necessary recommendations for the purposes aforesaid. The Commissioners may allow interest on costs at a rate not exceeding six per cent. per annum, and such interest shall be added to the costs.
Costs and pleaders' fees, etc.

(2) The fees payable by a party in respect of fees of his adversary's pleader shall be such fees as the Commissioners may allow.

12. Any order made by Our Government on the report of the Commissioners regarding the costs of the inquiry may be produced before the principal Civil Court of original jurisdiction within the local limits of whose jurisdiction any person directed by such order to pay any sum of money has a place of residence or business, and such Court shall execute such order or cause it to be executed in the same manner and by the same procedure as if it were a decree for the payment of money made by itself in a suit.
Execution of orders as to costs.

13. Any person who has been convicted of an offence under Section 164-E or 164-F of the Travancore Penal Code, or has been disqualified from exercising any electoral right, for a period of not less than five years, on account of the malpractices in connection with an election shall be disqualified for five years from the date of such conviction or disqualification from—

Disqualification of persons found guilty of election offences.

- (a) being appointed to or acting in, any judicial office ;
- (b) being elected to any office of any local authority when the appointment to such office is by election, or holding or exercising any such office to which no salary is attached ;
- (c) being elected or sitting or voting as a member of any local authority ; or
- (d) being appointed or acting as a trustee of a public trust :

Provided that Our Government may exempt any such person from such disqualification.

14 (1) Every officer, clerk, agent or other person who performs any duties in connection with the recording or counting of votes at an election shall maintain and aid in maintaining the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.

(2) Any person who wilfully acts in contravention of the provisions of this Section shall be punished with imprisonment of either description for a term not exceeding three months, or with fine, or with both.

ACT X OF 1097.

AN ACT TO AMEND THE REVENUE RECOVERY ACT I OF 1068, AS AMENDED BY ACT III OF 1087 AND ACT VIII OF 1094.

*Passed by His Highness the Maha Raja of Travancore
under date the 12th Dhanu 1097, corresponding
with the 26th December 1921 under Section
II of Act I of 1905.*

Whereas it is expedient further to amend the Revenue Recovery Act I of 1068, as amended by Act III of 1087 and Act VIII of 1094; It is hereby enacted as follows :—

1. Section 6 of Act I of 1068 shall be repealed.
Repeal of Section 6.

2. Section 7.

(1) For Clause I, the following shall be substituted:—
Substitution of a new Clause for Clause 1 of Section 7

“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 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."

(2) The word "previously" shall be substituted for the words "at once" before "discharged" in Clause 4.

Amendment of Clause 4.

3. Section 23.

The words "notice or" in line 1 shall be deleted and "7 and 23-A" shall be substituted for "6 and 7" after "Sections."

Amendment of Section 23.

4. After Section 23, the following two Sections shall be inserted as Section 23-A and Section 23-B :—

Insertion of two new Sections after Section 23.

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 the 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.

Demand to be served prior to attachment of immovable property.

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

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(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."

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 in 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."

5. Section 26.

Amendment of Section 26. The words and figures "Section 23-A, sub-section (2)" shall be substituted for the words and figures "Clause 2, Section 6."

6. Section 32, Clause (1).

Amendment of Section 32, Clause 1. The words "with the previous sanction of the Division Peishkar", between "Tahsildar" and "unless" shall be deleted.

ACT XI OF 1097

FISHERIES.

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- [24. Prohibition against attracting prawn into private waters except under a license.]

SCHEDULE :—Trout,

The figures on the right refer to the corresponding Sections of the Indian Fisheries Act, IV of 1897.

THE FISHERIES ACT.

ACT XI OF 1097.

AN ACT TO MAKE BETTER PROVISION FOR MATTERS RELATING TO FISHERIES.

*Passed by His Highness the Maha Raja of Travancore,
under date the 16th Dhanu 1097, corresponding
with the 30th December 1921 under Section
11 of Act I of 1095.*

Whereas it is expedient to make better provision for
matters relating to Fisheries in Tra-
vancore; It is hereby enacted as
follows :—

Preamble.

Year.	No.	Short Title.	Effect of subsequent Legislation.
1097	XI	Fisheries Act.	Amended by Act XIII of 1117

Act XI of 1097. Objects and Reasons. Since the passing of Act XII of 1089, the Department of Fisheries has been organised. It has been brought to the notice of Government that the existing Regulation is defective and that the same should be amended. Seeing that the provisions to be added may not apply to game it was thought desirable to have a separate Regulation for the control of fisheries. The present Bill has therefore been drafted. The Bill contains 23 Clauses. Of these, Clauses 4 and 10 to 19 are virtually the provisions in the existing Regulation and do not therefore call for any remark. The first three Clauses form the preliminary portion of the Bill. Clause 5 enables the Government to frame Rules with regard to the protection of fish. Clause 6 enables Government to prohibit the sale of any

fish in any area captured in contravention of the Rules mentioned in the previous Clause. Clause 7 provides a penalty for breach of any Rule or notice issued under Clauses 5 and 6. By Clause 8 and 9 destruction of fish by the use of explosives or poison is prohibited. Clauses 20 and 21 relate to non-indigenous fish. It was represented in the Sri Mulam Popular Assembly that non-indigenous fish, such as trout, is being bred at great cost in some of the waters in the High Ranges and the association at whose instance the breeding is done should have some control over such fish. As it is necessary to encourage the breeding of non-indigenous fish, Clauses 21 and 22 have been enacted with a view to confer some privilege upon the association which has undertaken the breeding of such fish. The two Clauses are taken

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from the Ceylon Ordinance No. 1 of 1909. As the definition of fish includes shell-fish it may become desirable to regulate the collection of shells, from any water from which fishing is prohibited. Clause 23 therefore enables the Government to apply the provisions of the Regulation to shell lying in any specified water, if they consider it necessary to do so."—*S. O. & R., T. G. G. dated 14-12-1920.*

The Report of the Select Committee was published on *14-4-1921.*

For legislative proceedings see *T. G. G. dated 26-4-1921 and 20-12-1921.*

The Act was published in *T. G. G. dated 3-1-1922.*

Act XIII of 1117. Objects and Reasons. "The Fisheries Act prohibits fishing in waters notified under Section 5 except under a license, but does not expressly penalise any act by which the fish after being allowed by artificial means is caught in private waters. Owners of low-lying lands adjoining the prohibited waters are found to be taking undue advantage of this defect in the law. Such unlicensed and unrestricted exploitation tends to defeat the purpose of the law and results in serious loss to the State. It is necessary to regulate this particularly in respect of prawns. Hence the Bill. The proposal is to deal only with the catching of prawns by the use of artificial means such as the construction

of sluices, gratings, etc., on the bunds of the lakes notified under section 5 or in their vicinity. It is also proposed to empower Government to fix a license fee at a rate not exceeding Rs. 3 per acre on every acre of the area of the water used for the purpose. Power is also proposed to be vested in Government to frame appropriate Rules for the purpose and to lay down terms and conditions subject to which the privilege under the license may be exercised". *S. O. & R., T. G. G. dated 15-7-1941.*

"Shells of aquatic animals are a potential source of wealth to the State and it is necessary to regulate and control their unrestricted exploitation. This is to some extent achieved by the enabling power conferred by Section 23, but doubts have however been felt as to whether that Section is applicable to shells collected from marine waters. Hence the Bill". *S. O. & R., T. G. G. dated 29-7-1941.*

Originally there were two Bills which were published in the Gazettes, above referred to. The Select Committee to which both the Bills were referred consolidated them into one.

For Report of the Select Committee see *T. G. G. dated 25-11-1941.*

For legislative proceedings see *A. P. Vol. XIX, P. 56; C. P. Vol. XIX, P. 21.*

The Act was published in *T. G. G. dated 30-12-1941.*

1. This Act may be called the Travancore Fisheries Act, XI of 1097.

Short title-

- (2) It extends to the whole of Travancore.

Extent.

- (3) It shall come into force at once.

Commencement.

2. From the date on which this Act comes into force, Act XII of 1089, as amended by Act VI of 1091, in so far as it relates to fish shall be repealed:

Repeal of enactment.

Provided that all licenses granted under the said Act shall continue in force for the periods for which the same have been granted subject to the provisions of the said Act:

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 is anything repugnant in the subject or context,—

Definitions.

“Fish” includes shell-fish:

“Fixed engine” means any net, cage, trap or other contrivance for taking fish, fixed in the soil or made stationary in any other way: and

“Private water” means water which is the exclusive property of any person or in which any person has for the time being an exclusive right of fishery, whether as owner, lessee or in any other capacity.

Explanation.—Water shall not cease to be private water within the meaning of this definition by reason only that other persons may have by custom a right of fishery therein.

4. (1) Our Government may, by a Notification in Our Government Gazette, declare the whole year or any part thereof to be a close time in any area for any kind of fish.

Close time.

(2) Subject to the provisions hereinafter contained it shall be unlawful except under a license and in the manner and extent permitted thereby to capture any fish during such close time.

5. (1) Our Government may make Rules for the purposes hereinafter in this Section mentioned and may, by a Notification in Our Government Gazette, apply all or any of such Rules to such waters, not being private waters, as Our Government may specify in the said Notification.

Protection of fish in selected waters by Rules passed by Government.

(2) Our Government may also, by a like Notification, apply such Rules or any of them to any private water with the consent in writing of the owner thereof and of all persons having for the time being any exclusive right of fishery therein.

(3) Such Rules may prohibit either absolutely or except under a license fishing in any specified water.

(4) Such Rules may also prohibit or regulate all or any of the following matters, that is to say:—

- (a) the erection and use of fixed engines ;
- (b) the construction of weirs ;
- (c) the dimension and kind of the nets to be used and the modes of using them ;
- (d) the use of contrivances which are considered injurious to fisheries ; and
- (e) prescribing a minimum size or weight below which no fish of any prescribed species shall be killed.

(5) In making any Rule under this Section Our Government may provide for—

- (a) the seizure, forfeiture and removal of any apparatus erected or used for fishing in contravention of the Rules, and
- (b) the forfeiture of any fish taken by means of any such apparatus.

THE FISHERIES ACT.

6. Our Government may, by Notification in Our Government Gazette, prohibit in any specified area the offering or exposing for sale or barter any fish killed in contravention of any Rule made under the last foregoing Section.

Offering or exposing for sale or barter any fish killed in contravention of Rules under Section 5.

7. The breach of any Notification under Section 4, of any Rule made under Section 4, of any prohibition notified under Section 6 shall be punishable with fine which may extend to one hundred rupees.

Penalty.

8. (1) If any person uses any dynamite or other explosive substances in any water with intent thereby to catch or destroy any of the fish that may be therein, he shall be punishable with imprisonment for a term which may extend to two months, or with fine which may extend to two hundred rupees, or with both.

Destruction of fish by explosives in in land waters and on coasts.

(2) In Sub-section (1) the word "water" includes the sea within a distance of one marine league of the sea coast; and an offence committed under that Sub-section in such sea may be tried, punished and in all respects dealt with as if it had been committed on the land abutting on such coast.

9. (1) If any person puts any poison, lime or noxious material into any water with intent thereby to catch or destroy any fish, he shall be punishable with imprisonment for a term which may extend to two months or with fine which may extend to two hundred rupees, or with both.

Destruction of fish by poisoning waters.

(2) Our Government may, by Notification in Our Government Gazette, suspend the operation of this Section in any specified area and may, in like manner, modify or cancel any such Notification.

10. Our Government may, from time to time, make Rules to determine the Officers by whom, the form in which and the terms and conditions subject to which any license shall be granted, and may, by such Rules, among other matters specify —

- (a) the area within which it is to be in force, and
- (b) the instruments which may be used under it.

11. Subject to any Rule made in this behalf by Our Government, any license may be cancelled or suspended by the authority competent to issue the license

- (a) when any of the terms or conditions of the license has been infringed, or
- (b) when the holder or any of the holders has been convicted of an offence against the provisions of this Act.

12. Every license granted under this Act shall unless otherwise provided for in the Rules be transferable and may be granted and renewed for any period not exceeding one year, subject to the payment of such fee and on such conditions as may be fixed by Rules made by Our Government from time to time :

Provided that Our Government or any Officer empowered by Our Government in this behalf may, either, in the interests of scientific research or for any other cause exempt any person from taking out a license under this Act.

13. Every holder of a license granted under this Act shall be bound to produce such license for inspection at any time, on being required to do so by any Magistrate, or by any Police-Officer, or by any other person authorised in this behalf, by name or in virtue of his office, by Our Government.

14. Whoever, having been already convicted of an offence under this Act, is again convicted thereunder, shall, on every subsequent conviction, 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.

Subsequent convictions for offences under the Act.

15. When any person is convicted of an offence punishable under this Act the convicting Magistrate may direct that any fish in respect of which the offence has been committed or the flesh or any part of such fish, together with the instruments, if any, with which the offence was committed, shall be confiscated.

Confiscation.

16. Where any person is found carrying any fish recently captured or killed, together with any instruments with which such fish could be so captured or killed, the Court shall presume that he has captured or killed such fish with such instrument.

Presumption of commission of certain offences.

17. When the holder of a license granted under this Act has been convicted of an offence thereunder, the convicting Court shall send a copy of its judgment together with the license (if before the Court) to the nearest authority empowered to cancel the license under this Act, for such action as such authority may deem fit.

Duty of Court as regards cancellation of license.

18. Where any person commits an offence against the provisions of this Act in the presence of a Police-Officer, or of any other person authorised in this behalf by name or in virtue of his office by Our Government, such Officer or person may seize the fish, if any, captured or killed and any instruments used in the commission of such offence, and shall send them without unnecessary delay, together with a report of the circumstances, to a Magistrate competent to take cognizance of the alleged offence.

Power of seizure when offence committed in presence of certain officers and persons.

19. Our Government may, by Notification in Our Government Gazette, make Rules to carry out the purposes of this Act and to provide for appeals from orders made under this Act by any person other than a Magistrate, and such Rules, when so published, shall have the force of law.

Power of Government to make Rules.

20. (1) Whenever it appears that adequate arrangements have been made by any club or association for preserving and protecting any non-indigenous fish mentioned in the Schedule in any water, Our Government may by writing under the hand of the Chief Secretary to Government, concede to such club or association the exclusive right of taking such fish in such water within such limits and for such period and subject to such conditions as Our Government may deem fit.

Power of Government to concede right of taking certain imported fish to clubs or associations.

(2) Our Government may, by Notification in Our Government Gazette, apply the provisions of this Act to any kind of non-indigenous fish other than that specified in the Schedule, which in their opinion it is desirable to protect or preserve.

(3) Any club or association to which such right has been conceded may, subject to the approval of Our Government, make Rules for the protection and preservation of the fish to which the concession applies, and for regulating the manner in which they may be taken. Such Rules when approved by Our Government shall be published in Our Government Gazette.

(4) In particular, and without prejudice to the generality of the power conferred by the last preceding Sub-section, such Rules may :—

(a) provide for the issue of licenses by the club or association (either in addition to or in substitution for the licenses prescribed by Section 10) enabling the licensees to fish for and take the fish to which the concession applies subject to the Rules of the club or association ;

- (b) prescribe the fees chargeable on the issue of such licenses ;
- (c) provide for the application of such fees ;
- (d) prescribe a close season for the fish with regard to which the concession was given.

21. Any person who fishes for, takes, or attempts to take, any fish for the taking of which a license is required by Rules made under the last preceding Sub-section, without such license, or during the close season prescribed by such Rules, or in contravention of any of such Rules, shall be liable to the punishment prescribed by Section 7.

Fishing without licenses in conceded waters.

22. Any Police-Officer or other person specially empowered by Our Government in this behalf may, without a warrant, arrest any person committing in his view a breach of any of the provisions of this Act or of any Rule made thereunder, if the name and address of such person be unknown to him and if such person decline to give his name and address or if the Police-Officer or any person empowered as aforesaid shall have reason to doubt the accuracy of such name or address, if given, such person may, subject to the Code of Criminal Procedure, be detained at the Station-house until his name and address shall be correctly ascertained.

Power to arrest.

23 Our Government may, by Notification in Our Government Gazette, apply the provisions of this Act to shells of fish, if, in their opinion, it is desirable to prohibit or regulate the collection of the same from any water.

Power to apply provisions of Act to shells of fish.

[*Explanation* :—For purposes of this Section, the word 'water' includes the sea within a distance of one marine league of the sea coast.]

Sec. 23. The explanation to and Reasons (T. G. G. dated this Sec was added by Sec. 2, 29-7-1941: extracted *infra*. Act XIII of 1117. See Objects

[24. (1) Notwithstanding anything contained in any other provisions of this Act or any

Prohibition against attracting prawns into private waters except under a license.

law or custom having the force of law, it shall be unlawful for any person except under a license, and in accordance with the terms and conditions, if any, prescribed by Rules made under this Section, to attract prawns or cause or allow migration of prawns into private waters from any waters notified under Sub-section (1) of Section 5 by the use of sluices, opening, alluring lights or other contrivances and catch, destroy, cause injury to or prevent escape of any such fish by the use of nets, gratings, gears or any other means whatsoever.

(2) Any person contravening the provisions of Sub-section (1) shall, on conviction, be liable to a fine not exceeding two hundred rupees.

(3) Our Government may make Rules for the purpose of giving effect to the provisions of this Section and prescribe therein the terms and conditions under which a license may be issued.

(4) Fee at such rates as may be fixed by Our Government by Rules made under Sub-section (3) shall be paid in respect of every license issued under Sub-section (1):

Provided that the fee payable for any such license shall not exceed a sum calculated at rupees four per acre of the private waters into which prawns are attracted or caused or allowed to migrate.

(5) The breach of any Rule made under Sub-section (3) or of the conditions of any license issued under Sub-section (1) shall be punishable with fine which may extend to one hundred rupees.]

SCHEDULE

Trout.

Sec. 24. This Sec. was (T. G. G. dated 15-7-1941) extracted *infra*.
1117. See Objects and Reasons

ACTI OF 1098.

AN ACT FURTHER TO AMEND THE BRITISH POST
ACT IV OF 1076 AS AMENDED BY ACT V OF 1094.

*Passed by His Highness the Maha Raja of Travancore
under date the 8th Makaram 1098 corresponding
with the 20th February 1923, under Section 20
of the Travancore Legislative
Council Act II of 1097.*

Whereas it is expedient further to amend the British Post Act IV of 1076, as amended by Act V of 1094; We are hereby pleased to enact as follows :—

Add the following as Section 6 :—

(1) If any person, without reasonable excuse, the burden of proving which shall lie on him, neglects or refuses to refund—

(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.

ACT II OF 1968

DESTRUCTION OF RECORDS.

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The figures on the right refer to the corresponding Sections of the Indian Destruction of Records Act, V of 1917.

ACT II OF 1098.

AN ACT TO CONSOLIDATE AND AMEND THE LAW PROVIDING FOR THE DESTRUCTION OR OTHER DISPOSAL OF CERTAIN DOCUMENTS IN THE POSSESSION OR CUSTODY OF COURTS AND REVENUE AND OTHER PUBLIC OFFICERS.

Passed by His Highness the Maha Raja of Travancore under date the 15th June 1923, corresponding with the 1st Mithunam 1098, under Section 14 of Act II of 1097.

Whereas it is expedient to consolidate and amend the law providing for the destruction or other disposal of certain documents in the possession or custody of Courts and Revenue and other Public Officers; It is hereby enacted as follows :—

1. (1) This Act may be called the Destruction of Records Act, 1098.

Short title and extent.

(2) It extends to the whole of Travancore.

2. (1) The authorities hereinafter specified may, from time to time, make Rules for the disposal, by destruction or otherwise, of such documents as are, in the opinion of the authority making the Rules, not of sufficient public value to justify their preservation.

Power to certain authorities to make Rules for disposal of documents.

The earliest enactment on the subject was Act III of 1057.

Act II of 1098. Objects and Reasons.—(1) "The Destruction of Records Regulation was passed 40 years ago. Though the provisions thereof have answered the purpose well, Section 3 is felt to be too rigid and the returns referred to therein and the periods within which they shall be made may, with advantage, be left to be dealt with in the province of Rules. Advantage is taken to recast the whole Regulation anew, and

the substance of the Regulation is kept unchanged, though there is a slight change in phraseology."—S. O. & R., T. G. G. dated 2-5-1922.

The Report of the Select Committee was published on 12-9-1122.

For legislative proceedings see L. C. P. Vol. I, Pp. 13-15; Vol. II, Pp. 68, 79 and 529.

The Act was published in T. G. G., dated 19-6-1923.

Sec. 2. The post of the Land Revenue and Income Tax Commissioner has been abolished.

(2) The authorities shall be—

(a) in case of documents in the possession or custody of the High Court or the Courts of Civil or Criminal jurisdiction subordinate thereto—the High Court ;

(b) in the case of documents in the possession or custody of Revenue Courts and officers—the Land Revenue and Income-tax Commissioner ; and

(c) in the case of documents in the possession or custody of any other public Officer—Our Government or any Officer specially authorised in that behalf by Our Government.

(3) Rules made under this Section by the High Court or by the Land Revenue and Income-Tax Commissioner or by an Officer specially authorised in that behalf by Our Government shall be subject to the previous approval of Our Government.

3. All Rules and orders now in force directing or authorising the destruction or other disposal of documents in the possession or custody of any public Officer or in the possession or custody of the High Court or of the Courts subordinate thereto, shall be deemed to be Rules made under this Act.

4. No suit or other proceeding shall be instituted against any person for the disposal, by destruction or otherwise, of any records, books or papers, in accordance with any such Rules as aforesaid.

5. Nothing in this Act shall be deemed to authorise the destruction of any document which, under the provisions of any law for the time being in force, is to be kept and maintained.

6. The enactments mentioned in the Schedule are hereby repealed to the extent specified in the fourth column thereof.

Repeal.

SCH.

DESTRUCTION OF RECORDS.

THE SCHEDULE.

REPEAL OF ENACTMENTS,

(See Section 6.)

1	2	3	4
Year.	Number.	Short title.	
1057	III	An Act to authorise the destruction of useless records.	The whole.
1087	II	The Travancore Registration Act, 1087.	The words "and also for the destruction of such books, papers and documents as need no longer be kept" in clause (a) of subsection (1) of Section 64.

ACT III OF 1098.

AN ACT TO AMEND THE TOLLS RECOVERY ACT IV OF 1088.

*Passed by His Highness the Maha Raja of Travancore,
under date the 15th June 1923, corresponding with
the 1st Mithunam 1098, under Section 14 of
Act II of 1097.*

Whereas it is expedient to amend the Tolls Recovery, Act IV of 1088; It is hereby enacted as follows:—

“After Section 5, the following shall be inserted as
Section 5-A :—

Insertion of a new
Section after Section 5.

“5-A. If any person shall, with any carriage or animal, proceed beyond or pass any toll gate or station at which the collection of tolls is authorised, with intent to evade the payment of any toll, such person shall be liable to a fine not exceeding fifty rupees and shall also pay the amount of the toll :

Provided that the establishment of such toll gate or station has been previously notified in Our Government Gazette.”

ACT I OF 1099.

AN ACT FURTHER TO AMEND THE LAND ACQUISITION
ACT XI OF 1089, AS AMENDED BY ACT V OF 1096.

*Passed by His Highness the Maha Raja of Travancore
under date the 12th december 1923, corresponding
with the 27th Vrischikam 1099, under Section
14 of Act II of 1097.*

Whereas it is found expedient further to amend the
Land Acquisition Act, XI of 1089, as amended by Act V
of 1096; It is hereby enacted as follows :—

1. Section 3. After clause (c), the following shall be
inserted as clause (c 1):—

Amendment of Sec-
tion 3.

“(c 1) ‘Local authority’ means any Municipal Council
or other authority legally entitled to, or entrusted by the
Government with, the control or management of any
municipal or local fund.”

2. After Section 35, the following shall be inserted as
Section 35-A:—

Insertion of a new
Section after Section
35.

“35-A. (1) Where the provisions of this Act, are
put in force for the purpose of
acquiring land at the cost of any
fund controlled or managed by a
local authority, the charges of and
incidental to such acquisition shall
be defrayed from or by such fund.

(2) In any proceeding held before a Division
Peishkar or Court in such cases, the local authority con-
cerned may appear and adduce evidence for the purpose
of determining the amount of compensation.

ACT I OF 1099.

(3) Any such local authority which objects to the award of a Division Peishkar in regard either to the area of the land or to the amount of compensation may ask for a reference to the District Court within whose jurisdiction the land is situate in the manner and within the time specified in Section 18; and thereupon the provisions of Sections 19 to 23 and 25, in so far as they may shall apply."

ACT II OF 1099.

AN ACT FURTHER TO AMEND THE REVENUE RECOVERY ACT, I OF 1068, AS AMENDED BY ACT III OF 1087, VIII OF 1094 AND X OF 1097.

Passed by His Highness the Maha Raja of Travancore under date the 10th July 1924 corresponding with the 27th Mithunam 1099, under Section 14 of Act II of 1097.

Whereas it is expedient further to amend the Revenue Recovery Act I of 1068, as amended by Acts III of 1087, VIII of 1094 and X of 1097; It is hereby enacted as follows:—

1. *Section 3.* Substitute the words "Land Revenue and Income-Tax Commissioner" for "Dewan" in line 3.

2. *Section 25.* Substitute "Land Revenue and Income-Tax Commissioner" for "Dewan" in line 2.

3. *Section 32 Clause (1).* Substitute "Land Revenue and Income-Tax Commissioner" for "Dewan" in line 3.

4. *Section 50.* The following shall be substituted for Section 50:—

"The Dewan may, for sufficient reason, revise any orders passed or proceedings taken by a Division Peishkar, Tahsildar or Proverthikar, under the provisions of this Act, or may, generally or in certain cases or certain classes of cases only, delegate such powers of revision to the Land Revenue and Income-Tax Commissioner:

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."

5. *Section 51.* Add "or the Land Revenue and Income-Tax Commissioner" after "Dewan" in line 1 of paragraph 3.

6. *Section 58.* Insert "or by virtue of his office" after "name" in line 2.

ACT III OF 1099.

THE TRAVANCORE GOVERNMENT SECURITIES.

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ACT III OF 1099.

AN ACT RELATING TO GOVERNMENT SECURITIES IN TRAVANCORE.

*Passed by His Highness the Maha Raja of Travancore,
under date the 10th July 1924 corresponding with
the 27th Mithunam 1099, under Section 14 of
Act II of 1097.*

Whereas it is expedient to regulate the law relating to Government Securities in Travancore: It is hereby enacted as follows:—

Year.	No.	Short title.	Effect of subsequent Legislation.
1099	III	Government Securities Act.	Amended by Act XV of 1118. <i>see also</i> Act XX of 1122.

Act III of 1099. Objects and Reasons.—(1) The Rules relating to Travancore Debenture Bonds, as regards their transfer and the rights and liabilities thereunder, are now regulated by mere executive rules. It is considered desirable to have Rules having legal effect in regard to these and kindred matters, and hence this proposed legislation. The Bill is framed so as to comprehend not only the existing form of Government Security but also what might hereafter be considered necessary, such as promissory notes. The Bill is based on the Indian Securities Act, X of 1920, with such modifications as are necessitated by local requirements and limitations. The Bill is a short one and it is not therefore considered necessary to append notes on the various Clauses.—

S. O. & R., T. G. G. dated 20-3-1923.

The Report of the Select Committee was published on 8-1-1924.

For legislative proceedings *see* L. C. P. Vol IV, Pp. 108-110; 485 510 and 818.

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

It may be noted that Sec. 29 of the Public Debt Act, XX of 1122 enacts that the provisions of Act III of 1099 shall cease to apply to Government Securities to which the former Act applies and to all matters for which provision is made by that Act.

Act XV of 1118. This Act was passed direct by His Highness and was published in T. G. G., dated 30-3-1943.

SEC. 1. GOVERNMENT SECURITIES ACT.

1. (1) This Act may be called "The Travancore Government Securities Act, III of 1099." Short title, extent and commencement.

(2) It extends to the whole of Travancore; and

(3) It shall come into force on the 1st Chingom 1100 M. E.

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

(a) "Government security" means promissory notes, debenture bonds and all other securities issued by Our Government in respect of any loan contracted either before or after the passing of this Act: and

(b) "Prescribed" means prescribed by Rules made under this Act.

3. (1) Save as otherwise provided in or under this Act, no notice of any trust in respect of any Government security shall be receivable save as provided. Notice of trust not receivable save as provided.

(2) Our Government shall not be deemed to have received notice of any trust by reason only of the fact that it has recognised an indorsement on a Government security by an executor or administrator as such, nor shall it inquire into the terms of any Will by which such executor or administrator may be bound, but, on being satisfied of the due appointment of such executor or administrator, it shall be entitled to treat him as the full owner of any Government security belonging to the estate of the person whom he represents

4. (1) Notwithstanding any law to the contrary,—

(a) When a Government security is payable to two or more persons jointly, and either or any of them dies, the security shall, subject to such Rules as may be prescribed, be payable to the survivor or survivors of those persons; and

Sec. 4. The corresponding Section 4 of the Indian Act as amended by Act II of 1928 runs thus:—

"4 (1) Notwithstanding anything in Sec. 45 of the Indian

Contract Act, 1872,—

(a) When a Government security is payable... dies. the security shall be payable to the survivor or survivors of those persons, and

(b) when a Government security is payable to two or more persons severally and either or any of them dies, the security shall be payable to the survivor or survivors of those persons, or to the representative of the deceased, or to any of them.

(2) Nothing herein contained shall affect any claim which any representative of a deceased person may have against the survivor or survivors under or in respect of any security to which Sub-section (1) applies.

5. Notwithstanding anything in Section 14 of the Negotiable Instruments Act, 1075, no indorsement of a Government security shall be valid unless made by the signature of the holder inscribed on the back of the security itself.

6. (1) In the case of any public office to which Our Government may, by Notification in Our Government Gazette, declare this Sub-section to apply, a Government security may be made or indorsed payable to or to the order of the holder of the office by the name of the office.

(2) When a Government security is made or indorsed as aforesaid, it shall be deemed to be transferred without any or further indorsement from each holder of the office to the succeeding holder of the office on and from the date on which the latter takes charge of the office.

(b) when a Government security.....to any of them.

(2) This Section shall apply whether such death occurred or occurs before or after this Act comes into force.

(3) Nothing herein containedSub-section (1) applies.

(4) For the purpose of the section, a body incorporated

under the Indian Companies Act, 1913, or the Co-operative Societies Act, 1912, or any other enactment for the time being in force whether within or without British India relating to the incorporation of association of individuals, shall be deemed to die when it is dissolved."

SEC. 6. GOVERNMENT SECURITIES ACT.

(3) When the holder of the office indorses to a third party a Government security made or indorsed as aforesaid, he shall subscribe the indorsement with his name and the name of the office.

(4) A writing on a Government security now or heretofore standing in the name of the holder of a public office, whereby the security has been or was made or indorsed payable to or to the order of the holder of the office, by the name of the office, shall not be deemed to be or to have been invalid by reason only of the security having been so made or indorsed.

(5) The Section applies as well to an office of which there are two or more joint holders as to an office of which there is a single holder.

[6 A. Notwithstanding anything in the Negotiable Instruments Act, II of 1075, Our Government may, in respect of any loan, issue the holder of any special office or position recognised by Our Government, securities in such form and subject to such conditions as to negotiability, succession and other matters as may be laid down by Our Government.]

7. Notwithstanding anything in the Negotiable Instruments Act, 1075, a person shall not, by reason only of his having indorsed a Government security, be liable to pay any money due, either as principal or as interest thereunder.

8. (1) The signature of the person authorised to sign Government securities on behalf of Our Government may be printed, engraved or lithographed, or impressed by such other mechanical process as Our Government may direct on the securities.

(2) A signature so printed, engraved, lithographed or otherwise impressed shall be as valid as if it had been inscribed in the proper handwriting of the person so authorised.

Sec. 6-A. This was added by Sec. 2, Act XV of 1118.

ISSUE OF DUPLICATE, RENEWED, CONVERTED
CONSOLIDATED OR SUB-DIVIDED SECURITIES.

9. (1) When a Government security is alleged to have been lost or destroyed either wholly or in part, and a person claims to be the person to whom but for the loss or destruction it would be payable, he may, on application to the prescribed Officer, and on producing proof to his satisfaction of the loss or destruction and of the justice of the claim and on payment of the prescribed fee, if any, obtain from him an order for—

Issue of duplicate securities.

- (a) the payment of interest in respect of the security said to be lost or destroyed pending the issue of a duplicate security; and
- (b) the issue of duplicate security payable to the applicant.

(2) An order shall not be passed under Sub-section (1) until after the issue of the prescribed Notification of the loss or destruction.

(3) A list of the securities in respect of which an order is passed under sub section (1) shall be published in the prescribed manner.

10. Subject to the provisions of Section 11, a person claiming to be entitled to a Government promissory note may, on applying to the prescribed Officer, and on satisfying him of the justice of his claim and delivering the promissory note received in the prescribed manner, and paying the prescribed fee, if any, obtain from such Officer a renewed promissory note payable to him :

Renewal of promissory notes.

Sec. 9 Under the corresponding S c. 10 of the Indian Act, the duplicate is provided to be issued in case of theft of the original also. The Indian Act contains a fourth sub-section which reads:—

“If at any time before the Government becomes discharg-

ed under the provisions of this Act from liability in respect of any security the whole of which is alleged to have been lost, stolen or destroyed, such security is found, any order passed in respect thereof under this section shall be cancelled”

SEC 11. GOVERNMENT SECURITIES ACT.

Provided that, when application is made for the renewal of a Government promissory note which appears to the prescribed Officer to stand in the name of a deceased member of a Hindu undivided family governed by the Mitakshara Law, a renewed promissory note shall not be issued to the applicant unless he furnishes a certificate, signed by such authority and after such inquiry as may be prescribed, to the effect that the deceased belonged to a Hindu undivided family governed by the Mitakshara Law, that the promissory note formed part of the joint property of the family, and that the applicant is the managing or sole surviving male member of the family.

*Explanation:—*The expression "Hindu undivided family governed by the Mitakshara Law" shall, for the purposes of this Section, be deemed to include undivided families governed by Malabar Law.

11. (1) Where there is a dispute as to the title to a Government promissory note in respect of which an application for renewal has been made, the prescribed Officer may,

Renewal of promissory notes in case of dispute as to title.

- (a) where any party to the dispute has obtained a final decision from a Court of competent jurisdiction declaring him to be entitled to such note, issue a renewed note in favour of such party, or
- (b) refuse to renew the note until such a decision has been obtained, or
- (c) after such enquiry as is hereinafter provided and consideration of the result thereof, declare by order in writing which of the parties is in his opinion entitled to such note, and may, after the expiration of six months from the date of such declaration, issue a renewed note in favour of such party in accordance with the provisions of Section 10 unless within that period he

has received notice that proceedings have been instituted by any person in a Court of competent jurisdiction for the purpose of establishing a title to such note.

Explanation.—For the purpose of this Sub-section, the expression 'final decision' means a decision which is not appealable or a decision which is appealable but against which no appeal has been filed within the period of limitation allowed by law.

(2) For the purpose of the inquiry referred to in Sub-section (1), the prescribed Officer may himself record, or may request the District Magistrate to record or to have recorded, the whole or any part of such evidence as the parties may produce. When such request has been made to the District Magistrate, such Magistrate may himself record or may direct any Magistrate of the First Class subordinate to him, to record the evidence, and shall forward a copy thereof to the prescribed Officer.

Explanation.—For the purposes of this Sub-section, the District Magistrate means the District Magistrate having jurisdiction in the place where interest on the promissory note is payable

(3) The prescribed Officer or any Magistrate acting under this Section may, if he thinks fit, record evidence on oath.

12. Government securities other than those mentioned in Section 10 may be renewed in such circumstances and in such manner as may be prescribed.

13. (1) The prescribed Officer may, subject to such conditions as may be prescribed, on the application of a person claiming to be entitled to a Government security or securities, on being satisfied of the justice of the claim and on delivery of the security or securities received in the prescribed manner and on payment of the prescribed fee, if any, convert, consolidate or subdivide the security or securities, and issue to the applicant a new security or securities accordingly.

SEC. 14. GOVERNMENT SECURITIES ACT.

(2) The conversion, consolidation, or sub-division referred to in Sub-section (1) may be into a security or securities of the same or different classes or of the same or different loans.

14. (1) When a renewed Government promissory note has been issued under Section 10, or a new Government Promissory note has been issued upon conversion, consolidation or sub-division under Section 13, in favour of any person, the note so issued shall be deemed to constitute a new contract between Our Government and such person and all persons deriving title thereafter through him.

(2) No such renewal, conversion, consolidation or sub-division shall affect the rights as against Our Government of any other person to the security or securities so renewed, converted, consolidated or sub-divided.

DISCHARGE.

15. Our Government shall,—

Discharge.

- (i) on payment of the amount due on a Government security on or after the date on which payment becomes due, or
- (ii) when a duplicate security has been issued under Section 9, or
- (iii) when a renewed security has been issued under Section 10 or Section 11 or a new security or securities has or have been issued upon conversion, consolidation or sub-division under Section 13,—

be discharged from all liability in respect of the security or securities so paid or in place of which a duplicate, renewed, or new security or securities has or have been issued,—

- (a) in the case of payment—after the lapse of six years from the date on which payment was due ;

- (b) in the case of a duplicate security—after the lapse of six years from the date of the publication under Sub-section (3) of Section 9 of the list in which the security is first mentioned, or from the date of the last payment of interest on the original security, whichever date is later ;
- (c) in the case of a renewed security or of a new security issued upon conversion, consolidation or subdivision—after the lapse of six years from the date of the issue thereof.

SUMMARY PROCEDURE IN CERTAIN CASES.

16. (1) If within six months of the death of a person who was entitled to a Government security or securities, the nominal or face value of which does not in the aggregate exceed two thousand rupees, probate of the Will or letters of administration of the estate of such person or a certificate granted under the Succession Certificate Act, 1090, is not produced to the prescribed Officer, such Officer may, after inquiry in the manner provided in Sub-sections (2) and (3) of Section 11, determine who is the person entitled to the security or securities or to administer the estate of the deceased, and may,—

- (a) in the case of any security relating to a loan due for repayment, authorise payment of the amount due thereon to such person ; and
- (b) in the case of any such security relating to a loan not due for repayment, authorise the renewal of such security in favour of such person.

(2) Upon the payment or renewal of any security in accordance with Sub-section (1) Our Government shall be discharged from all liability in respect of the security so paid or renewed.

SEC. 17. GOVERNMENT SECURITIES ACT. 1

(3) Any creditor or claimant against the estate of the deceased may recover his debt or claim out of the money paid to any person under Sub-section (1) and remaining in his hands unadministered in the same manner and to the same extent as if the said person had obtained letters of administration of the estate of the deceased, and nothing in this Section shall affect any claim of an executor or administrator or other representative of the deceased against such person other than a claim to recover amounts lawfully paid by him in due course of administration of the estate of the deceased.

SECURITIES HELD BY MINORS AND LUNATICS.

17. Where a Government security stands in the name of or is held by a minor or a person who is insane and incapable of managing his affairs, the interest accruing thereon, or the capital sum payable in respect thereof on the maturity or discharge of the loan, shall, where in the case of interest payable the nominal value of the security or in other cases the sum payable does not exceed two thousand rupees, be paid in such manner as may be prescribed, and on any payment being so made, Our Government shall, notwithstanding any provision of any enactment to the contrary, be discharged from all liability in respect thereof.

INDEMNITY.

18. Notwithstanding anything in Section 9, 10, 11, or 13, the prescribed Officer may in any case arising under any of those Sections—

(i) issue a duplicate or renewed security, or convert, consolidate or subdivide a security or securities on the applicant giving the prescribed indemnity against the claims of all persons claiming under the original security or under the security or securities so renewed, converted, consolidated or subdivided, as the case may be, or

(ii) refuse to issue a duplicate or renewed security or to convert, consolidate or subdivide a security or securities unless such indemnity is given.

INSPECTION OF REGISTERS, BOOKS AND DOCUMENTS.

19. No person shall be entitled to inspect, or to receive information derived from, any Government security in the possession of Our Government or from any book, register or other document kept or maintained by or on behalf of Our Government in relation to Government securities or any Government security, save in such circumstances and manner and subject to such conditions as may be prescribed.

Inspection of documents.

PENALTY.

20. (1) If any person, for the purpose of obtaining for himself or for any other person payment of interest or of the capital sum due in respect of any Government security, or the issue of a duplicate security, or the renewal, conversion, consolidation or subdivision of a Government security or securities, makes to any authority under this Act a statement which is false and which he either knows to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

Penalty.

(2) No Court shall take cognizance of any offence under Sub-section (1) save on the complaint of the prescribed Officer.

RULES.

21. (1) Our Government may, after previous publication, make Rules to carry out the purposes 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 all or any of the following matters, namely—

(a) the manner in which payment of interest in respect of Government securities is to be made and acknowledged ;

SEC. 21. GOVERNMENT SECURITIES ACT.

- (b) the circumstances in which Government securities must be renewed before further payment of interest thereon can be claimed ;
- (c) the fees to be paid in respect of the issue of duplicate securities and of the renewal, conversion, consolidation and subdivision of Government securities ;
- (d) the proof which is to be produced by person applying for duplicate securities ;
- (e) the form and manner of publication of the notification mentioned in Sub-section (2) of Section 9 and the manner of publication of the list mentioned in Sub-section (3) of that Section ;
- (f) the Officer who is to exercise all or any of the powers and to perform all or any of the duties referred to in Sections 9, 10, 11, 13, 16 and 18 ;
- (g) the manner of making the inquiry mentioned in the proviso to Section 10 ;
- (h) the circumstances and the manner in which securities other than promissory notes are to be renewed ;
- (i) the form in which securities delivered for discharge, renewal, conversion, consolidation or sub-division are to be receipted ;
- (j) the conditions subject to which securities may be converted, consolidated, or subdivided ;
- (k) the person to whom and manner in which payments are to be made in respect of Government securities standing in the name of, or held by, minors or persons who are insane and incapable of managing their affairs :
- (l) the taking of indemnities against adverse claims of third parties from persons who receive payment of interest or of the capital sum due in respect of Government securities, or who obtain duplicate, renewed converted, consolidated or subdivided securities ;

- (m) the manner in which any document relating to Government securities, or any indorsement on a Government promissory note may, on the demand of any person who from any cause is unable to write, be executed on his behalf ;
- (n) generally, all matters connected with the grant of duplicate, renewed, converted, consolidated and subdivided securities ; and
- (o) the circumstances and the manner in which and the conditions subject to which, inspection of securities, books, registers and other documents may be allowed or information therefrom may be given under Section 19.

(3) Rules made under this Section shall be published in Our Government Gazette, and shall thereupon have effect as if enacted in this Act.

ACT IV OF 1099.

HIGH COURT.

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Act IV OF 1099.

AN ACT TO CONSOLIDATE AND AMEND THE LAW RELATING TO THE HIGH COURT OF TRAVANCORE

*Passed by His Highness the Maha Raja of Travancore,
under date the 10th July 1924, corresponding
with the 27th Mithunam 1099, under
Section 14 of Act II of 1097.*

Whereas it is expedient to consolidate and amend the law relating to the High Court of Travancore: It is hereby enacted as follows:—

Year.	No.	Short title.	Effect of subsequent Legislation.
1099	IV	High Court Act.	Amended by Acts II of 1113; III of 1113 and IV of 1119.

“It was in 987 M. E., that what were called Zillah Courts were first established in Travancore. There were seven such Courts created at that time, but it is strange they were all placed under the orders of the Dewan who was then the supreme head of all departments. The term Regulation or Act was then unknown and all measures of state were made known by Royal Proclamations under Sign Manual. These Courts were simply to enquire into all cases brought before them whether civil, criminal or police and report to the Dewan who passed orders on each case. This state of things however lasted but for a short time for in 990 M. E. an Appellate Huzoor Court was formed for hearing appeals from the decisions of the Zillah Courts, but

this still formed an appendage to the Dewan's Cutcherry. * * But it was in 1010 M. E. that the foundation was laid for the present system of Judicial administration. By a series of Regulations passed in that year a general scheme analogous to that then in force in the Madras Presidency was introduced * * * * * Regulation V created the Sadr Court or as it was then called the Appeal Court. There were to be four Judges (3 Hindus and one Christian,) a Shastry and a Mufti. All the four Judges were required to be present at the investigation of cases, but two with the aid of the Shastry and the Mufti were declared competent to decide.”

“By another Regulation (VII of 1010) * * * the powers of

HIGH COURT ACT.

the Zillah Criminal Court were defined and Judges of the Sadr or as it was then called the Appeal Court were appointed circuit Judges. One of the Judges was required to proceed on circuit once in every six months to the different Zillah Courts and was empowered to investigate and decide all cases committed to him by the criminal Courts as requiring a higher punishment than it was competent to them to award. The powers of the Circuit Court were * * fine up to 200 Rs : imprisonment to 3 years and whipping 36 lashes. Cases calling for a higher punishment and those in which the Shastry differed from the Circuit Judge went before the Sadr Court."

"The powers of the Sadr Court were apparently unlimited but they were required to submit for the confirmation of His Highness all cases requiring capital punishment or imprisonment for more than 14 years or more than 36 lashes * * *"

- "The Circuit Courts were abolished in 1032 M. E. (Regulation I of 1032) and in their room three Session Courts were established to which the Zillah Criminal Courts were made immediately subordinate. The Session Courts were in their turn subordinate to the Appeal Court to whom appeals lay from their decisions." *Extract from Dewan Rama Iyer's memo on Judicial Reforms, A. R. 1056,*

Act I of 1047. This Act provided for the better conduct of business in the Sadr Court by enacting that whenever there was a difference of opinion at a sitting of an even number of

Judges and they were equally divided, the opinion of the Senior Judge was to prevail.

Act II of 1047. This Act conferred revisional powers on the Sadr Court in respect of proceedings of Magistrates.

Act III of 1054. With respect to this Act the Administration report of the year states:— "Regulation III of 1054 remodels the constitution of the Sadr Court and was intended to afford greater facilities for the transaction of business. The number of Judges was reduced from four to three, with a Pandit to consult with on points of Hindu law.

"Two Judges sitting as a Bench, hear and dispose of all regular and special appeals and referred criminal cases where sentence of death or imprisonment for life is awardable. But a single Judge is now competent to dispose of all other matters with power to refer for the opinion of another Judge or of the whole Court any question of law or practice and bound to refer to the whole Court any point in which he may differ in opinion from a prior decision. Criminal cases requiring reference to the Sadr by the Zillah Judge are restricted to those where capital sentence or imprisonment for life is awardable. An appeal lies in other cases and the prisoner can claim to be heard by the Judges of the Sadr if the sentence awarded exceeds seven years." * * * A- R. 1054.

Act II of 1057. The defects in the constitution of the Sadr Court just preceding this enact-

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ment are stated as follows in the administration report of 1056:—

“Nor is the constitution of the Sadr or Chief Court of the country such as to command the entire confidence of the public.

Before the passing of Regulation III of 1054, that Court consisted of four Judges, but by that enactment was reduced to three. The effect of this change has been to leave to a single Judge the disposal of all regular appeals of the value of Rs. 700 and under on the Civil side although all special appeals must be heard by two Judges. On the Criminal side, too, a single Judge is empowered to hear and decide all appeals from the decision of the Zillah Courts, provided that when the punishment awarded exceeds seven years imprisonment, the prisoner can claim the right of being heard by two judges. The feeling of the Bar and of the more intelligent portion of the public is against this state of things.”

“The absence of a Court of final resort which could hear and dispose of appeals referred to the Sovereign from the decision of the Sadr Court has long been considered to be another serious defect in the judicial machinery.”—*A. R. 1056.*

To remedy these defects and to reconstitute the Chief Court of Judicature and make provision for the better administration of justice, Act II of 1057 was passed.

“By it, the number of Judges was raised from three to five— one Chief Justice and four Puisne Judges—with a Pandit to advise on points of Hindu

law. Division Benches consisting of two Judges were required—(1) to hear and determine all appeals Civil and Criminal preferred from the decrees, orders or the sentences of the Zillah and Sessions Courts where the same were allowed by law; (2) to transfer Civil or Criminal cases from one Court to another; (3) to dispose of references in Small Cause cases (4) to pass orders on references made by Sessions Judges and Magistrates under Regulation III of 1056. A single Judge was competent only—(1) to call for information from the lower Courts regarding cases on their files with a view to superintend their working and to correct errors of law or practice; (2) to revise Calendars and other returns in Criminal cases; (3) to examine the returns submitted by the Civil Courts; and (4) to refer any point of law for the decision of a Division Bench or to a Court consisting of not less than three Judges.

“In Civil cases, where the Judges composing a Division Bench agreed, an appeal lay to the Sovereign from their decree or order, but if they disagreed and the case was one which would otherwise be appealable to His Highness the Maha Raja under the Regulation, they were required to record their opinions and direct that the case be referred for disposal by a Full Bench consisting of all the five Judges from whose decision there was to be no further appeal.”

“In all other cases where there was a difference of opinion between the two Judges forming a Division Bench, the

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Regulation provided for their referring the case to a Third Bench, or in any case of a novel or special character or involving an important point of law, to a Full Bench consisting of all the five Judges. In either case the decision of the Court was final.

"In Criminal cases, if the two Judges forming a Division Bench agreed as to the order or sentence to be passed, their decision was final. But if they disagreed, they were empowered as in Civil cases to refer the matter for the decision of another Judge: or, in any case of a novel or special character or involving any important point of law, to a Full Bench consisting of all the five Judges. The decision in either case was final provided that if the sentence or order passed be one of death or life imprisonment, it was to be subject to His Highness the Maha Raja's confirmation."

"Then, in the matter of appeals to the Sovereign from the decrees or orders of a Division Bench of two Judges, provision was made for referring such, appeals to a Judicial Committee consisting of the remaining three Judges of the High Court if the subject matter of the suit in the Court of first instance and in the appeal was valued at Rs. 5,000 and more. Provided that if the judgment of the Division Bench affirms the decision of a lower Court, the appeal to the Sovereign must involve some substantial question of law."

"Petitions for permission to appeal to the Sovereign were to

be presented to the Judicial Committee who were empowered to admit the appeal, if the prescribed conditions as to security for costs and the payment of fees were duly fulfilled. The Committee then gave notice to the other party, fixed a day for the hearing and submitted their opinion through the Dewan to His Highness the Maha Raja who thereupon confirmed the same"—A R. 1057.

This Act was amended by Act II of 1061.

Act I of 1065. This Act repealed Act II of 1057 and constituted the High Court. "Its leading features were— (i) the reduction of the number of Judges from five to four, three of whom were competent to constitute a Full Bench; (2) power given to a single Judge to hear and dispose of first appeals in Civil cases, where a second appeal lay to the Royal Court; (3) the reduction of the pecuniary value of appeals to that Court from Rs. 5,000 to Rs. 2,500; and (4) dispensing with the translation and printing of records."—A R 1065.

Act I of 1067. This Act repealed Act I of 1065. "Under the repealed enactment, a single Judge of the High Court was empowered to hear appeals against the decisions of the District Courts in suits of the value of Rs. 2,500 and upwards, and an appeal to the Sovereign from his decision was provided, the remaining three Judges of the High Court sitting as a Judicial Committee to hear such appeals. Regn. I of 1067 abolished the intermediate appeal and empowered a Full

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Bench of three Judges to hear and determine all Civil appeals from the decisions of the District Courts in suits of the class specified above, subject to the confirmation of their decree by the Royal Sign Manual."—A. R. 1067.

Act I of 1067 was amended by Acts I of 1086 and VIII of 1087.

Act IV of 1099. This repealed Act I of 1067 as amended by Acts I of 1086 and VIII of 1087.

"The original High Court Regulation. I of 1067, was passed fully thirty years ago, and has been amended by two Regulations of 1086 and VIII of 1087. The High Court desire a further amendment so as to facilitate the working of the High Court both administratively and judicially. Advantage is accordingly taken to re-enact the whole Regulation so as to incorporate the amendments already made, and the amendments proposed to be made. It will be seen from the Bill that it substantially reproduces the law as it now exists, and the alterations that are now sought to be made and are not merely nominal or verbal are explained in the Notes on Clauses".—S. O. & R.. T. G. G. dated 11-7-1922.

In introducing the Bill the official member in charge spoke as follows :

" * * The High Court have pointed out that under Sec. 9 of the existing Regulation, the Judges are now in a position to inspect the subordinate Courts only with the previous sanction of the Government. This entails considerable delay and it is not possible for them to

inspect the subordinate Courts satisfactorily. With a view to such inspection they have suggested that Sec. 9 of the Regulation should be so amended as to permit any of the Judges of the High Court to inspect the subordinate Courts without the previous sanction of the Government. Every other Head of a Department inspects his subordinate offices without the previous sanction of Government. The second suggestion of the High Court is with reference to Sec. 12 of the Regulation. This Section enacts that a Full Bench shall consist of three Judges. This, as will be pointed out later on, leads to some inconvenience. They have therefore suggested that a Full Bench should consist of not less than three Judges, so that the Chief Justice may have power to constitute a Full Bench composed of as many Judges as he thinks fit. When the recommendation of the High Court came up, it was thought desirable to revise the Regulation as a whole, seeing that the present Regulation is now 30 years old. With that view, the Regulation was taken up and the present Bill is the result."

"I may now state a few of the main features of the Bill. In the first instance, it is proposed to delete Sec. 3 of the Regulation, providing for the appointment of a Pundit. It is within the memory of all that the Pundit ceased to exist in the High Court very very long ago, and I believe these Pundits were intended for the exposition of the Hindu Law, when questions relating to that law

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came up for decision. Such questions have now been embodied in legal decisions and translations of old texts are also available. The Government thought that it was not necessary to continue the Pundit any longer, but yet Section 3 of the Regulation makes provision for it and, seeing that it is absolutely unnecessary to have it, that has been deleted. The next important amendment is that the various Sections have been recast, and the Bill divided into Parts, so that we may be able to find out very easily the provisions of any particular portion of the Regulation. And the first portion of it defines the powers of single Judge of the High Court. While following generally the existing provisions of the Regulation, the first Clause of this Section has been put in so that a Division Bench of the High Court has now been expressly stated to possess the powers which a single Judge possesses under the provisions of the Section. In other words, although a single Judge is permitted to exercise certain powers with reference to certain matters, there is no express provision in the Regulation that the very same powers may be exercised by the Division Bench, although this may be inferred from another Section. In order to make the point clear and in conformity with the existing practice, Clause 1 has been put in. In that Clause additional power is proposed to be conferred on a single judge. * * In the case of a second appeal arising out of suits for money and involving merely questions of fact, a

single judge may dispose of such appeal even though that appeal may be based upon a conflicting decision of the subordinate Courts. I may explain that provision a little in detail. Under the existing Civil Procedure Code, no second appeal lies on a question of fact. If both the subordinate Courts, viz., the Munsiff and the Judge, agree on a question of fact and such finding of fact is material for the decision of a case, no second appeal lies. Second appeals on a concurrent decision on questions of fact are allowed only when a question of law arises in the case, but with a view to lighten the work of the High Court it is considered desirable that a single judge of the High Court should be empowered to dispose of second appeals arising out of cases in which there has been a conflict of opinion on a question of fact. If the Munsiff decides in one way and the appellate authority in another way on the same question of fact, appeals from such decisions are now decided by a Division Bench. A single Judge has no power to dispose of such appeals. It may in the first place be asked whether, when there is a difference of opinion on a question of fact between a Munsiff and a District Judge, it is not desirable that two Judges of the High Court should express their opinion upon the same fact. Now with reference to that, the answer is very simple. If, on the same question of fact, the District Judge agrees with the Munsiff, his decision is final. In other words, the High Court cannot revise such an opinion of the District Judge

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so long as the District Judge agrees with the Munsiff. If the opinion of the District Judge may be final when he agrees with the Munsiff, there is no reason why, when two people disagree, a single Judge of the High Court, an appellate authority, should not say whether the District Judge or the Munsiff is right; and if he agrees with the Munsiff or the District Judge, his decision may be final. But at the same time it is open to a single Judge to refer any question to a Division Bench, if he thinks it necessary to do so in the circumstances of the case, and it is also provided that such a power of a single Judge can be exercised only in suits for money and not with reference to immovable property where a question of fact is material for the decision of the case. These two safeguards are, I think, quite ample to see that no failure of justice is caused by the decision of a single Judge. As for lightening the work of the High Court, I may say that, in 1094, I find that out of 644 special appeals, 284, out of 551 in 1095, 242 and out of 552 in 1096, 240, were below Rs. 500 in value. Out of these, not less than 60 per cent. may, I believe, be suits for money. As an instance in point, I may say that, if a Munsiff finds that a promissory note or a receipt is genuine and a District Judge is of opinion that it is false, it is enough if a single Judge of the High Court decides whether it is genuine or false. * * "

"Under the present Regulation, if in a Division Bench the members of the Bench

disagree as to any particular matter, it is generally placed before a third Judge who hears the case singly and his decision is final. He must agree with either of the decisions. It may be desirable that, in some cases, instead of a single Judge hearing the case singly, he hears the case along with the Division Bench which differs in opinion, because that will enable the members of the Division Bench to consult their colleague, the third member on any question of fact or law. They will also, in the light of the new observations, be in a position to change their view if necessary. The single Judge may know exactly the trend of thought which one of the Judges who differs from him had. It is left to the discretion of the Chief Justice to post the case before a Third Judge, or before three Judges according as the importance of the case may deserve. That is one of the important provisions now made."

"The next is with reference to the Full Bench. So far as Full Bench cases are concerned, the existing provision is that it shall consist of three Judges, so much so that, if the Chief Justice wants, he cannot constitute a Bench containing more than three Judges. The result is that a question of law in which an opinion has been expressed concurrently by three Judges and followed by later decisions may be easily overruled by another Full Bench, where only two Judges agree in any particular question of law, or, in other words, the opinion of the three Judges recorded

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before may be overruled by the opinion of two Judges later on. That, I beg to submit, is rather undesirable. In such cases, where a current of decisions has to be altered, it is desirable that more Judges than three should sit and as far as possible a full Court. In order that there may not be any deadlock in the matter owing to a difference of opinion or equality of votes, it is provided that such a Full Bench shall consist of not less than three Judges and the number of Judges should be an uneven number." *L. C. P. dated 20-7-1922.*

The Report of the Select Committee was published on *31-1-1923.*

For Legislative proceedings *See L. C. P. Vol. I Pp. 25-38; Vol. II Pp. 1202-1236; and Vol. IV P. 819.*

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

Act II of 1113. In order to implement the recommendations of the Laws delays Commission a Bill entitled, 'The Civil Courts' Powers Amendment Bill' was introduced in the Sri Mulam Legislative Assembly. This Bill proposed certain amendments to the Civil Courts Act, The High Court Act and the Code of Civil Procedure. The Statements of Objects and Reasons appended to the Bill says:— "The amendments in respect of the Civil Courts Act would enhance the ordinary jurisdiction of the Munsiffs from Rs. 2,000 to Rs. 2,500 and the Small Cause jurisdiction of the Munsiffs from Rs. 100 to Rs. 200 and make the District

Court, the first appellate Court in respect of all the decisions of the Munsiffs. The amendment in respect of the High Court Act provides for a single Judge of the High Court sitting as an 'admission Court' in respect of Second Appeals, and also enable the High Court to issue their Rules and Circular Orders with the signature of some Officer of the High Court. The amendment in respect of the Code of Civil Procedure provides for the appellate small Cause 'jurisdiction of the District Courts that is to say, the amendment would make the appellate decisions of the District Courts final in suits of the nature cognisable as small Cause suits provided the value of the subject matter of the original suit does not exceed Rs. 500." *S. O. & R., T. G. G. dated 24-10-1933.*

The Bill was referred to a Select Committee who reported on *15-11-1934 (see T. G. G. dated 25-11-1944)*

The Select Committee practically, turned down all the provisions of the Bill. After some discussion in the Assembly, the Bill was again referred to a Select Committee. The Committee was of the view that amendments relating to the Civil Courts Act and the Civil Procedure Code were unnecessary and adapted those in respect of the High Court Act.

The report of the Select Committee was published in *T. G. G. dated 16-11-1937.*

The Bill as revised by the second Select Committee was passed as Act II of 1113

PART I.

PRELIMINARY.

1. This Act may be called "The Travancore High Court Act" of 1099, and it shall come into force on the 1st Chingom 1100 M. E.

For legislative proceedings see A. P. Vol. II. P. 347. 348 Vol. IV, P. 322. Vol. IX Pp. 425-436; Vol. X. P. 92; Vol. XI Pp. 55-57; C. P. Vol. XI. P. 95.

The Act was published in T. G. G. dated 21-12-1937.

Act III of 1113. Objects and Reasons.—“The Select Committee of the Assembly in dealing with the Civil Courts Powers (Amendment) Bill, has recommended that with a view to reduce the work of Division Benches of the High Court power may be given to Single Judges of the High Court to dispose of finally certain criminal matters. This Bill is accordingly proposed. The Single Judges will not, however have power to enhance any sentence passed by a Criminal Court or to interfere with any orders of acquittal made by any Court, Subject to this limitation Single Judges may pass final orders in Criminal Revision Petitions and in Criminal References”—S. O. & R., T. G. G. dated 16-11-1931.

For legislative proceedings see A. P. Vol. XI, P. p. 57, 58; C. P. Vol. XI, Pp, 95, 96.

The Act was published in T. G. G. dated 21-12-1937.

Act IV of 1119. Objects and Reasons: “The need has long been felt of investing the High Court with original jurisdiction to be exercised in special circumstances so as to enable the

High Court to try original cases, civil and criminal. In 57 T. L. R. 420 (F. B.) the view has been expressed that the High Court has no original jurisdiction in civil cases at all and that it has only very limited original jurisdiction in criminal cases. The same ruling also has pointed out the defect in the Section which confers powers on the High Court during the annual recess and during consecutive holidays.

The Bill is intended to provide for these two cases. It empowers the High Court to withdraw and try any case, Civil or Criminal if it deems it necessary. It also gives powers to be exercised during vacation so as to enable the High Court to make urgent interim orders. Consequential amendments necessary both in the Code of Civil Procedure and in the Code of Criminal Procedure are made in the Code of Civil Procedure (Amendment) Bill and in the Code of Criminal Procedure (Amendment) Bili.” S. O. & R., T. G. G. dated 25-5-1943.

For report of the Select Committee see T. G. G. dated 6-7-1943.

For legislative proceedings see A. P. Vol. XXI. P. p. 227-232; 247-258; Vol XXII. P. p, 756 777; C. P. Vol. XXII P. p, 365-369,

The Act was published in T. G. G. dated 17-8-1943,

2. Act I of 1067, as amended by Act I of 1086 and VIII of 1087, is hereby repealed.

PART II.

CONSTITUTION OF THE HIGH COURT.

3. The High Court shall consist of a Chief Justice and not less than three other Judges.
The number of Judges.

4. The Chief Justice and every Judge who shall, from time to time, be appointed to the High Court, whether permanently or temporarily, shall, previous to entering upon the duties of his office, make and subscribe the following declaration before any one of the Judges of the High Court, or before such authority as Our Government may commission in that behalf:—

“I. A. B., appointed Chief Justice (or a Judge) of the High Court, Travancore, do solemnly declare that I will faithfully perform the duties of my office, to the best of my ability, knowledge and judgment.”

5. The High Court shall have and use, as occasion may require, a seal bearing the device of Our Royal Arms, with a label surrounding the same, with this inscription: “The Seal of the High Court of Travancore.”
Seal.
The seal shall be in the custody of the Chief Justice.

PART III.

JURISDICTION OF THE HIGH COURT.

6. The High Court may exercise all the powers vested in it by this and any other Act now in force or which may hereafter be passed, and also the powers vested in the late Sadr Court by Acts and Proclamations not repealed.
Powers.

7. A single Judge of the High Court is invested with Powers of a single Judge. the following powers :

- (1) to call for information from the subordinate Courts with a view to superintend their working and to correct errors of procedure or practice ;
- (2) to revise calendars and other returns in Criminal cases ;
- (3) to examine the returns submitted by the Civil Courts ;
- (4) to hear and decide—
 - (A) every application—
 - (i) for determining in which of several Courts having jurisdiction a suit shall be heard ;
 - (ii) for the admission of an appeal presented after the expiry of the period allowed by the Law of Limitation ;
 - (iii) for the admission of an appeal *in forma pauperis* ;
 - (iv) under Section 568 of the Code of Civil Procedure ;
 - (v) of an interlocutory character in appeals and other matters pending in the High Court, provided that a single Judge shall not have the power to dispose of an application to implead the representative of a deceased appellant or respondent, when it is opposed as out of time and the date of the death of the appellant or respondent is a matter in dispute between the parties ;

Sec. 7 (4) (A) (vi). The words within brackets occurring at the end were substituted for the words "the finding sentence or order of any Criminal Court" by Sec. 2, Act III of 1113.

Sec. 7 (4) (A) (viii) and (ix). Sec. 2, Act IV of 1119 substitute these Clauses for the old ones, which ran as follows:—

(viii) for the transfer of any

suit, appeal or other proceeding, or proceedings in execution of a decree, from one of the Civil Courts subordinate to the High Court to another of such Courts ; and

(ix) for the transfer of any case, enquiry, trial or other proceeding, from one of the Criminal Courts subordinate to the High Court to another of such Courts : and "

- (vi) for the exercise, by the High Court, of its power to revise the proceedings of any Criminal Court, other than an application to revise an order made under Section 173, Criminal Procedure Code, provided that a single Judge shall not have the power to set aside or modify [any order of acquittal or to enhance any sentence passed by any Criminal Court ;]
- (vii) for the exercise of the powers conferred by Sections 321 and 375 of the Code of Criminal Procedure ;
- [(viii) (a) for the transfer of any suit, appeal or other proceeding, or proceedings in execution of a decree, from one of the Civil Courts subordinate to the High Court to another subordinate Civil Court competent to try and dispose of the same or to the High Court ;
- (b) for the re-transfer of any suit, appeal or other proceeding, or proceedings in execution of a decree, from the High Court to one of the Civil Courts subordinate to the High Court, and competent to try and dispose of the same ; and
- (ix) (a) for the transfer of an enquiry, trial or other proceedings from one of the Criminal Courts subordinate to the High Court to another subordinate Criminal Court competent to enquire into or try and dispose of the same or to the High Court ;
- (b) for the re-transfer of an enquiry, trial or other proceeding from the High Court to one of the Criminal Courts subordinate to the High Court and competent to inquire into and try, and dispose of the same ; and]

(B) every reference by a Criminal Court for the revision of the proceedings of a subordinate Criminal Court, provided that a single Judge shall not have the power to set aside or modify [any order of acquittal or to enhance any sentence passed by any Criminal Court :]

[(C) every appeal from an appellate decree or order, provided that a single Judge shall not have the power to set aside or modify any such decree or order, and provided further, that a single Judge shall not have the power to dismiss the appeal if he is of opinion that the appeal will lie on the ground (d) mentioned in Section 79, Sub-Section (i), of the Code of Civil Procedure, 1100].

Provided always that it shall be lawful for such Judge to refer any such application [or appeal], for the decision of a Division Bench of two Judges or of a Full Bench.

[(5) to withdraw and to try and decide any suit or other proceeding pending in any Civil Court subordinate to the High Court or to transfer the same to any other Civil Court competent to try and dispose of the same or to re-transfer the same to the Court from which it was withdrawn;

(6) to withdraw, inquire into, try and decide any inquiry, trial or proceeding pending in any Criminal Court subordinate to the High Court or to transfer the same to any other Criminal Court competent to inquire into, or to try and dispose of the same or to re-transfer the same to the Court from which it was withdrawn.]

Sec. 7 (4) (B). The words occurring at the end within brackets were substituted for the words "finding or sentence of any Criminal Court" by Sec. 2, Act III of 1113.

Sec. 7 (4) (C). This was inserted by Sec. 2, Act II of 1113.

Sec. 7 (4), Proviso. The words "or appeal" were inserted by Sec. 2, Act II of 1113.

Sec. 7 (5) and (6). These Subsecs. were added by Sec. 2, Act IV of 1119.

8. A Division Bench, consisting of two Judges of the High Court, is empowered—

Powers of Division
Benches of two
Judges.

(i) to hear and decide applications that a single Judge may refer under Section 7 ;

(ii) [(a)] to hear and decide all appeals, Civil and Criminal, preferred from the decrees, orders or sentences of the Civil and Criminal Courts where the same are allowed by law, except the appeals provided for in Section 11 ;

[(b) to hear and decide all appeals preferred from the decrees and from such orders as are provided for in Section 82 of the Code of Civil Procedure, 1100, of a single Judge of the High Court passed in the exercise of original jurisdiction except the appeals provided for in Section 11 ;

(c) to hear and decide all appeals preferred against sentences and orders of acquittal passed by a single Judge of the High Court in the exercise of original jurisdiction]

(iii) to transfer on its own motion Civil or Criminal cases from one Court to another ;

(iv) to dispose of references made by the subordinate Courts in non-appealable Civil cases, and to revise, on its motion or otherwise, the Proceedings of the Civil Courts in non-appealable cases ;

Sec. 8. Sub-sec. (2) was numbered (2) (a), (2) (b) and (2) (c) were added and the Proviso was deleted by Sec. 3, Act IV of 1119. The deleted Proviso ran thus :—

“Provided that, during the annual recess of the High Court, a single Judge of that Court, acting as Vacation Judge and during consecutive holidays of more than three days' duration, a single Judge of that

Court to be nominated by the Chief Justice, shall have power to dispose of applications for staying execution of decrees of Civil Courts, to suspend sentences of Criminal Courts and to release any person accused or convicted, on bail or on his own personal recognizance, and to transfer Civil or Criminal cases from one subordinate Court to another.”

(v) to revise sentences or orders passed by subordinate Criminal Courts in cases called up by the High Court on its own motion and to pass orders on references made by subordinate Criminal Courts; and

(vi) to pass orders on all petitions and applications, Civil or Criminal, not falling under any of the preceding Clauses:

[* * *]

[8-A. (i) During the annual recess of the High Court a Single Judge of that Court acting as a Vacation Judge and during consecutive holidays of more than three days' duration, a Single Judge of that Court to be nominated by the Chief Justice shall have—

Powers of Vacation Judges.

(a) all the powers of the High Court except in cases in which such power must be exercised under any provision of any law by more than one Judge, and

(b) the power to make provisional orders in all urgent matters, Civil and Criminal and for such purpose to receive appeals, plaints and petitions ordinarily presentable to the subordinate Courts.

Provided however that such provisional orders shall remain in force until the matter has been heard and decided by the Court having jurisdiction.

(2) It shall be competent for the Chief Justice during the annual recess of the High Court or during consecutive holidays of more than three days' duration to constitute a Division Bench or a Full Bench to hear and decide any matter that such Bench is competent to hear and decide otherwise.]

9. In any case, Civil or Criminal, if the two Judges forming a Division Bench agree as to the decree, order or sentence to be passed, their decision shall be final. But if they disagree, they shall deliver separate opinions,

Reference by Chief Justice.

Sec. 8-A. This was added by Sec. 4, Act IV of 1119.

and thereupon the Chief Justice shall refer, for the opinion of another Judge, the matter or matters on which such disagreement exists, and the decree, order or sentence shall follow the opinion of the majority of the Judges hearing the case.

10. Any case, Civil or Criminal, of a special or novel character, or involving an important point of law, may be referred to a Full Bench for hearing and decision either by the Chief Justice before the case is heard by a Division Bench of two Judges or by such Bench when hearing the case. The Decision of the Full Bench, or in case of a difference of opinion, the decision of the majority shall be final:

Provided that the Judges of the Division Bench may direct that any Civil appeal falling under Section 8 be heard and decided along with any appeal falling under Section 11 of this Act, if in their opinion, both the appeals are connected with each other.

11. (1) A Full Bench shall hear and decide all appeals from the decrees of the District Courts [or of a single Judge of the High Court] in suits in which the amount or value of the subject-matter is not less than five thousand rupees and the amount or value of the matter in appeal is not less than that sum. The judgment of the Full Bench or the judgment of the majority, if there be difference of opinion, together with the records of the case, shall be submitted to Us in order that the judgment may be confirmed by Our Sign Manual.

(2) Notwithstanding anything in the provisions of the Civil Procedure Code, the date of the decree shall be the date on which the judgment is declared in open Court after being confirmed by Our Sign Manual.

Sec. 11. The words occurring by Sec. 5, Act. IV of 1119. within brackets were inserted

Explanation I.—For the purposes of this Section—

- (a) the value of a suit or appeal shall be determined with reference to the provisions of the Suits Valuation Act for the time being in force ;
- (b) all the appeals preferred against one and the same decree shall be treated as one appeal ;
- (c) objections filed by the respondents under Section 532 of the Civil Procedure Code shall be treated as an appeal.

Explanation II.—An order of remand under Section 533 or Section 537 of the Civil Procedure Code and orders of dismissal for default, and orders of abatement consequent on the death of parties shall not be deemed a judgment within the meaning of Sub-section (1).

12. In cases decided under Section 11 of this Act, a Full Bench of the High Court may admit a review of judgment subject to the provisions of the Code of Civil Procedure. If, on review, a fresh judgment be passed, the provisions of Section 11 shall, as far as may be, apply.

PART IV.

MISCELLANEOUS.

13. For the purposes of Sections 7, 10 and 11, a Full Bench of the High Court shall consist of an uneven number of Judges not less than three.

Constitution of Full Bench for purposes of Section 7, 10 and 11.

14. The conduct of business in the High Court shall be regulated by the Chief Justice. In his absence, his duties shall devolve on the senior Judge present.

Regulation of business in the High Court.

15. It shall be competent to the High Court to depute a Judge of the said Court to visit the subordinate Courts, to correct the errors of their procedure and practice, to bring to the notice of Our Government, through the High Court, the requirements of the different Courts in respect of buildings, jails, furniture, custody and arrangement of records, and generally to examine and report on the working of the subordinate Courts.

16. The High Court shall have power to make Rules not inconsistent with this or any other law or Act in force, so as to regulate the procedure in the High Court and in the subordinate Courts. Such Rules shall be published in Our Government Gazette and when no time is expressly fixed in that behalf they shall come into force from the date of first publication.

17. All general Rules and Circular orders issuing from the High Court shall be signed by not less than three Judges, [or by such officer of the High Court and in such manner as the High Court may by order determine from time to time.]

18. The High Court shall comply with such requisition as may be made by Our Government for records, returns and statements in such form and manner as Our Government may deem proper.]

Sec. 17. The bracketed words were added by Sec. 3, Act II of 1113.

Sec. 18. This Sec. was added by Sec. 6, Act IV of 1119.

ACT V OF 1099.

AN ACT TO AMEND THE REVENUE SUMMONS ACT V OF 1063.

*Passed by His Highness the Maha Raja of Travancore,
under date the 10th July 1924, corresponding with
the 27th Mithunom 1099, under Section
14 of Act II of 1097.*

Whereas it is expedient to amend the Revenue Summons Act V of 1063: It is hereby enacted as follows:—

1. *Section 1.* The following shall be substituted for Section 1:—

“1. (1) The Land Revenue and Income-Tax Commissioner, Division Peishkars and Revenue officers 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 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 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

SEC. 2. REVENUE SUMMONS (AMENDMENT) ACT.

(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 which he is summoned.

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

(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. Section 5. The following shall be substituted for Section 5:—

“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.

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

Remission of fine.

(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.”

3. *Section 7.* The following shall be substituted for Section 7 :—

“7. 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.”

ACT VII OF 1099.

THE MAJORITY ACT.

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PREAMBLE.

SECTIONS.

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2. Age of majority.
3. Day of birth to be included as whole day.
4. Savings.

ACT VII OF 1099.

AN ACT TO AMEND THE LAW RESPECTING AGE OF MAJORITY.

*Passed by His Highness the Maha-Raja of Travancore
under date the 10th July 1924 corresponding with
the 27th Mithunam 1099 under Section
14 of Act II of 1097.*

Whereas it is expedient to attain more uniformity
respecting the age of majority than
now exists: It is hereby enacted as
follows:

Preamble.

1. (i) This Act may be called the "Travancore
Majority Act."

Short title.

(ii) It extends to the whole of
Travancore.

Act VII of 1099. Objects and Reasons. "The law as regards the period of minority is in an unsettled condition in Travancore. The common law of Travancore was held in the earliest reported case, 8 T. L. R. 22 (*Ettooppa Powlo v. Chandu Thomma*), to lay down that the completion of 16 years of age marked the end of minority and this ruling was followed in 11 T. L. R. 175 (*Venkatachalam v. Rama Sheno*) and 17 T. L. R. 166 (*Allaru Kunju v. Meeravu Kathiru*.) This Rule was thus held to be good in the cases of all classes, Hindus, Mahomedans and Christians alike. The Legislature, however, had all along been fixing a different period. In the Limitation Regulation passed in 1062, to be a major was to complete the age of 18 years. This was held to govern all processual law. (*Vide* 11 T. L. R. 11, *Nangeli v. Nambi Krishnan*.) Again, in the Registration Regulation of 1070 and in the Wills Regulation of

1074 the age of majority was fixed to commence at the close of the 18th year of age. In 1077, the Guardians and Wards Regulation was passed, defining all persons as minors who had not completed the age of 18. Subsequent legislation had also consistently followed the precedents in this matter.

"2. In spite of the pronounced intention of the Legislature to fix the age of majority at the completion of the 18th year of age, judicial decisions have not been uniform in respect of this matter. The indication by the Legislature was held in certain cases to have abrogated the common law, while in other cases the effect of legislation was held to be confined to the subject-matter of the enactments. This lack of uniformity continued up to the date of the Full Bench decision reported in 38 T. L. R. 51. (*Cochuvareed v. Sachidanandier*). The Full Bench by a majority have held that the

2. Every person domiciled in Travancore shall be deemed to have attained his majority when he shall have completed his age of eighteen years and not before.
- Age of majority.
3. In computing the age of any person, the day on which he was born is to be included as a whole day, and he shall be deemed to have attained majority at the beginning of the eighteenth anniversary of that day.
- Day of birth to be included as whole day.
4. Nothing contained in this Act shall affect—
- Savings.
- (a) the capacity of any person to act in the following matters, viz., marriage, dower, divorce and adoption ;
- (b) the religious rites and usages of any class of persons ;
- (c) the capacity of any person who, before this Act comes into force, has attained majority under the law applicable to him.

common law of Travancore remains as it was held to be in S T. L. R. 22, except to the extent of express repeal by any enactment. All the decisions bearing on the question were reviewed and commented upon.

"3. The results which would follow from such an anomalous state of affairs has been strikingly pointed out by Mr. Justice Cheriyan in his dissentient judgment. The remedy for this state of affairs is therefore to enact a law applicable to all civil transactions. The attention of Government was pointedly drawn to the above ruling and to the desirability of legislation on the subject by an interpellation on the 20th November last.

"4. Hence the period of minority is proposed to be fixed till the completion of 18 years from date of birth. In pursuance, however, of the settled policy of non-interference in religious matters, exception is made as regards the capacity to act as a major in such matters. The Regulation is drafted on the lines of the Indian Majority Act, 1875. The provisions being few and simple, no separate notes on clauses are appended." S O. & R., T. G. G. dated 27-3-1923.

For legislative proceedings, see L. C. P. Vol. IV, Pp. 110, 111, 485 and 818.

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