

THE



Bombay Government Gazette.

1888.

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PART IV.

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ACTS

PASSED BY THE

GOVERNMENT OF INDIA

AND BY THE

GOVERNMENT OF BOMBAY

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Bombay:

PRINTED AT THE GOVERNMENT CENTRAL PRESS.

MDCCCLXXXIX.

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THE



# Bombay Government Gazette.

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THURSDAY, 9TH FEBRUARY 1888.

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

## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 27th January 1888, and was promulgated in the *Gazette of India* on the 28th January 1888 for general information:—

#### Act No. I of 1888.

*An Act to amend the Indian Stamp Act, 1879.*

WHEREAS it is expedient to amend certain provisions of the Indian Stamp Act, 1879, relating to policies of insurance; It is hereby enacted as follows:—

1. For clause (15) of section 3 of that Act the following shall be substituted, namely:—  
Amendment of definition of "policy of insurance."

"(15) 'Policy of insurance' means any instrument by which one person in consideration of a premium, engages to indemnify another against loss or damage or liability arising from an unknown or contingent event;

"It includes a life-policy, and includes also a writing evidencing the renewal of, for the purpose of keeping in force, a policy of fire-insurance in respect of which, and of the previous renewal whereof (if any), there has not already been paid the stamp-duty which would have been chargeable if the policy had originally been granted for a longer term than six months."

2. For article 49 of the first schedule to the Act the following shall be substituted, namely:—  
New article substituted for article 49 of Schedule I.

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.				
	If drawn singly.		If drawn in duplicate, for each part.		
	Rs.	a. p.	Rs.	a. p.	
49. POLICY OF INSURANCE. See <i>Exemption, Schedule II</i> [No. 14 (a)].					
(a) In the case of sea-insurance—					
When the amount insured does not exceed ... .. 1,000	0	4	0	0	2
And for every further sum of Rs. 1,000 or part thereof in excess of ... .. 1,000	0	4	0	0	2

DESCRIPTION OF INSTRUMENT:	PROPER STAMP-DUTY.	
	Rs.	a. p.
(b) In the case of fire-insurance—		
i. In respect of an original policy for a month or any shorter term—		
When the amount insured Rs. does not exceed ... 1,000	0	2 0
And for every further sum of Rs. 1,000 or part thereof in excess of ... 1,000	0	2 0
ii. In respect of an original policy for more than one month but not more than three months—		
When the amount insured Rs. does not exceed ... 1,000	0	3 0
And for every further sum of Rs. 1,000 or part thereof in excess of ... 1,000	0	3 0
iii. In respect of an original policy for more than three months but not more than six months—		
When the amount insured Rs. does not exceed ... 1,000	0	4 0
And for every further sum of Rs. 1,000 or part thereof in excess of ... 1,000	0	4 0
iv. In respect of an original policy for a longer term than six months—		
When the amount insured Rs. does not exceed ... 1,000	0	6 0
And for every further sum of Rs. 1,000 or part thereof in excess of ... 1,000	0	6 0
v. In respect of renewing for the purpose of keeping in force a policy which has been granted for six months or any shorter term and in respect of which, and of the previous renewal whereof (if any), there has not already been paid the duty which would have been chargeable if the policy had originally been granted for a longer term than six months ...		
	The same duty as would be payable in respect of an original policy for the amount and term to which the renewal extends; or the excess of the duty which would have been chargeable if the policy had originally been granted for a longer term than six months, over the duty already paid in respect of the policy, and of the previous renewal thereof (if any); whichever is the smaller sum	
	If drawn singly.	If drawn in duplicate, for each part.
	Rs. a. p.	Rs. a. p.
(c) In the case of any other insurance—		
When the amount insured Rs. does not exceed ... 1,000	0	6 0
And for every further sum of Rs. 1,000 or part thereof in excess of ... 1,000	0	6 0

49. POLICY OF INSURANCE—continued.

S. HARVEY JAMES,  
Secy. to the Government of India.



The following Report of the Select Committee on the Bill to amend the Indian Stamp Act, 1879, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 19th January 1888:—

## LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which the Bill to amend the Indian Stamp Act, 1879, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

2. We have made it clear that the only renewals on which stamp-duty is to be paid are renewals of fire-policies in respect of which, and of any previous renewal whereof, there has not already been paid full stamp-duty at the highest rate chargeable in respect of original policies of fire-insurance.

3. We have ascertained that it is sufficient to provide for fire-policies being drawn singly. We have proposed to amend article 49 of the schedule accordingly.

4. We have corrected a clerical error in the fourth sub-clause of clause (b) of the same article, and simplified the expression of the fifth sub-clause.

5. The Bill does not appear to us to stand in need of any other alteration.

6. We may observe that there is nothing in the Bill which will interfere with the practice, where it now obtains, of evidencing renewals of fire-policies from year to year by receipts only for premium paid. If full stamp-duty at the highest rate chargeable in respect of an original policy has once been paid, then the receipt evidencing the renewal will, if it acknowledges the payment of more than twenty rupees, be chargeable with stamp-duty of one anna only under Act I, 1879, Schedule I, article 52.

7. The publication ordered by the Council has been made as follows:—

Gazette.		In English.		Date.
	Gazette of India	...	...	28th May 1887.
	Fort Saint George Gazette	...	...	21st June 1887.
	Bombay Government Gazette	...	...	2nd June 1887.
	Calcutta Gazette	...	...	8th June 1887.
	North-Western Provinces and Oudh Government Gazette	...	...	4th June 1887.
	Punjab Government Gazette	...	...	2nd June 1887.
	Central Provinces Gazette	...	...	11th June 1887.
	Burma Gazette	...	...	18th June 1887.
	Assam Gazette	...	...	18th June 1887.
	Coorg District Gazette	...	...	1st July 1887.
Provinces.		In the Vernaculars.		Date.
	Bombay	...	...	7th July 1887.
		Maráthi	...	7th July 1887.
		Gujaráthi	...	14th July 1887.
		Kanarese	...	26th July 1887.
	Bengal	...	...	9th August 1887.
		Bengali	...	23rd June 1887.
		Hindi	...	
		Uríya	...	
	North-Western Provinces and Oudh	...	...	4th June 1887.
		Urdu	...	14th July 1887.
	Punjab	...	...	13th, 20th and 27th July 1887.
	Central Provinces	...	...	
		Maráthi	...	

8 We do not think the Bill has been so altered as to require re-publication, and we recommend that it be passed as amended by us.

(Signed) J. WESTLAND.  
 ( " ) ANDREW R. SCOBLE.  
 ( " ) C. U. AITCHISON.  
 ( " ) ROBERT STEEL.  
 ( " ) DINSHA MANEKJI PETIT.

The 18th January 1888.

S. HARVEY JAMES,  
 Secretary to the Government of India.

THE



# Bombay Government Gazette

Published by Authority.

THURSDAY, 16TH FEBRUARY 1888.

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

## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council, received the assent of His Excellency the Governor General on the 10th February 1888, and is hereby promulgated for general information:—

#### Act No. II of 1888.

*An Act to provide for the levy of a Customs-duty on Petroleum.*

WHEREAS it is expedient to provide for the levy of a customs-duty on petroleum; It is hereby enacted as follows:—

1. To the second schedule to the Indian Tariff Act, 1882, the following shall be added, namely:—

No.	Names of Articles.	Per	Tariff valuation.	Rate of Duty.
5	Petroleum, including also the liquids commonly known by the names of rock oil, Rangoon oil, Burma oil, kerosine, paraffine oil, mineral oil, petroline, gasoline, benzol, benzoline, benzine, and any inflammable liquid which is made	.	.	.

No.	Name of Articles.	Per	Tariff valuation.	Rate of Duty
	from petroleum, coal, schist, shale, peat or any other bituminous substance or from any products of petroleum.	Imperial	..	Six pies.
	<i>Exception</i> —Petroleum which has its flashing point above two hundred degrees of Fahrenheit's thermometer and is proved to the satisfaction of the Customs-collector to be intended to be used exclusively for the batching of jute or other fibres or for lubricating purposes.	gallon	..	

And whereas the provisos to section 37 of the Sea Customs Act, 1878, do not apply to goods VIII of 1878 to which a rate of duty is not already applicable; It is further enacted as follows:—

2. The rate of duty applicable to petroleum of which the bill-of-entry is delivered, within the meaning of section 37 of the Sea Customs Act, 1878, to the Customs-collector under section 86 of that Act after the passing of this Act, shall be the rate of duty specified in the second schedule to the Indian Tariff Act, 1882, as XI of 1882 amended by this Act.

S. HARVEY JAMES,

Secretary to the Government of India.

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The following Report of the Select Committee on the Bill to provide for the levy of a Customs-duty on Petroleum was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 10th February 1888 :—

LEGISLATIVE DEPARTMENT.

We, the undersigned, members of the Select Committee to which the Bill to provide for the levy of a Customs-duty on Petroleum was referred, have considered the Bill and have the honour to submit this our Report with the Bill as amended by us annexed thereto.

2. We have proposed the imposition of a duty of six pies per imperial gallon instead of an *ad valorem* duty of five per cent., and the exception from liability to the duty of petroleum which has its flashing point at or above two hundred degrees of Fahrenheit's thermometer and is proved to the satisfaction of the Customs-collector to be intended to be used exclusively for the batching of jute or other fibre, or for lubricating purposes.

3. We do not consider that the Bill need be re-published, and we recommend that it be passed as amended by us.

(Signed) J. WESTLAND.  
" ANDREW R. SCOBLE.  
" W. S. WHITESIDE.  
" ROBERT STEEL.  
" F. M. HALLIDAY.

S. HARVEY JAMES,  
Secretary to the Government of India.

*The 10th February 1888.*



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THURSDAY, 23RD FEBRUARY 1888.

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## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 17th February, 1888, and is hereby promulgated for general information:—

#### Act No. III of 1888.

*An Act to amend the Law relating to the Regulation of Police.*

WHEREAS it is expedient to relax those provisions of Acts for the regulation of police which restrict the employment of police-officers to the presidency, province or place of the police-establishment of which they are members; it is hereby enacted as follows:—

1. (1) This Act may be called the Police Act, 1888.

(2) It extends to the whole of British India; and

(3) It shall come into force at once.

2. (1) Notwithstanding anything in Act XXIV of 1859 (*an Act for the better regulation of the Police within the territories subject to the Presidency of Fort St. George*), Act V of 1861 (*an Act for the Regulation of Police*), the Bombay District Police Act, 1867, or any Act relating to the police in any presidency-

town, the Governor General in Council may, by notification in the Gazette of India, create a general police district embracing parts of two or more presidencies, provinces or places, and direct the enrolment under Act V of 1861 of a police-force for service therein.

(2) With respect to such a district and the police-force enrolled therefor, the functions of the Local Government under Act V of 1861, the Code of Criminal Procedure, 1882, and any other enactment for the time being in force relating to police shall, subject to any orders which the Governor General in Council may make in this behalf, be discharged by the Governor General in Council, or by such Local Government or other authority as the Governor General in Council may appoint, and the functions of the Inspector General of Police, Deputy Inspectors General, Assistant Inspectors General, District Superintendents of Police and Assistant District Superintendents under Act V of 1861 and any other enactment for the time being in force shall, subject as aforesaid, be discharged by such officer or officers as may be appointed by the authority ordinarily discharging under this sub-section the functions of the Local Government with respect to the district and force.

(3) Subject to any orders which the Governor General in Council may make in this behalf, members of a police-force enrolled for service in a general police district created under sub-section (1) shall have within every part of any presi-

Bom Act  
VII of 1867.

gency, province or place of which any part is included in the district the powers, duties, privileges and liabilities which, as police-officers appointed under Act V of 1861, they have within the district.

(4) Any member of such a force whom the authority ordinarily discharging with respect thereto the functions of the Local Government under sub-section (2) has generally or specially empowered to act under this sub-section may, subject to any orders which the Governor General in Council may make in this behalf, exercise in any part of the local area in which he has the powers of a police-officer under sub-section (3) any of the powers which an officer in charge of a police-station has in that part, and, when so exercising any such power, shall, subject as aforesaid, be deemed to be an officer in charge of a police-station discharging the functions of such an officer within the limits of his station.

(5) Subject to any orders which the Governor General in Council may make in this behalf, a part of a presidency, province or place included in a general police district under sub-section (1)

shall not by reason of being included therein cease for the purposes of any enactment relating to police to be part of the presidency, province or place of which it forms part.

(6) For the purposes of this section, and subject to the provisions thereof, Act V of 1861 shall, notwithstanding anything in section 46 of that Act, be deemed to take effect throughout the whole of British India.

### 3. Notwithstanding anything in any of the Acts

mentioned or referred to in the last foregoing section, but subject to any orders which the Governor General in Council

may make in this behalf, a member of the police-establishment of any presidency, province or place may discharge the functions of a police-officer in any part of British India beyond the limits of the presidency, province or place, and shall, while so discharging such functions, be deemed to be a member of the police-establishment of that part and be vested with the powers, functions and privileges, and be subject to the liabilities, of a police-officer belonging to that establishment.

S. HARVEY JAMES,

Secretary to the Government of India.

The following Report of the Select Committee on the Bill to amend the law relating to the Regulation of Police was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 10th February 1888 :—

### LEGISLATIVE DEPARTMENT.

We, the undersigned Members of the Select Committee to which the Bill to amend the law relating

to the Regulation of Police was referred, have considered the Bill and the papers noted on the margin, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

From Secretary to Chief Commissioner, Coorg, No. 2149—2477, dated 22nd November, 1887, and enclosures [Papers No. 1].

From Secretary to Chief Commissioner, Assam, No. 2760, dated 26th November, 1887 [Paper No. 2].

From Chief Commissioner, Ajmere-Merwara, No. 1434, dated 28th November, 1887 [Paper No. 3].

From Chief Secretary to Government, Madras, No. 2764, dated 7th December 1887, and enclosures [Papers No. 4].

From Secretary for Berar to Resident, Hyderabad, No. 524 G., dated 27th December, 1887, and enclosures [Papers No. 5].

From Officiating Under Secretary to Chief Commissioner, Central Provinces, No. 28—3, dated 3rd January, 1888 [Paper No. 6].

From Chief Secretary to Government, North-Western Provinces and Oudh, No. 14—VIII-562-II, dated 6th January, 1888, and enclosures [Papers No. 7].

From Officiating Chief Secretary to Chief Commissioner, Burma, No. 79 I.N., dated 6th January, 1888 [Paper No. 8].

From Chief Secretary to Government, Bengal, No. 49 J., dated 9th January, 1888, and enclosures [Papers No. 9].

From Officiating Secretary to Government, Punjab, No. 30, dated 11th January, 1888, and enclosures [Papers No. 10].

From Registrar, High Court, Calcutta, No. 94, dated 13th January, 1888 [Paper No. 11].

From Acting Under Secretary to Government, Bombay, No. 213, dated 12th January, 1888, and enclosures [Papers No. 12].

of the same section we have proposed to enable the authority controlling the police-force enrolled for service in such a district to discharge certain functions which the Code of Criminal Procedure assigns to the Local Government.

4. By sub-sections (3) and (4) of the same section we have provided for the exercise by officers of a special police-force of the powers of police-officers in places beyond the limits of the general police district for service in which they have been enrolled.

2. We have provided in sub-section (1) of section 2 of the Bill that a part of a presidency-town may be included in a general police district created under that sub-section.

### 3. By sub-section (2)

5. The publication ordered by the Council has been made as follows :—

*In English.*

<i>Gazette.</i>	<i>Date.</i>
Gazette of India ... ..	8th October, 1887.
Fort St. George Gazette ... ..	18th October, 1887.
Bombay Government Gazette ... ..	10th November, 1887.
Calcutta Gazette ... ..	19th October, 1887.
North-Western Provinces and Oudh Government Gazette ... ..	15th October, 1887.
Punjab Government Gazette... ..	14th October, 1887.
Central Provinces Gazette ... ..	27th October, 1887.
Burma Gazette... ..	29th October, 1887.
Assam Gazette... ..	2nd December, 1887.
Coorg District Gazette ... ..	1st November, 1887.

*In the Vernaculars.*

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Bombay ... ..	Maráthi .. ..	1st December, 1887.
	Gujaráthi ... ..	24th November, 1887.
	Kanarese ... ..	24th November, 1887.
Bengal ... ..	Bengali . . . .	15th November, 1887.
	Hindi ... ..	22nd and 29th November, and 6th December, 1887.
	Uriya ... ..	17th November, 1887.
Central Provinces ... ..	Maráthi... ..	7th December, 1887.
Burma ... ..	Burmese ... ..	19th November, 1887.

6. We do not think the Bill has been so altered as to require re-publication, and we recommend that it be passed as amended by us.

(Signed) C. U. AITCHISON.  
 ( " ) ANDREW R. SCOBLE.  
 ( " ) C. A. ELLIOTT.  
 ( " ) J. WESTLAND.  
 ( " ) J. W. QUINTON.

*The 9th February 1888.*

S. HARVEY JAMES,  
 Secretary to the Government of India.



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THURSDAY, 8TH MARCH 1888.

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## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 2nd March 1888, and was promulgated in the *Gazette of India* on the 3rd March 1888 for general information:—

#### Act No. IV of 1888.

##### *An Act to Regulate Her Majesty's Indian Reserve Forces.*

WHEREAS it is expedient to provide for the government, discipline and regulation of Her Majesty's Indian Reserve Forces, it is hereby enacted as follows:—

1. (1) This Act may be called the Indian Reserve Forces Act, 1888; and

(2) It shall come into force on such day as the Governor General in Council may, by notification in the *Gazette of India*, appoint in this behalf.

2. The Indian Reserve Forces shall consist of the Active Reserve Forces and the Garrison Reserve Forces.

3. (1) A person belonging to the Active Reserve shall be liable to serve beyond the limits of British India as well as within those limits.

(2) A person belonging to the Garrison Reserve shall not be liable without his consent to serve beyond the limits of British India.

4. The Governor General in Council may make rules and orders for the government, discipline and regulation of the Indian Reserve Forces.

5. Subject to the provision of section 3 with respect to persons belonging to the Garrison Reserve, and to such rules and orders as may be made under section 4, a person belonging to the Indian Reserve Forces shall, as an officer or soldier, as the case may be, be subject to military law in the same manner and to the same extent as a person belonging to Her Majesty's Indian Forces.

6. (1) If a person belonging to the Indian Reserve Forces—

(a) when required by, or in pursuance of, any rule or order under this Act to attend at any place fails without reasonable excuse to attend in accordance with such requirement, or

(b) fails without reasonable excuse to comply with any such rule or order, or

(c) fraudulently obtains any pay or other sum contrary to any such rule or order, he shall be liable—

(i) on conviction by a Court-martial, to such punishment other than death, transportation or imprisonment for a term exceeding one year as such Court is by the Indian Articles of War empowered Act V of 1869, to award, or

(ii) on conviction by a Magistrate of the first class, to imprisonment for a term which may extend, in the case of a first offence under this section, to six months, and in the case of any subsequent offence thereunder, to one year.

(2) Where a person, belonging to the Indian Reserve Forces is required by, or in pursuance of, any rule or order under this Act to attend at any place, a certificate purporting to be signed by an officer appointed by such a rule or order in this behalf, and stating that the person so required to attend failed to do so in accordance with such requirement, shall, without proof of the

signature or appointment of such officer, be evidence of the matters stated therein.

(3) Any person charged with an offence under this section may be taken into and kept in either military or civil custody, or partly into and in one description of custody and partly into and in the other, or be transferred from one description of custody to the other.

7. Nothing in this Act or in any rule or order thereunder shall make any person transferred to the Indian Reserve Forces before the commencement of this Act subject, without his consent, to any of the provisions of this Act.

S. HARVEY JAMES,  
Secretary to the Government of India.





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## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 16th March, 1888, and is hereby promulgated for general information :—

Act No. V of 1888.

#### THE INVENTIONS AND DESIGNS ACT, 1888.

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2. Repeal.
3. Division of Act into Parts.

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*The Inventions and Designs Act, 1888.**(Part I.—Inventions.—Sections 1-4.)*

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## PART II.

## DESIGNS.

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53. Acquisition of copyright.

*An Act to consolidate and amend the law relating to the Protection of Inventions and Designs.*

WHEREAS it is expedient to consolidate and amend the law relating to the protection of inventions and designs; It is hereby enacted as follows—

1. (1) This Act may be called the Inventions and Designs Act, 1888.  
Title, extent and commencement.
- (2) It shall extend to the whole of British India; and
- (3) It shall come into force on the first day of July 1888.
2. (1) The enactments described in the first schedule are hereby repealed to the extent specified in the third column thereof.  
Repeal.
- (2) But this repeal of enactments shall not affect any exclusive privilege acquired, or any conditions or restrictions imposed with respect to any such privilege, or any right or liability accrued or incurred, under any of those enactments before the commencement of this Act, or any relief in respect of any such privilege, right or liability.
- (3) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof.

3. The remainder of this Act is divided into Parts, as follows:—

## PART I.—INVENTIONS.

## PART II.—DESIGNS.

## SECTION.

54. Marking registered designs.
55. Effect of exhibiting unregistered designs at exhibitions.
56. Mutation of names in register of designs.
57. Suit for infringement of copyright.
58. Registration of cessation of copyright.
59. Rectification of register of designs.
60. Power to High Court to stay proceedings on or dismiss application for rectification of register.
61. Application to this Part of certain provisions of Part I.
62. Fees.
63. Rules and forms.

## THE FIRST SCHEDULE.—ENACTMENTS REPEALED.

## THE SECOND SCHEDULE.—APPLICATION WHERE PATENT HAS NOT BEEN OBTAINED.

## THE THIRD SCHEDULE.—APPLICATION WHERE PATENT HAS BEEN OBTAINED.

THE FOURTH SCHEDULE.—FEES (*Inventions*).

## THE FIFTH SCHEDULE.—APPLICATION FOR ORDER FOR REGISTRATION OF DESIGN.

THE SIXTH SCHEDULE.—FEES (*Designs*).

## PART I.

## INVENTIONS.

4. In this Part, unless there is something repugnant in the subject or context,—  
Definitions.

(1) "invention" includes an improvement:

(2) "inventor" does not include the importer into British India of a new invention unless he is the actual inventor:

(3) "applicant" means a person who has applied under this Part for leave to file a specification of an invention, whether he has filed the specification or not:

(4) "assign" includes a grantee of the exclusive privilege of making, selling or using an invention, or of authorising others so to do, during the term for which the privilege is to continue or may be extended, or for any shorter term:

(5) "inventor", "actual inventor" and "applicant" include the executors, administrators or assigns of an inventor, actual inventor and applicant, as the case may be:

(6) "manufacture" includes any art, process or manner of producing, preparing or making an article, and also any article prepared or produced by manufacture:

(7) "write" includes print, lithograph, photograph, engrave, and every other mode in which words or figures can be expressed on paper or on any substance:

(8) "Secretary" means a Secretary to the Government of India appointed by the Governor General in Council to discharge the functions of the Secretary under this Act, and includes any

*The Inventions and Designs Act, 1888.**(Part I.—Inventions.—Sections 5-8.)*

under-secretary, assistant-secretary or other officer subordinate to the Government of India to the extent to which such officer may be authorized by general or special order of the Governor General in Council to discharge any of those functions:

XIV of 1882. (9) "District Court" has the meaning assigned to that expression by the Code of Civil Procedure: and

X of 1882. (10) "High Court" has the meaning assigned to that expression by the Code of Criminal Procedure, 1882, in reference to proceedings against European British subjects.

5. (1) The inventor of a new manufacture, whether he is a British subject or not, may apply to the Governor General in Council for leave to file a specification thereof.

(2) The application must be in writing signed by the applicant and in the form or to the effect of the second schedule if the inventor has not obtained a patent in the United Kingdom, and in the form or to the effect of the third schedule if he has obtained a patent in the United Kingdom.

(3) It must state the name, occupation and address of the applicant, and, where a patent has been obtained in the United Kingdom, the date of the patent and the date of the actual sealing thereof, and must describe with reasonable precision and detail the nature of the invention, and of the particular novelty whereof it consists, and be supplemented by such further particulars relating to the invention, and by such drawings or photographs illustrative thereof, as the Governor General in Council may see fit to require from the applicant.

(4) If in any case it appears to the Governor General in Council that an application ought to be further supplemented by a model of anything alleged to constitute an invention, he may require the applicant to furnish such a model neatly and substantially made of durable material and of dimensions not exceeding those, if any, specified in the requisition therefor.

6. (1) Upon an application under the last foregoing section the Governor General in Council may, after such inquiry as he thinks fit, make an order authorising the applicant to file a specification of the invention.

(2) Before making an order under sub-section (1), the Governor General in Council may direct that the application be referred for inquiry and report to any person whom he thinks fit.

(3) When such enquiry and report are made by a person who is not in the service of the Government, there shall be payable to that person by the applicant such fee as the Governor General in Council, after considering the report, may determine.

(4) When an application is to be referred to such a person, the applicant shall deposit, in such place and within such time as the Governor General in Council may by rule or otherwise prescribe, such sum as will, in the opinion of the Secretary, be sufficient to defray any fee which is likely to be determined under sub-section (3).

(5) If the sum is not deposited in the place and within the time prescribed, the application may be rejected.

(6) If the fee as determined by the Governor General in Council exceeds the sum so deposited, an order shall not be made under sub-section (1) until the applicant has paid the balance of the fee.

(7) If the sum deposited exceeds the fee so determined, the excess shall be refunded to the applicant.

7. (1) If two or more inventors apply on the same day for leave to file specifications of inventions which appear to the Governor General in Council to be identical or so similar as to be practically identical, the Governor General in Council may, in his discretion, authorise both or all the applicants, subject to the other provisions of this Part, to file specifications of their respective inventions.

(2) If they apply on different days for leave to file specifications of such inventions as aforesaid, the applicant who applied on the first of the different days shall be deemed to have a preferential claim to an order authorising the filing of his specification.

8. (1) If within six months from the date of an order under section 6, sub-section (1), or within such further time, not exceeding three months, as the Governor General in Council, in his discretion, may, on cause shown to his satisfaction and on payment of the fee prescribed in that behalf in the fourth schedule, see fit to allow, the applicant causes a specification of his invention to be filed in manner by this Part required, and the fee prescribed in the fourth schedule in respect of the filing of the specification to be paid, the applicant shall, subject to the other provisions of this Part, be entitled to the exclusive privilege of making, selling and using the invention in British India, and of authorising others so to do, for a term of fourteen years from the date of the filing of the specification.

(2) But an exclusive privilege in respect of an invention of a new manufacture shall, notwithstanding anything in sub-section (1), cease if the inventor fails to pay, within the time limited in that behalf by the fourth schedule, any fee prescribed in that schedule in respect of the continuance of the privilege.

(3) If, nevertheless, in any case, by accident, mistake or inadvertence, an inventor fails to pay

*The Inventions and Designs Act, 1888.**(Part I.—Inventions.—Sections 9-15.)*

any such fee within the time so limited, he may apply to the Governor General in Council for an enlargement of the time for making the payment.

(4) Thereupon the Governor General in Council may enlarge the time accordingly, on payment of the fee prescribed in that behalf in the fourth schedule and subject to the following conditions, namely:—

(a) the time for making a payment shall not in any case be enlarged for more than three months; and

(b) if any suit is instituted in respect of an infringement of the exclusive privilege committed after a failure to make a payment within the time limited for the making thereof and before the enlargement of that time, the Court disposing of the suit may, if it thinks fit, refuse to award or give any damages in respect of the infringement.

9. (1) A specification filed under this Part must be in writing signed by the applicant, and must set forth the precise invention in respect of which the applicant claims to become entitled to an exclusive privilege.

(2) If the specification is of an invention which is an improvement only, it must, by explicit language distinguish between what is old and what is claimed to be new.

(3) Every specification must explain the principle of the invention set forth therein and the best mode in which the applicant has contemplated applying that principle, and must describe the manner of making and using the invention in such full, clear, concise and exact terms as to enable any person skilled in the art or science to which the invention appertains, or with which it is most closely connected, to make or use the same.

10. Every application for leave to file a specification, and every specification filed under this Part, must be left with, or sent by post to, the Secretary, and the date of the delivery or receipt thereof shall be endorsed thereon and recorded in his office.

11. (1) At the time of delivering or sending the specification for the purpose of its being filed, the applicant shall cause to be delivered or sent therewith to the Secretary as many copies thereof, not being fewer than four, as may be required by the rules for the time being in force under this Part.

(2) One of these copies shall be retained by the Secretary, and one shall be sent to the Governor of Fort St. George in Council, one to the Governor of Bombay in Council, one to the Chief Commissioner of Burma, and the others, if any, to such authorities as the Governor General in Council may appoint in this behalf.

(3) The copies of the specification which are sent under sub-section (2) to the authorities mentioned or referred to in that sub-section shall be open to the inspection of any person at all reasonable times at places to be appointed by those authorities.

12. (1) A book, to be called the register of inventions, shall be kept in the office of the Secretary wherein shall be entered and recorded every application for leave to file a specification, every order made on any such application, every specification filed in pursuance thereof, and every subsequent proceeding relating to the invention described therein.

(2) Applications for leave to file a specification shall be numbered consecutively in the order in which they are delivered or received, and be dated as of the day of their delivery or receipt, and shall be entered in the register of inventions in the order of their respective numbers.

(3) A reference shall be made in that register, in the margin of the entry of each application, to every order on or in respect of the application, to the specification, if any, filed in pursuance thereof, and to every subsequent proceeding relating to the invention which forms the subject of the application.

13. (1) Another book, to be called the address-book, shall be kept in the office of the Secretary wherein any person filing a specification under this Part, or any person in whom an exclusive privilege acquired under this Part, or any share or interest therein, may become vested, may from time to time cause to be stated some place in British India where notice of any rule or proceeding relating to the exclusive privilege may be served on him.

(2) A reference to each entry in the address-book shall be made in the register of inventions in the margin of the entry in that register of the application for leave to file the specification.

14. (1) Every entry in the register of inventions or address-book, and every document entered and recorded in the register, shall, for the purposes of the law of evidence for the time being in force, be deemed to be a public document and shall be open to the inspection of any person at all reasonable times at the office of the Secretary.

(2) The books kept under section 11 and section 35 of Act No. XV of 1859 (*an Act for granting exclusive Privileges to Inventors*) shall be deemed to be parts of the register of inventions and address-book respectively.

15. (1) The inventor of a new manufacture may, at any time not more than one year and not less than six months before the time limited for the expiration of an exclusive privilege acquired under section 8, apply to the Governor General in Council for an extension of the privilege for a further term.

*The Inventions and Designs Act, 1888.*

(Part I.—Inventions.—Sections 16-20.)

(2) When an application is made under sub-section (1), the Governor General in Council may, if he thinks fit, refer it to a High Court for report.

(3) The Court to which the application is referred shall, in making its report, have regard to the nature and merits of the invention in relation to the public, to the profits made by the inventor as such, and to all the circumstances of the case.

(4) The procedure on the reference shall be such as the Court thinks fit, and may include the issue of citations calling upon persons claiming to have any interest in the reference to appear before the Court on the day on which the reference is to be considered, or on any day to which the consideration thereof may be adjourned, and make with respect thereto any representation which they may see fit in relation to any of the matters to which the Court is required by the last foregoing sub-section to have regard in making its report.

(5) If the Governor General in Council is of opinion, or, where a reference has been made under sub-section (2), if the Court reports, that the inventor has been inadequately remunerated by his exclusive privilege, the Governor General in Council may, on payment of the fee prescribed in that behalf in the fourth schedule, make an order extending the term of the privilege for a further term not exceeding seven or, in exceptional cases, fourteen years from the expiration of the first term of fourteen years.

(6) But an exclusive privilege of which the term has been extended under the last foregoing sub-section shall, notwithstanding anything in that sub-section, cease if the inventor fails to pay before the expiration of each year of such extended term the fee prescribed in the schedule aforesaid in respect of the continuance of the privilege.

16. An order under section 6, sub-section (1), authorizing the filing of a specification, or under section 15, sub-section (6), extending the term of an exclusive privilege, may be made subject to such conditions as the Governor General in Council thinks expedient.

17. (1) Subject to any conditions imposed under the last foregoing section—

(a) with respect to the filing, by a person employed in the service of Her Majesty in India, of the specification of a manufacture invented by him in the course of his employment, or

(b) with respect to the extension, in favour of any person, of the term of an exclusive privilege,

an exclusive privilege acquired under this Part shall have to all intents the like effect as against Her Majesty as it has against a subject.

(2) But the officers or authorities administering any department of the service of Her

Majesty may, by themselves, their agents, contractors, or others, at any time after the delivery or receipt of the application for leave to file the specification of an invention, use the invention for the services of the Government on terms to be before or after the use thereof agreed on, with the approval of the Governor General in Council, between those officers or authorities and the inventor, or, in default of such agreement, on such terms as may be settled by the Governor General in Council.

18. (1) If, after the filing of the specification, the applicant has reason to believe that through mistake or inadvertence he has erroneously made any mis-statement in his application or specification or included therein something which at the date of the delivery or receipt of his application was not new or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, he may apply to the Governor General in Council for leave to file a memorandum pointing out the mis-statement or disclaiming any part of the alleged invention, or for leave to file an amended specification, as the case may be.

(2) The application must be in writing signed by the applicant, and must state how the error, defect or insufficiency occurred and that it was not fraudulently intended.

(3) Upon the application the Governor General in Council may make an order allowing the memorandum or amended specification to be filed.

(4) The provisions of section 6 with respect to applications, and of sections 9 and 11 with respect to specifications and copies thereof, shall apply, so far as they can be made applicable, to applications and to amended specifications, respectively, made and filed under this section.

19. An amended specification filed under the last foregoing section shall, except as to any suit or proceeding relating to the exclusive privilege which may be pending at the time of the filing of the amended specification, have the same effect as if it had been the specification first filed:

Provided that nothing in an amended specification shall be construed to extend or enlarge an exclusive privilege before acquired.

20. A person shall not be entitled to an exclusive privilege under this Part—

(a) if the invention is of no utility, or

(b) if the invention, at the date of the delivery or receipt of the application for leave to file the specification thereof, was not a new invention within the meaning of this Part, or

(c) if the applicant is not the inventor thereof, or

(d) if the original or any amended specification does not fulfil the requirements of this Part, or

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*(Part I.—Inventions.—Sections 21-28.)*

- (e) if the original or any subsequent application relating to the invention or the original or any amended specification contains a wilful or fraudulent misstatement, or
- (f) if the application for leave to file the specification of the invention was made under this Part after the expiration of one year from the date of the acquisition of an exclusive privilege in respect of the invention in any place beyond the limits of British India and the United Kingdom.

21. An invention shall be deemed a new invention within the meaning of this Part if it has not before the date of the delivery or receipt of the application for leave to file the specification thereof been publicly used in any part of British India or of the United Kingdom, or been made publicly known in any part of British India or of the United Kingdom by means of a written publication.

22. The public use or knowledge of an invention before the date of the delivery or receipt of the application for leave to file a specification thereof shall not be deemed a public use or knowledge within the meaning of this Part if the knowledge has been obtained surreptitiously or in fraud of the inventor or has been communicated to the public in fraud of the inventor or in breach of confidence:

Provided that the inventor has not acquiesced in the public use of his invention, and that, within six months after the commencement of that use, he applies for leave to file a specification.

23. Use of an invention in public by the inventor thereof, or by his servant or agent, or by any other person by his license in writing, for a period not exceeding one year immediately preceding the date of the delivery or receipt of his application for leave to file a specification thereof, or knowledge of the invention resulting from such use thereof in public, shall not be deemed a public use or knowledge within the meaning of this Part.

24. If an inventor who has obtained a patent for his invention in the United Kingdom causes an application for leave to file a specification of the invention under this Part, to be delivered or received by the Secretary within twelve months from the date of the actual sealing of the patent, the invention shall be deemed a new invention within the meaning of this Part if it was not publicly used or known in any part of British India at or before the date of the application for the patent, notwithstanding that it may have

been publicly used or known in some part of British India or of the United Kingdom before the date of the delivery or receipt of the application under this Part for leave to file the specification.

25. If an inventor applies for leave to file a specification under this Part while his application for a patent is pending in the United Kingdom, and the interval between the date of his application for the patent and the date of the delivery or receipt of his application under this Part does not exceed twelve months, the invention shall not be deemed to have been publicly used, or made publicly known, within the meaning of this Part, by reason only of the invention having been used, or a description thereof having been published, in any part of British India or of the United Kingdom during the interval.

26. If an inventor, being the exhibitor of his invention at an industrial or international exhibition, certified as such by the Governor General in Council, causes an application for leave to file a specification of the invention to be delivered to or received by the Secretary within six months from the date of the admission of the invention into that exhibition, the invention shall not be deemed to have been publicly used, or made publicly known, within the meaning of this Part, by reason only of the invention having at any time after admission into the exhibition been publicly used or made publicly known.

27. (1) An exclusive privilege acquired under this Part shall cease if the Governor General in Council declares the privilege, or the mode in which it is exercised, to be mischievous to the State, or generally prejudicial to the public.

(2) It shall also cease if a breach of any condition on which the applicant was authorised to file a specification, or on which the term of the exclusive privilege was extended, is on an application under this Part to a High Court proved to the satisfaction of that Court, and if the Governor General in Council thereupon declares the privilege to have ceased.

28. (1) An exclusive privilege acquired under this Part in respect of an invention for which a patent has been obtained in the United Kingdom shall cease on the revocation or expiration of the patent.

(2) Such a privilege in respect of an invention for which a patent has not been obtained in the United Kingdom shall cease on the revocation or expiration of any patent or exclusive privilege which has been obtained or acquired for or in respect of the invention in any other country.

*The Inventions and Designs Act, 1888.**(Part I.—Inventions.—Sections 29-33.)*

29. (1) An inventor may institute a suit in the District Court against any person who, during the continuance of an exclusive privilege acquired by him under this Part in respect of an invention, makes, sells or uses the invention without his license, or counterfeits or imitates it.

(2) The suit shall not be defended upon the ground of any defect or insufficiency of the specification of the invention, or upon the ground that the original or any subsequent application relating to the invention, or the original or any amended specification, contains a wilful or fraudulent mis-statement, or upon the ground that the invention is of no utility:

(3) Nor shall it be defended upon the ground that the plaintiff was not the inventor, unless the defendant shows that he himself is the actual inventor or has obtained from the actual inventor a right to make, sell or use the invention, or to counterfeit or imitate it, as the case may be:

(4) Nor shall it be defended upon the ground that the invention was not new, unless the defendant, or some person through whom he claims, has, before the date of the delivery or receipt of the application for leave to file the specification, publicly or actually used in some part of British India or of the United Kingdom the invention or that part of it with respect to which the exclusive privilege is alleged to have been infringed.

30. Any person may apply to a High Court for a rule to show cause why the Court should not declare that an exclusive privilege in respect of an invention to be specified

in the rule has not been acquired under this Part by reason of all or any of the objections following (to be specified in the rule), that is to say:—

- (a) that the invention is of no utility, or
- (b) that the invention was not, at the date of the delivery or receipt of the application for leave to file the specification, a new invention within the meaning of this Part, or
- (c) that the applicant was not the inventor thereof, or
- (d) that the original or any amended specification does not fulfil the requirements of this Part, or
- (e) that the applicant has knowingly or fraudulently included in the application for leave to file the specification or in the original or any amended specification, as part of his invention, something which was not new or whereof he was not the inventor, or
- (f) that the original or any subsequent application relating to the invention, or

the original or any amended specification, contains a wilful or fraudulent mis-statement, or

- (g) that some part of the invention, or the manner in which that part is to be made and used, as described in the original or any amended specification, is not thereby sufficiently described, and that this insufficiency was fraudulent and is injurious to the public.

31. Any person may apply to a High Court for a rule to show cause why the Court should not declare that an exclusive privilege in respect of any part of an invention, to be specified in the rule has not been acquired under this Part, by reason of all or any of the objections following (to be specified in the rule) that is to say:—

- (a) that that part of the invention is wholly distinct from the other parts thereof and is of no utility, or
- (b) that that part of the invention was not, at the date of the delivery or receipt of the application for leave to file the specification, a new invention within the meaning of this Part, or
- (c) that the applicant was not the inventor of that part of the invention, or
- (d) that that part of the invention, or the manner in which it is to be made and used, is not sufficiently described in the original or any amended specification, and that this insufficiency is injurious to the public.

32. The High Court may, irrespective of any provisions of the Code of Civil Procedure in this XIV of 1882. Security for costs of application under either of the two last foregoing sections. behalf, require a person applying for a rule under either of the two last foregoing sections to give security for the payment of all costs incurred or likely to be incurred by any person appearing to show cause against the rule.

33. (1) Any person authorized by the Governor General in Council in this behalf may apply to a High Court for a rule to show cause why the question of the breach of any condition on which leave to file a specification has been granted, or any other question of fact on which the cessation of an exclusive privilege under section 27 may, in the judgment of the Governor General in Council, depend, should not be tried in the form of an issue directed by the Court.

(2) If the rule is made absolute, the Court, unless the breach or other matter of fact is admitted, may direct the issue to be tried and certify the result of the trial to the Governor General in Council.

*The Inventions and Designs Act, 1888.**(Part I.—Inventions.—Sections 34-37.)*

34. (1) Notice of any rule obtained or proceeding taken under section 30, section 31 or section 33 shall be served on all persons appearing from the address-book to be proprietors of the exclusive privilege, or to have shares or interests therein, and it shall not be necessary to serve the notice on any other person.

(2) The notice shall be deemed to be sufficiently served if a copy thereof is left at the place for the time being stated in the address-book, by delivering the copy to any persons resident at or in charge of the place or, if there is no person resident at or in charge of the place, or if the place is not within the local limits of the jurisdiction of the Court, by causing the notice to be sent to the place by post by a registered letter directed to the person to whom the notice is addressed.

35. (1) The High Court may, if it thinks fit, direct an issue for the trial, before itself or any other High Court, or any District Court, of any question of fact arising upon an application under section 30, section 31 or section 33, and the issue shall be tried accordingly.

(2) If the issue is directed to another Court, the finding shall be certified by that Court to the Court directing the issue.

(3) If the issue is directed to a District Court, the finding of that Court shall not be subject to appeal, but the evidence taken upon the trial shall be recorded, and a copy thereof, certified by the Judge of the Court, shall be transmitted, together with any remarks which he may think fit to make thereon, to the High Court, and the High Court may thereupon act upon the finding of the District Court, or dispose of the application upon the evidence recorded, or direct a new trial, as the justice of the case may require.

36. (1) If it appears to the High Court at the hearing of an application under section 30 or section 31 that, by reason of any of the objections specified in the rule, the exclusive privilege in the invention or in any part thereof has not been acquired, the Court shall make an order accordingly, and thereupon the applicant shall, so long as the order continues in force, cease to be entitled to the exclusive privilege.

(2) If it appears to the High Court, at the hearing of any such application as last aforesaid, that the applicant has, in the description of his invention in the application for leave to file a specification thereof or in the original or any amended specification, erroneously included something which at the date of the delivery or receipt of the application for leave to file the specification was not new or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, but that the error, defect or insufficiency was not fraudulently intended, the Court may adjudge the

exclusive privilege to have been acquired and to be valid, save as to the part thereof affected by the error, defect or insufficiency: or

(3) If it appears to the High Court that the error, defect or insufficiency can be amended without injury to the public, the Court may adjudge the exclusive privilege in respect of the whole of the invention to be valid, and may, upon such terms as it thinks reasonable, order the specification to be amended in any particular in which it is erroneous, defective or insufficient; and thereupon the applicant shall, within a time to be limited by the Court for the purpose, file in the office of the Secretary a specification amended according to the order.

(4) The provisions of section 18 with respect to the distribution and disposal of copies of amended specifications, and of section 19 with respect to the effect of such specifications, shall apply, so far as they can be made applicable, to an amended specification filed under this section.

(5) An exclusive privilege in respect of an invention shall not be defeated upon the ground that the application for leave to file the specification of the invention contains a mis-statement, unless the mis-statement was wilful or fraudulent.

37. (1) In a suit for the infringement of an exclusive privilege acquired under this Part the plaintiff shall deliver with his plaint particulars of the breaches complained of in the suit, and the defendant shall deliver a written statement of the particulars of the grounds, if any, upon which he means to contend that the plaintiff is not entitled to an exclusive privilege in respect of the invention.

(2) In like manner, upon an application to a High Court under section 30, section 31 or section 33, the person making the application shall deliver particulars of the objections or grounds on which he means to rely.

(3) At the hearing of any such suit or application, or at the trial of any issue arising out of any such application, evidence shall not be allowed to be given in proof of any breach of the exclusive privilege, or of any ground impeaching the validity of that privilege, or of any objection or ground affecting such a privilege, unless such breach or other matter as aforesaid has been stated in the particulars delivered under this section.

(4) If it is alleged that the invention was publicly used or known before the date of the delivery or receipt of the application for leave to file the specification thereof, the places where and the manner in which the invention was so publicly used or known shall be stated in the particulars.

(5) Notwithstanding anything in the foregoing portion of this section, the Court in which the suit or application is pending, or an issue arising out of the application is being tried, may allow the plaintiff or defendant respectively to



*The Inventions and Designs Act, 1888.**(Part I.—Inventions.—Sections 33-43.)*

amend the particulars delivered under this section upon such terms as it thinks fit.

**38.** If, in a suit instituted in the District Court at any time within four-teen years from the date of the filing of a specification of an invention under this Part, the actual inventor proves to the satisfaction of the Court that the applicant was not the actual inventor, and that at the time of the application for leave to file the specification the applicant knew or had reason to believe that the knowledge of the invention was obtained by himself or by some other person surreptitiously or in fraud of the actual inventor, or by means of a communication made in confidence by the actual inventor to him or to any person through whom he derived the knowledge, the Court may make a decree declaring an exclusive privilege in respect of the invention to be vested, subject to the other provisions of this Part, in the actual inventor for a term of fourteen years from the date on which the specification was filed, and requiring the applicant to account for and pay over to the actual inventor the profits derived by him from the invention or so much of those profits as the Court, having regard to the degree of diligence exerted by the actual inventor in proceeding under this section and to all the other circumstances of the case, may see fit to require the applicant to pay.

**39.** A Court making a decree in a suit under section 29 or section 38 or an order on an application under section 30, section 31 or section 33, shall send a copy of the decree or order, as the case may be, to the Secretary, who shall cause an entry thereof and reference thereto to be made in the register of inventions and against any entry in the address-book affected thereby.

**40.** In the following cases, namely—

- (a) When an exclusive privilege acquired under this Part has ceased under section 8 or section 15 by reason of a fee in respect of the continuance of the privilege not having been paid within the time limited by the fourth schedule for the payment thereof, and the period, if any, within which an order might have been made for enlarging the time for the making of the payment has expired;
- (b) when an exclusive privilege acquired under this Part has been declared by the Governor General in Council under section 27 to have ceased;
- (c) when an exclusive privilege acquired under this Part has ceased under section 28 by reason of the revocation or expiration of a patent or exclusive privilege;
- (d) when the whole or any part of an exclusive privilege acquired under this

Part has ceased under section 36 in consequence of an order under that section;

- (e) when an exclusive privilege has been declared by a decree to have vested in an actual inventor under section 38;
- (f) when an exclusive privilege acquired under this Part has ceased by reason of the expiration of the term for which it was acquired;

the Secretary shall cause an entry with respect to the cessation or vesting of the exclusive privilege to be made in the register of inventions, and a reference to that entry to be made in the margin of the entry in that register of the application for leave to file the specification of the invention.

**41. (1)** If any person is aggrieved by an entry in the register of inventions or address-book, or by the omission of an entry therefrom, and a proceeding is not provided in the foregoing portion of this Part whereby the register or book may be rectified, he may apply to a High Court for an order for the rectification of the register or book, and the Court may make such order on the application as it thinks fit.

(2) A copy of the order shall be forwarded by the Court to the Secretary, who shall cause an entry thereof and reference thereto to be made in the register of inventions and against any entry in the address-book effected thereby.

(3) When the Secretary is a party to an application under this section, the costs of another party thereto shall not be adjudged to be payable by the Secretary.

**42.** A High Court to which an application has been made under section 30, section 31, section 33 or section 41 may stay proceedings on, or dismiss the application if in its opinion the application would be disposed of more justly or conveniently by another High Court.

**43.** If on the petition of any person interested it is proved to the Governor General in Council that, by reason of an inventor who has acquired an exclusive privilege under this Part, failing to grant licenses on reasonable terms,—

- (a) the exclusive privilege is not being worked in British India, or
- (b) the reasonable requirements of the public with respect to the invention cannot be supplied, or
- (c) any person is prevented from working or using to the best advantage an invention of which he is possessed,

the Governor General in Council may order the inventor to grant, or may himself on behalf of the inventor grant, licenses on such terms as

*The Inventions and Designs Act, 1888.**(Part I.—Inventions.—Sections 44-49.) (Part II.—Designs.—Sections 50-52.)*

to the amount of royalties, security for payment, or otherwise, as the Governor General in Council, having regard to the nature of the invention and the circumstances of the case, may deem just.

44. Any person for the time being entitled to an exclusive privilege under this Part, or to any share or interest in such a privilege, in any local area may, subject to the conditions of his title thereto, assign the privilege or such share or interest, as the case may be, for any place in or part of that local area.

45. If an applicant is absent from British India, an application for leave to file a specification or a specification, or an application for leave to file a memorandum or amended specification, may, instead of being signed by the applicant under section 5, section 9 or section 18, as the case may be, be signed on behalf of the applicant by an agent in British India authorised by him in writing in that behalf.

46. (1) An application under this Part for leave to file a specification, memorandum or amended specification must be verified by the person making the application.

(2) If that person is absent from British India, the application may be verified by the agent who signs the application on his behalf.

(3) The verification must be signed by the person making it, and must be to the effect that the facts stated in the application are true to his knowledge, except as to matters stated on information and belief; and that as to those matters he believes them to be true.

47. Subject to the provisions of the two last foregoing sections and of any other enactment for the time being in force, any act which is required or authorised by this Part to be done by any person may be done on his behalf by an agent in British India having authority in writing from that person so to do the act.

48. (1) There shall be paid in respect of the several proceedings specified in the fourth schedule the fees in that schedule prescribed.

(2) The Governor General in Council may, if he thinks fit, reduce any of those fees and revoke or vary the reduction.

(3) The fees payable under this section shall be collected by means of stamps or otherwise as the Governor General in Council directs.

(4) A proceeding in respect of which a fee is payable under the fourth schedule shall be of no effect unless the fee has been paid.

49. (1) The Governor General in Council may make such rules and prescribe such forms as he thinks necessary for carrying out the purposes of this Part, and may alter or amend either of the forms in the second and third schedules.

(2) Rules under this section may provide, among other matters, for the printing of specifications, memoranda and amended specifications, and for the distribution or sale of printed copies thereof.

PART II.  
DESIGNS.

50. In this Part, unless there is something repugnant in the subject or context,—

Definitions.

(1) "design" means some peculiar shape, configuration or form given to an article, or arrangement of lines or the like used on or with an article, but not the article itself:

(2) "copyright" means the exclusive right to apply a design to an article:

(3) the author of any new and original design shall be considered the "proprietor" thereof, unless he executed the work on behalf of another person for a good or valuable consideration, in which case that person shall be considered the "proprietor", and every person acquiring for a good or valuable consideration a new and original design, or the right to apply the same to an article, either exclusively of any other person or otherwise, and also every person on whom the property in the design or the right to the application thereof shall devolve, shall be considered the "proprietor" of the design in the respect in which the same may have been so acquired, and to that extent, but not otherwise: and

(4) "Secretary", "District Court" and "High Court" have the same meanings as in Part I.

51. (1) Any person, whether a British subject or not, claiming to be the proprietor of any new and original design not previously published in British India may apply to the Governor General in Council for an order for the registration of the design.

(2) The application must be in writing in the form or to the effect of the fifth schedule, and must contain a statement of the nature of the design and be accompanied by as many copies of drawings, photographs or tracings thereof, not being fewer than four, as may be required by the rules for the time being in force under this Part.

(3) It must be left with, or sent by post to, the Secretary, and the date of the delivery or receipt thereof in the office of the Secretary shall be endorsed thereon and recorded in that office.

52. (1) Upon the application the Governor Registration in register General in Council may, after such inquiry as he thinks fit, make an order authorizing the registration of the design.

(2) When an order has been made under subsection (1), the Secretary shall cause the design to be registered in a book to be kept by him for the purpose and to be called the register of designs.

*The Inventions and Designs Act, 1888**(Part II.—Designs.—Sections 53-62.)*

(3) The date of registration shall be recorded in the register.

53. When a design is registered, the proprietor thereof shall, subject to the other provisions of this Part, have copyright in the design during five years from the date of registration.

54. (1) Before delivery on sale of any article to which a registered design has been applied, the proprietor of the design shall cause the article to be marked with the word "registered" either in full or in abbreviated form.

(2) If he fails to cause the article to be so marked, the copyright in the design shall cease unless the proprietor shows that he took all proper steps to ensure the marking of the article.

55. If the proprietor of a design exhibited at an industrial or international exhibition, certified as such by the Governor General in Council, causes an application for an order for the registration of the design to be delivered to or received by the Secretary within six months from the date of the admission of the design into that exhibition, the design shall not be deemed not to be a new and original design not previously published in British India within the meaning of section 51 by reason only of the design having been exhibited at the exhibition.

56. Any person in whom the copyright in a design has become vested may apply to the Secretary for the entry of his name in the register of designs as proprietor of the copyright, and the Secretary may, if he sees fit, cause the entry to be made.

57. (1) The registered proprietor of a design may institute a suit in the District Court for the recovery of any damages arising from the application by any person to any article of the design or of any fraudulent or obvious imitation thereof for the purpose of sale, or from the publication, sale or exposure for sale by any person of any article to which the design, any fraudulent or obvious imitation thereof, has been applied, that person knowing or having reason to believe that the proprietor had not given his consent to such application.

(2) When the Court makes a decree in a suit under this section, it shall send a copy of the decree to the Secretary, who shall cause an entry thereof to be made in the register of designs.

58. (1) When, from the expiration of the term of a copyright or from any other cause, the copyright in a design has ceased, the Secretary shall cause an entry with respect to the cessation of the right to be made in the register of designs.

59. (1) A High Court may, on the application of any person aggrieved by an entry in the register of designs, or by the omission of an entry therefrom, make such order for the rectification of the register as it thinks fit.

(2) An order under sub-section (1) may declare copyright in a design not to have been acquired.

(3) A copy of the order shall be forwarded by the Court to the Secretary, who shall cause an entry thereof to be made in the register of designs.

(4) When the Secretary is a party to an application under this section, the costs of another party thereto shall not be adjudged to be payable by the Secretary.

60. A High Court to which an application has been made under the last foregoing section may stay proceedings on, or dismiss, the application if, in its opinion, the application would be disposed of more justly or conveniently by another High Court.

61. The provisions of the following portions of Part I, namely:—

- (a) section 11, with respect to copies of specifications,
  - (b) section 14, with respect to the register of inventions and the matters entered therein, and
  - (c) section 47, with respect to the performance by an agent of any act required or authorised by that Part to be done by a principal,
- shall, so far as they can be made applicable, apply, respectively, to—

- (a) copies of drawings, photographs or tracings accompanying an application for an order for the registration of a design in respect of which such an order has been made,
- (b) the register of designs and the matters entered and documents referred to therein, and
- (c) the performance by an agent of any act required or authorised by this Part to be done by a principal.

62. (1) There shall be paid in respect of the several proceedings specified in the sixth schedule the fees in that schedule prescribed.

(2) The Governor General in Council may, if he thinks fit, reduce any of those fees and revoke or vary the reduction.

(3) The fees payable under this section shall be collected by means of stamps or otherwise as the Governor General in Council may direct.

(4) A proceeding in respect of which a fee is payable under the sixth schedule shall be of no effect unless the fee has been paid.

*The Inventions and Designs Act, 1888:**(Part II.—Designs.—Section 63. The First Schedule—Enactments repealed.**The Second Schedule.—Application where Patent has not been obtained.**The Third Schedule.—Application where Patent has been obtained.**The Fourth Schedule—Fees. (Inventions).)*

63. The Governor General in Council may make such rules and prescribe such forms as he thinks necessary for carrying out the purposes of this Part, and may alter or amend the form in the fifth schedule.

## THE FIRST SCHEDULE

## ENACTMENTS REPEALED.

*(See section 2.)*

Number and year.	Subject or title.	Extent of repeal.
XV of 1859	For granting exclusive Privileges to Inventors.	So much as has not been repealed.
XIII of 1872	Patterns and Designs Protection Act, 1872.	So much as has not been repealed.
XVI of 1883	Protection of Inventions Act, 1883.	The whole.
I of 1879	Indian Stamp Act, 1879.	Article 48, Schedule I.

## THE SECOND SCHEDULE.

## APPLICATION WHERE PATENT HAS NOT BEEN OBTAINED.

*(See sections 5 and 49.)*

TO THE GOVERNOR GENERAL IN COUNCIL.

The application of (*here insert name, occupation and address*) for leave to file a specification under Part I of the Inventions and Designs Act, 1888.

1. The applicant is in possession of an invention for (*state the title of the invention*); he is the inventor thereof (*or, as the case may be, the executor, administrator or assign of the inventor*); and, to the best of his information and belief, the invention is new within the meaning of Part I of the Inventions and Designs Act, 1888, and no circumstance exists which, if the applicant is authorised to file a specification and files it in accordance with that Part, will disentitle him to an exclusive privilege thereunder in respect of the invention.

2. The following is a description of the invention (*here describe it and the particular novelty whereof it consists*).

3. The applicant therefore applies for leave to file a specification of the invention pursuant to Part I of the Inventions and Designs Act, 1888.

*(Signature and verification.)*

## THE THIRD SCHEDULE.

## APPLICATION WHERE PATENT HAS BEEN OBTAINED.

*(See sections 5 and 49.)*

TO THE GOVERNOR GENERAL IN COUNCIL.

The application of (*here insert name, occupation and address*) for leave to file a specification under Part I of the Inventions and Designs Act, 1888.

1. The applicant (*or, as the case may be, A. B. of whom the applicant is the executor, administrator or assign*) has obtained a patent in the United Kingdom dated and sealed as of the day of , and actually sealed on the day of , for (*state the title of the invention*).

2. To the best of the information and belief of the applicant, the invention is new within the meaning of Part I of the Inventions and Designs Act, 1888, and no circumstance exists which, if the applicant is authorized to file a specification and files it in accordance with that Part, will disentitle him to an exclusive privilege thereunder in respect of the invention.

3. The following is a description of the invention (*here describe it and the particular novelty whereof it consists*).

4. The applicant therefore applies for leave to file a specification of the invention pursuant to Part I of the Inventions and Designs Act, 1888.

*(Signature and verification.)*

## THE FOURTH SCHEDULE.

## FEES (Inventions).

*(See sections 8, 15 and 48.)*

	Rs.	a.	p.
(1) in respect of an application for leave to file a specification (section 5) . . . . .	10	0	0
(2) in respect of the filing of a specification (section 8) . . . . .	20	0	0
(3) in respect of an extension of the time for filing a specification (section 8) . . . . .	20	0	0
(4) in respect of the continuance of an exclusive privilege (section 8)—			
(a) after the filing of the specification and before the expiration of the fourth year from the date of the filing thereof . . . . .	50	0	0
(b) after the expiration of the fourth year and before the expiration of the fifth year from that date . . . . .	50	0	0
(c) after the expiration of the fifth year and before the expiration of the sixth year from that date . . . . .	50	0	0
(d) after the expiration of the sixth year and before the expiration of the seventh year from that date . . . . .	50	0	0
(e) after the expiration of the seventh year and before the expiration of the eighth year from that date . . . . .	50	0	0
(f) after the expiration of the eighth year and before the expiration of the ninth year from that date . . . . .	100	0	0
(g) after the expiration of the ninth year and before the expiration of the tenth year from that date . . . . .	100	0	0
(h) after the expiration of the tenth year and before the expiration of the eleventh year from that date . . . . .	100	0	0

*The Inventions and Designs Act, 1888.*

*(The Fifth Schedule.—Application for Order for Registration of Design.  
The Sixth Schedule.—Fees (Designs).)*

THE FOURTH SCHEDULE—*continued.*

	Rs.	a.	p.
(i) after the expiration of the eleventh year and before the expiration of the twelfth year from that date...	100	0	0
(j) after the expiration of the twelfth year and before the expiration of the thirteenth year from that date ...	100	0	0
Provided that the inventor may pay the sum total of the said fees in respect of the continuance of the exclusive privilege, or any part thereof short of the sum total, at any time before the same falls due.			
(5) in respect of an enlargement of the time for payment of a fee under article (4) of this schedule (section 8)—			
(i) if the enlargement does not exceed one month ...	10	0	0
(ii) if the enlargement exceeds one month, but does not exceed two months ...	25	0	0
(iii) if the enlargement exceeds two months ...	50	0	0
(6) in respect of an application for an extension of an exclusive privilege for a further term (section 15) ...	50	0	0
(7) in respect of an order extending the term of an exclusive privilege (section 15) ...	100	0	0
(8) in respect of the continuance of an exclusive privilege of which the term has been extended (section 15) ...	100	0	0
	to be paid before the expiration of each year of the extended term:		
Provided that the inventor may pay the sum total of the said fees in respect of the continuance of the exclusive privilege, or any part thereof short of the sum total, at any time before the same falls due.			
(9) in respect of an application for leave to file a memorandum or amended specification (section 18) ...	20	0	0
(10) in respect of a petition to the Governor General in Council for a compulsory license (section 43) ...	50	0	0
(11) for the inspection of any book or other document which is open to inspection under Part I ...	1	0	0
(12) for copies—			
(a) when the number of words copied does not exceed four hundred ...	1	0	0
(b) for every hundred words in excess of four hundred ...	0	4	0
(c) of drawings or photographs ...	cost according to agreement.		
(13) for certifying copies—			
for every hundred words ...	0	2	0

THE FIFTH SCHEDULE.

APPLICATION FOR ORDER FOR REGISTRATION OF DESIGN.

*(See sections 51 and 63.)*

The application of (*here insert name, occupation and address*) for an order for the registration of a design under Part II of the Inventions and Designs Act, 1888.

1. The applicant claims to be the proprietor of the design of which the nature is hereinafter stated.

2. To the best of his information and belief, that design is within the meaning of Part II of the Inventions and Designs Act, 1888, a new and original design not previously published in British India.

3. *copies of (drawings), (photographs), (tracings)* of the design accompany this application.

4. The following is a statement of the nature of the design (*here describe its nature*).

5. The applicant therefore applies for an order for the registration of the design pursuant to Part II of the Inventions and Designs Act, 1888.

*(Signature.)*

THE SIXTH SCHEDULE.

FEEs (Designs).

*(See section 62.)*

	Rs.	a.	p.
(1) in respect of an application for an order for the registration of a design (section 51) ...	10	0	0
(2) in respect of a mutation of names in the register of designs (section 56) ...	5	0	0
(3) for the inspection of any book or other document which is open to inspection under Part II ...	1	0	0
(4) for copies—			
(a) when the number of words copied does not exceed four hundred ...	1	0	0
(b) for every hundred words in excess of four hundred ...	0	4	0
(c) of drawings, photographs or tracings ...	cost according to agreement.		
(5) for certifying copies—			
for every hundred words ...	0	2	0

S. HARVEY JAMES,

Secretary to the Government of India.



# Bombay Government Gazette.

Published by Authority.

THURSDAY, 29TH MARCH 1888.

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

## PART IV:

### ACTS PASSED BY THE GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 23rd March 1888, and is hereby promulgated for general information:—

#### Act No. VI of 1888.

*An Act to amend the law relating to Imprisonment for Debt.*

WHEREAS it is expedient to amend the law relating to imprisonment for debt; It is hereby enacted as follows:—

1. (1) This Act may be called the Debtors Act, 1888; and

(2) It shall come into force at once.

(3) The several portions thereof have the same local extent as the enactments to which they respectively relate.

XIV of 1882. 2. After section 245 of the Code of Civil

Procedure the following sections shall be inserted, namely:—

"245A. Notwithstanding anything in the last foregoing section or in any other section of this Code, the Court shall not order the arrest or imprisonment of a woman in execution of a decree for money.

"245B. (1) Notwithstanding anything in section 245 or in any other section of this Code, when an application is for the execution of a decree for money by the arrest and imprison-

ment of a judgment-debtor who is liable to be arrested in pursuance of the application, the Court may, instead of issuing a warrant for his arrest, issue a notice calling upon him to appear before the Court on a day to be specified in the notice and show cause why he should not be committed to jail in execution of the decree.

"(2) If appearance is not made in obedience to the notice, the Court shall, if the decree-holder so requires, issue a warrant for the arrest of the judgment-debtor."

3. In section 250 of the said Code, between the word "shall" and the word "issue", the following shall be inserted, namely:—

"subject to the provisions of sections 245A and 245B."

4. After section 337 of the said Code the following shall be inserted, namely:—

"337A. (1) When a judgment-debtor appears before the Court in obedience to a notice issued under section 245B, or is brought before the Court after being arrested in execution of a decree for money, and it appears to the Court that the judgment-debtor is unable from poverty or other sufficient cause to pay the amount of the decree or, if that amount is payable by instalments, the amount of any instalment thereof, the Court may, upon such terms, if any, as it thinks fit, make an order disallowing the application for his arrest and imprisonment, or directing his release, as the case may be.

"(2) Before making an order under sub-section (1), the Court may take into consideration any allegation of the decree-holder touching any of the following matters, namely:—

- (a) the decree being for a sum for which the judgment-debtor was bound as a trustee or as acting in any other fiduciary capacity to account;
- (b) the transfer, concealment or removal by the judgment-debtor of any part of his property after the date of the institution of the suit in which the decree was made, or the commission by him after that date of any other act of bad faith in relation to his property, with the object or effect of obstructing or delaying the decree-holder in the execution of the decree;
- (c) any undue or unreasonable preference given by the judgment-debtor to any of his other creditors;
- (d) his refusal or neglect to pay the amount of the decree or some part thereof when he has or since the date of the decree has had the means of paying it;
- (e) the likelihood of his absconding or leaving the jurisdiction of the Court with the object or effect mentioned in clause (b) of this sub-section.

"(3) While any of the matters mentioned in sub-section (2) are being considered, the Court may in its discretion order the judgment-debtor to be imprisoned, or leave him in the custody of an officer of the Court, or release him on his furnishing sufficient security for his appearance on the requisition of the Court.

"(4) A judgment-debtor released under this section may be re-arrested.

"(5) If the Court does not make such an order as is mentioned in sub-section (1), it shall cause the judgment-debtor to be arrested if he has not already been arrested and, subject to the other provisions of this Code, commit him to jail."

Addition to section 380 of the Code.

5. To section 380 of the said Code the following shall be added, namely:—

"On the application of any defendant in a suit for money in which the plaintiff is a woman, the Court may at any stage of the suit make a like order if it is satisfied that such plaintiff does not possess any sufficient immoveable property within British India independent of the property in suit."

6. In section 640 of the said Code, after the words "from arrest in execution of civil process"

Amendment of section 640 of the Code.

7. In section 642 of the said Code, for the words and figures "except as provided in sections 256 and 643" the following shall be substituted, namely:—

"except as provided in section 337A, sub-section (5), and sections 256 and 643."

Addition of new section after section 652 of the Code.

8. After section 652 of the said Code the following shall be added, namely:—

"653, (1) At any time after a warrant of arrest has been issued under this Code, the Court may cancel it on the ground of the serious illness of the person against whom the warrant was issued.

"(2) When a judgment-debtor has been arrested under this Code the Court may release him if in its opinion he is not in a fit state of health to undergo imprisonment.

"(3) When a judgment-debtor has been committed to jail, he may be released therefrom—

- (a) by the Local Government, on the ground of his suffering from any infectious or contagious disease, or
- (b) by the committing Court, or any Court to which that Court is subordinate, on the ground of his suffering from any serious illness.

"(4) A judgment-debtor released under this section may be re-arrested, but the period of his imprisonment shall not in the aggregate exceed that prescribed in section 342 or section 481, as the case may be."

9. The last sixteen words of section 8 of the Married Women's Property Act, 1874, and the III of 1874, whole of section 31 of the Ajmere Courts Regulation, 1877, are hereby repealed.

10. (1) For the first fifty-five words of section 48 of the Act of the Governor of Fort St. George in Council, No. VIII of 1865, the following shall be substituted, namely:—

"No person shall be imprisoned as a defaulter for a longer period than six months whatever the amount of the arrears may be, nor for a longer period than six weeks if the arrears do not exceed fifty rupees."

(2) For the proviso to section 163 of the North-Western Provinces Rent Act, 1881, the XII of 1881, following shall be substituted, namely:—

"Provided that the time for which a debtor may be confined in execution of a decree under this Act shall not exceed six weeks when the amount decreed (exclusive of costs) does not exceed fifty rupees, or six months in any other case."

## LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 23rd March, 1888; and is hereby promulgated for general information:—

## ACT No. VII OF 1888.

An Act to amend the Code of Civil Procedure, the Indian Registration Act, 1877, and the Indian Limitation Act, 1877.

XIV of 1882  
III of 1877.  
XV of 1877.

WHEREAS it is expedient to amend the Code of Civil Procedure, the Indian Registration Act, 1877, and the Indian Limitation Act, 1877; It is hereby enacted as follows:—

1. (1) This Act may be called the Civil Procedure Code Amendment Act, 1888; and

(2) It shall come into force on the first day of July, 1888.

2. (1) In this Act, unless there is something repugnant in the subject or context, "section"

means a section, "schedule" a schedule, and "Chapter" a Chapter, of the Code of Civil Procedure.

(2) Any reference in any enactment heretofore passed or hereafter to be passed to any Act amended by this Act shall, so far as may be, be read as if made to that Act as so amended.

3. The following shall be inserted after section 4, namely:—

"4A. (1) Where any Revenue Courts are governed by the provisions of the Code of Civil Procedure in those matters of procedure upon which any special enactment applicable to them is silent, the local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, declare that any portions of those provisions shall not apply to those Courts, or shall only apply to them with such modifications as the Local Government, with the sanction aforesaid, may prescribe.

(2) 'Revenue Court' in sub-section (1) means a Court having jurisdiction under any local law to entertain suits relating to the rent, revenue or profits of land used for agricultural purposes, but does not include a Civil Court having original jurisdiction under this Code to try such suits as being suits of a civil nature of which its cognizance is not barred by any enactment for the time being in force."

4. The second paragraph of section 8 is hereby repealed.

5. To section 14 the following shall be added, namely:

"Where a suit is instituted in British India on the judgment of any foreign Court in Asia or Africa except a Court of Record established by Letters Patent of Her Majesty or any predecessor of Her Majesty or a Supreme Consular Court established by an Order of Her Majesty in Council, the Court in which the suit is instituted shall not be precluded from inquiry into the merits of the case in which the judgment was passed."

Addition of new section after section 16.

"16A. (1) When it is alleged to be uncertain within the local limits of the jurisdiction of which of two or more Courts any immovable property is situate, any one of those Courts may, if satisfied that there is ground for the alleged uncertainty, record a statement to that effect and thereupon proceed to entertain and dispose of any suit relating to that property, and its decree in the suit shall have the same effect as if the property were situate within the local limits of its jurisdiction:

"Provided that the suit is one with respect to which the Court is competent as regards the nature and value of the suit to exercise jurisdiction.

(2) Where a statement has not been recorded under sub-section (1), and an objection is taken before an appellate or revisional Court that a decree or order in a suit relating to such property was made by a Court not having jurisdiction where the property is situate, the appellate or revisional Court shall not allow the objection if in its opinion there was, at the time of the institution of the suit, any reasonable ground for uncertainty as to the Court having jurisdiction with respect thereto."

7. In section 17, after Explanation II, the following shall be inserted, namely:—

"EXPLANATION III.—In suits arising out of contract, the cause of action arises within the meaning of this section at any of the following places, namely:—

(i) the place where the contract was made;

(ii) the place where the contract was to be performed or performance thereof completed;

(iii) the place where in performance of the contract any money to which the suit relates was expressly or impliedly payable."

8. In section 27 there shall be inserted after the words "the Court may" the words "at any stage of the suit", and after the words "any other person or persons" the words "with his or their consent."

Substitution of new section for section 53.

When plaint may be rejected, returned for amendment or amended.

9. For section 53 the following shall be substituted, namely:—

"53. The plaint may at the discretion of the Court,—

(a) at, or at any time before, the settlement of issues be rejected if it does not disclose a cause of action;

(b) at, or at any time before, the settlement of issues be returned for amendment within a time to be fixed by the Court, and upon such terms as to the payment of costs occasioned by such amendment as the Court thinks fit, if it—

(i) is not signed and verified as herein before required,



- (ii) does not state correctly and without prolixity the several particulars hereinbefore required, or contains particulars other than those so required,
- (iii) is wrongly framed by reason of nonjoinder or misjoinder of parties, or joins causes of action which ought not to be joined in the same suit, or
- (iv) is not framed in accordance with the provisions of section 42 ;

(c) at any time before judgment be amended by the Court upon such terms as to the payment of costs as the Court thinks fit :  
 " Provided that a plaint shall not be amended either by the party to whom it is returned for amendment, or by the Court, so as to convert a suit of one character into a suit of another and inconsistent character.

" When a plaint is amended under this section the amendment shall be attested by the signature of the Judge."

**10.** For section 72 the following shall be substituted, namely :—

" 72. (1) If the defendant resides within the jurisdiction of the Court in which the suit is instituted, or has an agent resident within that jurisdiction who is empowered to accept the service of the summons, the summons shall ordinarily be delivered or sent to the proper officer to be served by him or one of his subordinates.

" (2) The proper officer may be an officer of another Court than that in which the suit is instituted, and, where he is such an officer, the summons may, subject to any rules which the High Court may make in this behalf, be sent to him by post or in such other manner as the Court may direct."

**11.** In section 82, for the first twenty words the following shall be substituted, namely :—

" When a summons is returned under section 80, the Court shall if the return under that section has not been verified by the affidavit of the serving-officer, and may if it has been so verified, examine the serving-officer on oath, or cause him to be so examined by another Court, touching his proceedings."

**12.** For section 90 the following shall be substituted, namely :—

" 90. If there is a British Resident or Agent, or a Superintendent appointed by the British Government, or a Court established or continued

by the authority of the Governor General in Council, in or for the territory in which the defendant resides, the summons may be sent to such Resident, Agent, Superintendent or Court, by post or otherwise, for the purpose of being served upon the defendant; and, if the Resident, Agent or Superintendent or the Judge of the Court returns the summons with an endorsement under his hand that the summons has been served on the defendant in manner hereinbefore

directed, such endorsement shall be evidence of the service."

Substitution of new sections for sections 141 and 142.

**13.** For sections 141 and 142 the following shall be substituted, namely :—

" 141. (1) Subject to the provisions of the next following sub-section, there shall be endorsed on every document which has been admitted in evidence in the suit the following particulars, namely :

- (a) the number and title of the suit,  
 (b) the name of the person producing the document,  
 (c) the date on which it was produced, and  
 (d) a statement of its having been so admitted,

and the endorsement shall be signed by the Judge.

" (2) If a document so admitted is an entry in a book, account or record and a copy thereof has been substituted for the original under the next following section, the particulars aforesaid shall be endorsed on the copy and the endorsement thereon shall be signed by the Judge.

" 141A. (1) If a document admitted in evidence in the suit is an entry in a shop-book or other account in current use, the party on whose behalf the account is produced may furnish a copy of the entry.

" (2) If such a document is an entry in a public record produced from a public office or by a public officer, or an entry in a book or account belonging to a person other than a party on whose behalf the book or account is produced, the Court may require a copy of the entry to be furnished—

- (i) where the record, book or account is produced on behalf of a party, then by that party, or  
 (ii) where the record, book or account is produced in obedience to an order of the Court acting of its own motion, then by either or any party.

" (3) When a copy of an entry is furnished under the foregoing provisions of this section, the Court shall, after causing the copy to be examined, compared, and attested in manner mentioned in section 62, mark the entry and cause the book, account or record in which it occurs to be returned to the person producing it.

" 142. When a document relied on as evidence by either party is considered by the Court to be inadmissible in evidence, there shall be endorsed thereon the particulars mentioned in clauses (a), (b) and (c) of section 141, sub-section (1), and a statement of its having been rejected, and the endorsement shall be signed by the Judge.

" 142A. (1) Every document which has been admitted in evidence, or a copy thereof where a copy has been substituted for the original under section 141A, shall form part of the record of the suit.

Endorsements on documents rejected as inadmissible in evidence

Recording of admitted and return of rejected documents.

Endorsements on documents admitted in evidence

Substitution of new sections for sections 141 and 142

Delivery or transmission of summons for service

Substitution of new section for section 72

Service in foreign territory through British Resident or Court

"(2) Documents not admitted in evidence shall not form part of the record and shall be returned to the parties respectively producing them."

14. In section 143, for the words and figures "sections 62, 141 and 142" there shall be substituted the following, namely:—

"section 62, section 141A, sub-section (3), or section 142A, sub-section (2)."

15. In section 159 the words "or sent" shall be inserted after the word "delivered."

16. In section 168, for the words "shall examine the serving-officer on oath" the following shall be substituted, namely:—"shall if the certificate of the serving-officer has not been verified by affidavit, and may if it has been so verified examine the serving-officer on oath, or cause him to be so examined by another Court."

17. The following shall be inserted after section 185, namely:—

"185A. (1) The Local Government may, by notification in the official Gazette, direct, with respect to any Judge specified in the notification, or falling under a description set forth therein, that evidence in cases in which an appeal is allowed shall, instead of being taken down in the manner prescribed in the foregoing sections, be taken down by him with his own hand in the English language."

"(2) Where a Judge is prevented by any sufficient reason from complying with a direction under sub-section (1), he shall record the reason and cause the evidence to be taken down in writing from his dictation in open Court."

"(3) Evidence taken down under sub-section (1) or sub-section (2) shall be in the form mentioned in section 182, and be read over and signed, and, as occasion may require, interpreted and corrected, as if it were evidence taken down under that section."

"(4) The Local Government may, by notification in the official Gazette, revoke or vary a direction notified under sub-section (1)."

18. For section 191 the following shall be substituted, namely:—

"191. (1) Where the Judge taking down any evidence, or causing any memorandum to be made, under this Chapter, is prevented by death, transfer or other cause from concluding the trial of the suit, any successor to such Judge may deal with such evidence or memorandum as if he himself had taken it down or caused it to be made, and proceed with the suit from the stage at which his predecessor left it."

"(2) The provisions of sub-section (1) shall apply, so far as they can be made applicable, to a suit transferred under section 25:—

"Provided that a Court transferring a suit under that section may, if it thinks fit, direct that the Court to which the suit is transferred shall recall all or any of the witnesses who have been examined and take their evidence afresh."

19. To section 193 the following shall be added, namely:—

"A Court continuing a suit under section 191 may recall and re-examine a witness who has departed in accordance with section 173."

20. (1) In section 209, for the first thirteen words the words "When a decree is for the payment of money" shall be substituted.

(2) To the same section the following shall be added, namely:—

"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."

21. (1) In section 216, for the first twenty-four words the following shall be substituted, namely:—

"If the defendant has been allowed a set-off against the claim of the plaintiff."

(2) To the same section the following shall be added, namely:—

"The provisions of this section shall apply whether the set-off is admissible under section 111 or otherwise."

22. In section 223, for the words "in a case cognizable by a Court of Small Causes" the following shall be substituted, namely:—

"in a suit of which the value as set forth in the plaint did not exceed two thousand rupees and which, as regards its subject-matter, is not excepted by the law for the time being in force from the cognizance of either a Presidency or a Provincial Court of Small Causes."

23. In section 229, after the word "established" the words "or continued" shall be inserted.

24. After section 229 the following shall be inserted, namely:—

"229A. So much of the foregoing sections of this Chapter as empowers a Court to send a decree for execution to another Court shall be construed as empowering a Court in British India to send a decree for execution to any Court established or continued by the authority of the Governor General in Council in the territories of any Foreign Prince or State to which the Governor General in Council has, by notification in the Gazette of India, declared this section to apply."

25. The last paragraph of section 230 is hereby repealed.

26. (1) In section 244, for clause (c), the following shall be substituted, namely:—

"(c) any other questions arising between the parties to the suit in which the decree was passed, or their representatives, and relating to the execution, discharge or satisfaction of the decree or to the stay of execution thereof."

(2) To the same section the following shall be added, namely:—

"If a question arises as to who is the representative of a party for the purposes of this section, the Court may either stay execution of the decree until the question has been determined by a separate suit or itself determine the question by an order under this section."

27. For the last paragraph of section 258 Amendment of section 258. the following shall be substituted, namely:—

"Unless such a payment or adjustment has been certified as aforesaid, it shall not be recognized as a payment or adjustment of the decree by any Court executing the decree."

28. (1) In the first proviso to section 266, Amendment of section 266. clause (a), the words "and bedding" shall be inserted after the word "apparel".

(2) In the same proviso, clause (b), after the word "cattle" the words "and seed-grain" shall be inserted.

(3) In the same proviso, for clause (h) the following shall be substituted, namely:—

"(h) the salary of a public officer or of any servant of a Railway Company or local authority to the extent of—

(i) the whole of the salary where the salary does not exceed twenty rupees monthly;

(ii) twenty rupees monthly where the salary exceeds twenty rupees and does not exceed forty rupees monthly; and

(iii) one moiety of the salary in any other case."

(4) To the same proviso, after clause (l), the following shall be added, namely:—

"(m) any allowance declared by any law passed under the Indian Councils Act, 1861, by a Governor or a Lieutenant-Governor in Council to be exempt from liability to attachment or sale in execution of a decree;

"(n) where the judgment-debtor is a person liable for the payment of land-revenue, any moveable property which under any law applicable to him is exempt from sale for the recovery of an arrear of such revenue."

(5) In the Explanation to the same proviso, for the word and letter "and (j)" the letters and word "(j) and (m)" shall be substituted.

29. In section 289 the words "on the spot where the property is attached" are hereby repealed. Amendment of section 289.

30. To section 320 the following shall be added, namely:— Addition to section 320.

"Rules under this section may confer upon the Collector or any gazetted subordinate of the Collector all or any of the powers which the Court might exercise in the execution of the decree if the execution thereof had not been transferred to the Collector, including the powers of the Court under sections 294 and 312, and may provide for orders passed by the Collector or any gazetted subordinate of the Collector, or orders passed on appeal with respect to such orders, being subject to appeal to and revision by superior Revenue-authorities as nearly as may be as the orders passed by the Court, or orders passed on appeal with respect to such orders, would be subject to appeal to and revision by appellate or revisional Courts under this Code or other law for the time being in force if the decree had not been transferred to the Collector.

"A power conferred by the rules upon the Collector or any gazetted subordinate of the Collector, or upon any appellate or revisional authority, shall not be exercisable by the Court or by any Court in exercise of any appellate or revisional jurisdiction which it has with respect to decrees or orders of the Court.

"In executing a decree transferred to the Collector under this section, the Collector and his subordinates shall be deemed to be acting judicially within the meaning of Act No. XVIII of 1850 (an Act for the protection of Judicial Officers).

31. (1) In section 349, for the words "is under arrest" the words "is in custody under the foregoing provisions of this Code" shall be substituted. Amendment of Chapter XX.

(2) In section 354, between the word "and" and the words "shall operate" the words "every order under that section appointing a Receiver" shall be inserted.

(3) For the second paragraph of section 360 the following shall be substituted, namely:—

"A Court so invested may entertain an application under section 344 by any person who has been arrested or imprisoned, or against whose property an order of attachment has been made, in execution of a decree for money passed by that Court."

(4) At the end of Chapter XX the following shall be inserted, namely:—

"360A. Nothing in this Chapter shall apply to any Court having jurisdiction within the limits of the town of Calcutta, Madras or Bombay." Inapplicability of this Chapter to Presidency towns.

32. (1) For sections 363 and 364 the following shall be substituted, namely:— Amendment of Chapter XXI.

"363. If there are more plaintiffs than one, and any of them dies, and if the right to sue does not survive to the surviving plaintiff or plaintiffs alone but survives to him or them and the legal representative of the deceased plaintiff jointly, the Court may Procedure where one of several plaintiffs dies and right to sue does not survive to surviving plaintiffs alone.

cause the legal representative, if any, of the deceased plaintiff to be made a party, and shall thereupon cause an entry to that effect to be made on the record and proceed with the suit."

(2) For section 365 the following shall be substituted, namely:—

"365. In case of the death of a sole plaintiff or sole surviving plaintiff, the legal representative of the deceased may, where the right to sue survives, apply to the Court to have his name entered on the record in place of the deceased plaintiff, and the Court shall thereupon enter his name and proceed with the suit."

(3) To section 368 the following shall be added, namely:—

"The legal representative of a deceased defendant may apply to have himself made a defendant in place of the deceased defendant, and the provisions of this section, so far as they are applicable, shall apply to the application and to the proceedings and consequences ensuing thereon."

(4) After section 372 the following shall be added, namely:—

XV of 1877. "372A. The provisions of section 5 of the Indian Limitation Act, 1877, applicable to appeals shall apply to applications under sections 365, 366, 368 and 371."

33. To section 381 the following shall be added, namely:—

"or show good cause why such time should be extended, in which case the Court may extend it."

"Where a suit is dismissed under this section, the plaintiff may apply for an order to set the dismissal aside, and, if it is proved to the satisfaction of the Court that he was prevented by any sufficient cause from furnishing the security within the time allowed, the Court shall set aside the dismissal upon such terms as to security, costs or otherwise as it thinks fit, and shall appoint a day for proceeding with the suit."

"The dismissal shall not be set aside unless the plaintiff has served the defendant with notice in writing of his application."

XV of 1877. "The provisions of the Indian Limitation Act, 1877, with respect to an application under section 103, and of this Code with respect to an appeal from an order rejecting such an application, shall apply, so far as they can be made applicable, to an application under this section for an order to set aside the dismissal of a suit, and to an appeal from an order rejecting such an application, respectively."

34. In section 386, for the words "or to any pleader of a High Court whom the Court issuing the commission thinks fit to appoint" the following shall be substituted, namely:—

"or to any pleader or other person whom the Court issuing the commission may, subject to any rules of the High Court in this behalf, think fit to appoint."

35. In section 419, after the words "Government Pleader in any Court" the words "or such other person as the Local Government may for any Court appoint in this behalf" shall be inserted.

36. In section 424, after the words "intending plaintiff" the words "and the relief which he claims" shall be inserted.

37. (1) In section 432, after the words "British India" the following shall be inserted, namely:—

"or at the request of any person competent in the opinion of the Government to act on behalf of such Prince or Chief,"

(2) To the same section the following shall be added, namely:—

"An appointment under this section may be made for the purpose of a specified suit or of several specified suits, or for the purpose of all such suits as it may from time to time be necessary to prosecute or defend on behalf of the Prince or Chief."

"A person appointed under this section may authorise or appoint persons to make and do appearances, applications and acts in any such suit or suits as if he were himself a party to the suit or suits."

38. For section 433 the following shall be substituted, namely:—

433. (1) Any such Prince or Chief, and any ambassador or envoy of a Foreign State, may, with the consent of the Governor General in Council, certified by the signature of one of the Secretaries to the Government of India (but not without such consent), be sued in any competent Court.

(2) Such consent may be given with respect to a specified suit or to several specified suits, or with respect to all suits of any specified class or classes, and may specify, in the case of any suit or class of suits, the Court in which the Prince, Chief, ambassador or envoy may be sued; but it shall not be given unless the Prince, Chief, ambassador or envoy—

- (a) has instituted a suit in the Court against the person desiring to sue him, or
- (b) by himself or another trades within the local limits of the jurisdiction of the Court, or
- (c) is in possession of immoveable property situate within those limits and is to be sued with reference to such possession or for money charged on that property.

(3) No such Prince, Chief, ambassador or envoy shall be arrested under this Code, and, except with the consent of the Governor General in Council certified as aforesaid, no decree shall be executed against the property of any such Prince, Chief, ambassador or envoy.

"(4) The Governor General in Council may, by notification in the Gazette of India, authorise a Local Government and any Secretary to that Government to exercise, with respect to any Prince, Chief, ambassador or envoy named in the notification, the functions assigned by the foregoing sub-sections to the Governor General in Council and a Secretary to the Government of India, respectively.

"(5) A person may, as a tenant of immovable property, sue, without such consent as is mentioned in this section, a Prince, Chief, ambassador or envoy from whom he holds or claims to hold the property."

Transposition and amendment of section 434.

39. (1) Section 434 shall become section 229B, and any reference made before the commencement of this Act in any notification or other document to section 434 shall be read as a reference to section 229B.

(2) In section 229B, the words "or continued" shall be inserted after the word "established."

Insertion of new section 434.

Style of Princes and Chiefs as parties to suits.

40. After section 433 the following section shall be inserted, namely:—  
"434. A Sovereign Prince or ruling Chief may sue, and shall be sued, in the name of his State:  
"Provided that in giving the consent referred to in the last foregoing section the Governor General in Council or Local Government, as the case may be, may direct that any such Prince or Chief shall be sued in the name of an agent or in any other name."

Addition to section 464.

41. To section 464 the following shall be prefixed, namely:—  
"Nothing in this Chapter applies to a Sovereign Prince or ruling Chief suing or being sued in the name of his State or being sued, by direction of the Governor General in Council or a Local Government, in the name of an agent or in any other name, and."

42. In section 503, clause (d), the words "as the Court thinks fit" shall be inserted after the words "by way of remuneration."

43. In section 504, for the words "the Court may appoint the Collector" the words "the Court may, with the consent of the Collector, appoint him" shall be substituted.

44. In section 539, for the words "having a direct interest" the words "having an interest" shall be substituted.

45. To section 540 the following shall be added, namely:—

"An appeal may lie under this section from an original decree passed *ex parte*."

46. To section 549 Addition to section 549. the following shall be added, namely:—

"If such security be furnished, any costs for which a surety may have rendered himself liable may be recovered from him in execution of the decree of the Appellate Court in the same manner as if he were the appellant."

47. (1) For section 551 the following shall be substituted, namely:—

551. (1) The Appellate Court, if it thinks fit, may, after fixing a day for hearing the appellant or his pleader and hearing him accordingly if he appears on that day, dismiss the appeal without sending notice of the appeal to the Court against whose decree the appeal is made and without serving notice on the respondent or his pleader.

(2) If on the day fixed under sub-section (1) or any other day to which the hearing may be adjourned the appellant does not attend in person or by his pleader, the appeal shall be dismissed for default.

(3) The dismissal of an appeal under this section shall be notified to the Court against whose decree the appeal is made."

(2) For the first paragraph of section 552 the following shall be substituted, namely:—

"Unless the Appellate Court dismisses the appeal under the last foregoing section, it shall fix a day for hearing the appeal."

(3) In section 558 the words and figures "section 551, sub-section (2)," shall be inserted before the word and figures "section 556."

48. (1) For the proviso to the first paragraph of section 561 the following shall be substituted, namely:—

"Provided he has filed the objection in the Appellate Court within one month from the date of the service on him or his pleader under section 553 of notice of the day fixed for hearing the appeal, or within such further time as the Appellate Court may see fit to allow."

(2) To the same section the following shall be added, namely:—

"Unless the respondent files with the objection a written acknowledgment from the appellant or his pleader of having received a copy thereof, the Appellate Court shall cause such a copy to be served, as soon as may be after the filing of the objection, on the appellant or his pleader, at the expense of the respondent.

"The provisions of Chapter XLIV shall, so far as they can be made applicable, apply to an objection under this section."

49. (1) In section 562 the words "so as to exclude any evidence of fact which appears to the Appellate Court essential to the determination of the rights of the parties" are hereby repealed.

(2) In the same section, for the word "investigate" the word "determine" shall be substituted.

- Repeal of section 563. 50. Section 563 is hereby repealed.
51. In section 565, for the word "shall" the word "may" shall be substituted.
- Amendment of section 565. 52. (1) In section 566 the words "and the evidence upon the record is not sufficient to enable the Appellate Court to determine such issue or question" are hereby repealed.
- Amendment of section 566. (2) In the same section, between the words "the Appellate Court may," and the words "frame issues," the words "if necessary" shall be inserted.
53. (1) In section 582, for the words "the words 'plaintiff,' 'defendant' and 'suit' shall be held to include an appellant, a respondent and an appeal, respectively," the following shall be substituted, namely:—
- Amendment of section 582. "the word 'plaintiff' shall be held to include a plaintiff-appellant or defendant-appellant, the word 'defendant' a plaintiff-respondent or defendant-respondent, and the word 'suit' an appeal."
- (2) In the same section, the words and figures, "including those of section 372A," shall be inserted after the words "The provisions hereinafter contained."
54. To section 584 the following shall be added, namely:—
- Addition to section 584. "An appeal may lie under this section from an appellate decree passed *ex parte*."
55. (1) In section 588, clause (9) for the word "or" the word "for" shall be substituted.
- Amendment of section 588. (2) In the same section, clause (16), for the words "the first paragraph of" the words "and orders under" shall be substituted.
56. The first paragraph of section 589, and the word "or" in the second paragraph of that section, are hereby repealed.
- Repeal of part of section 589.
57. Section 599, and in section 601 the words "within thirty days from the date of the order," are hereby repealed.
- Repeal of section 599 and part of section 601.
58. After the second paragraph of section 610 the following shall be inserted, namely:—
- Addition to section 610. "In so far as the order awards costs to the respondent, it may be executed against a surety therefor, to the extent to which he has rendered himself liable, in the same manner as it may be executed against the appellant:
- "Provided that such notice in writing as the Court in each case thinks sufficient has been given to the surety."
59. To section 626 the following proviso shall be added, namely:—
- Addition to section 626. and"
- (c) an application made under section 624 to the judge who delivered the judgment may, if that judge has ordered notice to issue under proviso (a) to this section, be disposed of by his successor."
60. After section 646 the following shall be inserted, namely:—
- Addition of new sections after section 646. 646A. (1) If at any time before judgment a Court in which a suit has been instituted doubts whether the suit is cognizable by a Court of Small Causes or is not so cognizable, it may submit the record to the High Court with a statement of its reasons for the doubt as to the nature of the suit.
- Power to refer to High Court questions as to jurisdiction in small causes.
- (2) On receiving the record and statement the High Court may order the Court either to proceed with the suit or to return the plaint for presentation in such other Court as it may in its order declare to be competent to take cognizance of the suit.
- 646B. (1) If it appears to a District Court that a Court subordinate thereto has, by reason of erroneously holding a suit to be cognizable by a Court of Small Causes or not to be so cognizable, failed to exercise a jurisdiction vested in it by law, or exercised a jurisdiction not so vested, the District Court may, and, if required by a party, shall submit the record to the High Court with a statement of its reasons for considering the opinion of the subordinate Court with respect to the nature of the suit to be erroneous.
- Power to District Court to submit for revision proceedings had under mistake as to jurisdiction in small causes.
- (2) On receiving the record and statement, the High Court may pass such order in the case as it thinks fit.
- (3) With respect to any proceeding subsequent to decree in any case submitted to the High Court under this section, the High Court may make such order as in the circumstances appears to it to be just and proper.
- (4) A Court subordinate to a District Court shall comply with any requisition which the District Court may make for any record or information for the purposes of this section."
61. (1) For the third paragraph of section 648 the following shall be substituted:—
- Amendment of, and addition to, section 648. "and the Court making an arrest under this section shall send the person arrested to the Court by which the warrant of arrest was issued, unless he shows cause to the satisfaction of the former Court why he should not be sent to the latter Court, or unless he furnishes sufficient security for his appearance before the latter Court or (where the case is one under Chapter XXXIV) for satisfying any decree that may be passed against him by that Court, in either of which cases the Court making the arrest shall release him."
- (2) To section 648 the following shall be added, namely:—
- "Where a person to be arrested or moveable property to be attached under this section is within the local limits of the ordinary original

civil jurisdiction of the High Court of Judicature at Fort William in Bengal or at Madras or Bombay, or of the Court of the Recorder of Rangoon, the copy of the warrant of arrest or of the order of attachment, and the probable amount of the costs of the arrest or attachment, shall be sent to the Court of Small Causes of Calcutta, Madras, Bombay or Rangoon, as the case may be, and that Court, on receipt of the copy and amount, shall proceed as if it were the District Court."

62. In section 650A, the words "or continued" shall be inserted after the word "established."

63. To section 652 the following shall be added, namely:—

"A High Court not established under the Statute 24 and 25 Victoria, chapter 104 (*an Act for establishing High Courts of Judicature in India*) may, from time to time, with the previous sanction of the Local Government, make, with respect to any matter other than procedure, any rule which any High Court so established might under section 15 of that Statute make with respect to any such matter for any part of the territories under its jurisdiction which is not included within the limits of a presidency-town. Rules so made shall be published in the same manner, and shall thereupon have the same force, as rules made and published under this section for the regulation of matters connected with procedure."

64. In form No. 137 of the fourth schedule the words "bound by the decree" shall be inserted after the words "remove any person."

65. (1) After clause (n) of section 17 of the Indian Registration Act, 1877, as amended by the Indian Registration Act, 1886, the following clause shall be added, namely:—

"(o) a certificate of sale granted to the purchaser of any property sold by public auction by a Civil or Revenue officer."

(2) In the second paragraph of section 50 of the same Act, for the word and letter "and (n)" the letters and word "(n) and (o)" shall be substituted.

(3) The Indian Registration Act, 1877, shall be construed as if the amendments made in it by this section had been made therein by Act XII of 1879 (*an Act to amend the Code of Civil Procedure, the Registration Act, 1877, and the Limitation Act, 1877*):

Provided that nothing in this sub-section shall be deemed to affect a decree or order made by any Court before the commencement of this Act.

66. (1) No. 161 of the second schedule to the Amendment of the Indian Limitation Act, 1877, shall be transposed and become No. 173A, and the entry against it in the second column of that schedule shall be "Ditto", signifying ninety days.

(2) Nos. 171, 171A and 171B of the same schedule are hereby repealed.

(3) For No. 171C of the same schedule the following shall be substituted, namely:—

Description of Application.	Period of Limitation.	Time from which period begins to run.
171. Under section 371 of the Code of Civil Procedure, or under that section and section 582 of the same Code, for an order to set aside an order for abatement or dismissal.	Sixty days.	The date of the order for abatement or dismissal.

(4) After No. 175 of the same schedule the following shall be inserted, namely:—

Description of Application.	Period of Limitation.	Time from which period begins to run.
175A. Under section 365 of the Code of Civil Procedure by the legal representative of a deceased plaintiff, or under that section and section 582 of the same Code by the legal representative of a deceased plaintiff-appellant or defendant-appellant.	Six months.	The date of the death of the deceased plaintiff or of the deceased plaintiff-appellant or defendant-appellant.
175B. Under section 366 of the Code of Civil Procedure by a defendant, or under that section and section 582 of the same Code by a plaintiff-respondent or defendant-respondent.	Ditto	The date of the death of the deceased plaintiff or of the deceased defendant-appellant or plaintiff-appellant.
175C. Under section 368 of the Code of Civil Procedure to have the legal representative of a deceased defendant made a defendant, or under that section and section 582 of the same Code to have the legal representative of a deceased plaintiff-respondent or defendant-respondent made a plaintiff-respondent or defendant-respondent.	Ditto	The date of the death of the deceased defendant or of the deceased plaintiff-respondent or defendant-respondent.

Fort William :  
The 10th March 1888. }

S. HARVEY JAMES,  
Secretary to the Govt. of India,  
Legislative Department.

THE



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

## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 17th August 1887, and the assent of His Excellency the Viceroy and Governor General on the 5th April 1888, and is published for general information:—

#### Bombay Act No. VII of 1887.

*An Act to declare and amend the Law relating to Toda Girás Allowances.*

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 28th April 1888.)

WHEREAS it is expedient to declare and amend the law relating to toda girás allowances; It is enacted as follows:—

- |   |  |
|---|--|
| <p>1. This Act may be called "The Toda Girás Allowances' Act, 1887."</p> <p>Short title,</p>  | <p>Provided that, on failure of such heirs, the allowance, or some portion thereof, shall whenever the Governor in Council has already so directed, or shall hereafter so direct, be continuable hereditarily to the lineal male heirs in male descent of a brother of the first recipient of such allowance under British rule.</p> |
| <p>2. In this Act, "toda girás allowance" means a cash payment made periodically to any person on the part of Government, or by or on the part of a holder of alienated land, under the name of girás, wol, tora girás or toda girás.</p> | <p>Proviso.</p>  |
| <p>3. Every toda girás allowance is continuable hereditarily to the lineal male heirs in male descent of the first recipient thereof under British rule:</p>  | <p>4. No mortgage, charge or alienation of a todagirás allowance, or of any part thereof, or of any interest therein, by any recipient of the same, shall be valid as to any time beyond such recipient's natural life.</p>  |
| <p>Toda girás allowances to be held hereditarily in male descent.</p>   | <p>Mortgage, &amp;c., of toda girás allowance by any recipient thereof valid only for his life.</p>  |
| <p>Exemption of toda girás allowances from attachment and sale in execution of decrees.</p>   | <p>5. No toda girás allowance shall be liable to attachment or sale in execution of a decree:</p>  |



Provided that any money due or likely to become due to a judgment-debtor on account of a toda girás allowance may be attached in execution of the decree against him, but such attachment shall not affect any money which becomes due on account of such allowance after such judgment-debtor's death.

6. (1) Nothing in this Act applies to a Saving of toda girás allowance already alienated. toda girás allowance already which has already been alienated :

(a) If the instrument purporting or operating to effect such alienation has before the date on which this Act comes into force been registered under any law for the time being in force relating to the registration of documents ; or

(b) If the said instrument, not being compulsorily registrable, and not having been registered under any such law as aforesaid, has been executed before the date on which this Act

comes into force, and is presented for inspection, together with a copy thereof for record, at any time within six months after the said date, to the Collector of the district in which such allowance is payable ; or

(c) If, when such alienation has not been effected by an instrument, proof thereof is produced within the period and to the Collector aforesaid.

(2) When any instrument is presented to Collector how to a Collector under proceed in respect of clause (b), he shall, alienations notified to before returning the him under clauses (b) same, endorse thereon, under his signature and official seal, the date of such presentation. When proof of an alienation is produced before a Collector under clause (c), he shall give to the alienee a certificate, under his signature and official seal, that the toda girás allowance so alienated is not subject to the provisions of this Act.

*By order of His Excellency the Right Honourable the Governor in Council,*

J. J. HEATON,

Acting Under Secretary to Government.

*Bombay Castle, 24th April 1888,*



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## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 16th March 1888, and the assent of His Excellency the Viceroy and Governor General on the 5th June 1888, and is published for general information:—

#### Bombay Act No. II of 1888.

*An Act to amend the Sind Village Officers Act, 1881.*

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 29th June 1888.)

Bo. IV of 1881. Whereas it is expedient to amend the Sind Village Officers Act, 1881, in manner hereinafter appearing; It is enacted as follows:—

1. In section 2 of the said Act, after the word "both," shall be added the words "and includes Kotárs or Tapedárs' peons."

2. In section 3, after the word "Sind," shall be added the words "or other authority prescribed by rule under section 8."

3. For the first seventeen words of section 6 of the said Act the following shall be substituted, viz.:

"For the purpose of defraying the salaries, emoluments and contingent expenditure of village officers appointed

under this Act, and of providing the pensions, gratuities or compassionate allowances, if any, payable to such officers on retirement, and of giving, with the sanction of the Commissioner in Sind, occasional special rewards to headmen of villages and others, who have rendered good service towards the administration of the district."

4. In section 8 of the said Act, for clauses (a) and (b) the following shall be substituted, viz.:

"(a) determining the duties of the different village officers, and the authority by whom appointments of such officers may be made and cancelled;

"(b) fixing the salaries and other remunerations of village officers, and regulating the payment of pensions, gratuities, or compassionate allowances on retirement to such classes of them and under such conditions as may appear expedient."

*By order of His Excellency the Right Honourable the Governor in Council,*

J. J. HEATON,

Acting Under Secretary to Government.

*Bombay Castle, 27th June 1888.*

IV.—18

THE



# Bombay Government Gazette

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## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 5th September 1888, and is hereby promulgated for general information:—

#### Act No. VIII of 1888.

*An Act to remove doubts as to the legality of the levy of certain Tolls.*

WHEREAS doubts have been raised as to the operation of the Acts of the Governor General in Council, No. VIII of 1851 (*an Act for enabling Government to levy Tolls on Public Roads and Bridges*) and No. XV of 1864 (*an Act to amend Act VIII of 1851*); It is hereby enacted as follows:—

1. Acts VIII of 1851 and XV of 1864 shall be deemed to be in force throughout the territories now administered by the Lieutenant-Governor of the Punjab, and, from the twenty-first day of August 1857, and the twenty-fourth day of March 1864, respectively, to have been in force in the territories for the time being administered as part of the Punjab.

2. (1) In any part of British India beyond the limits of the territories administered by the Governor of Fort St. George in Council and the Lieutenant-Governors of Bengal and the North-Western Provinces, to or in which Acts VIII of 1851 and XV of 1864 may be or have been extended, or may be or have been declared

to be in force, under the latter of those Acts or by this Act or by or under any other enactment, the Local Government shall be deemed to have and, where the Acts have been in force before the passing of this Act, to have had the same authority as if it had been included among the Local Governments specified in section 2 of Act VIII of 1851.

(2) "Presidency", where that word occurs in section 8 of Act VIII of 1851, shall be deemed to mean, and to have meant, the territories under the administration of a Local Government.

3. All tolls levied, or purporting to have been levied, under Acts VIII of 1851 and XV of 1864, or either of those Acts, before the passing of this Act, shall be deemed to have been lawfully levied.

4. Nothing in the foregoing sections shall affect any proceedings commenced in any Civil Court before the first day of July 1888.

5. In section 2 of Act VIII of 1851 the words "and the Governor of Bombay in Council" are hereby repealed, and the word "and" shall be inserted between the words "the Lieutenant-Governor of the North-Western Provinces of Bengal" and the words "the Governor of the Presidency of Fort St. George in Council."

S. HARVEY JAMES,  
Secretary to the Government of India.

## LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 5th September 1888, and is hereby promulgated for general information:—

## Act No. IX of 1888.

*An Act to repeal certain enactments relating to Contagious Diseases.*

WHEREAS it is expedient to repeal certain enactments relating to contagious diseases; It is hereby enacted as follows:—

1. The enactments specified in the schedule are repealed to the extent mentioned in the third column thereof.

Repeal.

THE SCHEDULE.  
ENACTMENTS REPEALED.

Number and year.	Subject or title.	Extent of repeal.
<i>Acts of the Governor General in Council.</i>		
XIV of 1868.	Indian Contagious Diseases Act, 1868.	So much as has not been repealed.
XXVI of 1868.	Municipal Lock-hospitals.	The whole.
<i>Act of the Governor of Fort St. George in Council.</i>		
IV of 1884.	Madras District Municipalities Act, 1884.	The words "the application of the Indian Contagious Diseases Act" in section 113.

S. HARVEY JAMES,  
Secretary to the Government of India.

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## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 4th May 1888, and the assent of His Excellency the Viceroy and Governor General on the 8th September 1888, and is published for general information:—

#### Bombay Act No. III of 1888.

##### *The City of Bombay Municipal Act, 1888.*

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 14th September 1888.)

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*The City of Bombay Municipal Act, 1888.*

[Ch. I.—Preliminary, Sects. 1—3 (k).]

**Bombay Act No. III of 1888.**

*An Act to consolidate and amend the law relating to the municipal government of the city of Bombay.*

WHEREAS it is expedient to consolidate and amend the law relating to the municipal government of the city of Bombay; It is enacted as follows :

CHAPTER I.

PRELIMINARY.

1. This Act may be cited as "The City of Bombay Municipal Act, 1888."

Short title.

Except as is herein otherwise expressly provided, it extends only to the city of Bombay.

Extent.

2. The enactments mentioned in schedule A. are repealed to the extent specified in the third column of the said schedule :

Provided that :

(a) all rules and by-laws made, all notifications published, all orders issued and all licenses and permissions granted under any of the said enactments and still in force shall, so far as they are consistent with this Act, be deemed to have been respectively made, published, issued and granted hereunder ; and

(b) all debts and obligations incurred, all contracts entered into, and all matters and things engaged to be done by, with or for the municipal corporation before this Act comes into force shall be deemed to have been incurred, entered into, or engaged to be done by, with or for the municipal corporation constituted under this Act ; and

(c) all rates, taxes and sums of money due to the corporation when this Act comes into force shall be deemed to be due to the corporation under this Act ; and

(d) all suits or other legal proceedings, civil or criminal, instituted, or which might, but for the passing of this Act, have been instituted by or against the corporation or the commissioner, may be continued or instituted, subject to the provisions of section 13 of schedule R, as if this Act had not been passed ; and

(e) all references made in any Act of the Governor of Bombay in Council to any of the said enactments shall be read as if made to this Act or to the corresponding portion thereof.

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

(a) "the city" means the city of Bombay ;

(b) "the corporation" means the Municipal Corporation of the city of Bombay ;

(c) "councillor" means a member of the corporation duly elected or appointed under this Act ;

(d) "the commissioner" means the Municipal Commissioner for the city of Bombay appointed under section 54 and includes an acting commissioner appointed under sub-section (3) of section 59 ;

(e) "deputy commissioner" means a Deputy Municipal Commissioner appointed under section 55 and includes an acting deputy commissioner appointed under sub-section (3) of section 59 ;

(f) the "police commissioner" means the Commissioner of Police of Bombay ;

(g) "justice" means a justice of the peace for the town of Bombay appointed under the provisions of the Justices of the Peace Act, 1869, or of any other law for the time being in force in this behalf ;

(h) "fellow" means a fellow of the University of Bombay ;

(j) "justices' election" and "fellows' election" mean, respectively, an election of a councillor by justices or by fellows ;

(k) "licensed plumber" and "licensed surveyor" mean, respectively, a person licensed by the commissioner for the purposes of this Act,

*The City of Bombay Municipal Act, 1888.*

[Ch. I.—Preliminary, Sect. 3 (l)—(z).]

as a plumber or surveyor, under section 355;

(l) "small cause court" means the Court of Small Causes of Bombay;

(m) "owner," when used in reference to any premises, means the person who receives the rent of the said premises, or who would be entitled to receive the rent thereof if the premises were let, and includes :

(i) an agent or trustee who receives such rent on account of the owner; and

(ii) an agent or trustee who receives the rent of, or is entrusted with, or concerned for, any premises devoted to religious or charitable purposes; and

(iii) a receiver, sequestrator or manager appointed by any court of competent jurisdiction to have the charge of, or to exercise the rights of, an owner of the said premises;

(n) a person is deemed "to reside" in any dwelling which he sometimes uses, or some portion of which he sometimes uses, though, perhaps, not uninterruptedly, as a sleeping apartment;

and a person is not deemed to cease "to reside" in any such dwelling merely because he is absent from it, or has elsewhere another dwelling in which he resides, if there is the liberty of returning to it at any time and no abandonment of the intention of returning thereto;

(o) the term "public securities" means securities of the Government of India and any securities guaranteed by Government, securities of the Bombay Port Trust, securities issued under this Act and any Bombay municipal debentures or other securities heretofore issued;

(p) "tax" includes any impost leviable under this Act;

(q) "vehicle" includes a carriage, cart, van, dray, truck, hand-cart and wheeled conveyance of any description capable of being used on the streets of the city;

(r) "land" includes land which is built upon or covered with water;

(s) "building" includes a house, out-house, stable, shed, hut and every other such structure, whether of masonry, bricks, wood, mud, metal or any other material whatever;

(t) "waterwork" includes a lake, stream, spring, well, pump, reservoir, cistern, tank, duct, whether covered or open, sluice, main, pipe, culvert, engine and any machinery, land, building or thing for supplying, or used for supplying water;

(u) "drain" includes a sewer, pipe, ditch, channel and any other device for carrying off sullage, excrementitious matter and polluted water or rain-water or sub-soil water;

(v) "house-gully" means a passage or strip of land constructed, set apart or utilized for the purpose of serving as a drain or of affording access to a privy, urinal, cesspool or other receptacle for filthy or polluted matter, to municipal servants or to persons employed in the cleansing thereof or in the removal of such matter therefrom;

(w) "street" includes any highway and any causeway, bridge, viaduct, arch, road, lane, footway, square, court, alley or passage, whether a thoroughfare or not, over which the public have a right of passage or access or have passed and had access uninterruptedly for a period of twenty years; and, when there is a footway as well as a carriage-way in any street, the said term includes both;

(x) "public street" means any street heretofore levelled, paved, metalled, channelled, sewered or repaired by the corporation and any street which becomes a public street under any of the provisions of this Act;

(y) "private street" means a street which is not a public street;

(z) "nuisance" includes any act, omission, place, or thing which causes or is likely to cause injury, danger, annoyance

*The City of Bombay Municipal Act, 1888.*

[*Ch. I.—Preliminary, Sect. 3 (aa).* *Ch. II.—The Municipal Constitution, Sects. 4—11 (2).*]

or offence to the sense of sight, smelling or hearing or which is, or may be dangerous to life or injurious to health or property;

(aa) "dangerous disease" means "Dangerous disease;" cholera and any endemic, epidemic or infectious disease by which the life of man is endangered;

(bb) "official year" means the year commencing on the first day of April;

(cc) "public holiday" means a day or other period of time on or during which, "Public holiday;" by an order of Government published in the *Bombay Government Gazette*, Government offices in the city are closed;

(dd) "sub-section" and "clause" de- "Sub-section;" "clause," note, respectively, a sub-section or clause of the section in which the word occurs.

CHAPTER II.

THE MUNICIPAL CONSTITUTION.

*Municipal Authorities.*

4. The municipal authorities charged with carrying out the provisions of this Act are:

- (A), a corporation;
- (B), a standing committee;
- (C), a municipal commissioner.

(A). *The Municipal Corporation.*

5. (1) On and after the first day of April, 1889, the corporation shall consist of seventy-two councillors, as follows (namely):

- thirty-six elected at ward-elections;
- sixteen elected by justices;
- two elected by fellows;
- two elected by the Bombay Chamber of Commerce;
- sixteen appointed by Government.

(2) The corporation shall, by the name of "The Municipal Corporation of the city of Bombay," be a body corporate and have perpetual succession and a common seal, and by such name may sue and be sued.

*Terms of office of Councillors; Casual vacancies, &c.*

6. (1) The first members of the corporation constituted according to the provisions of section 5 shall come into office on the first day of April, 1889.

(2) Councillor selected or appointed to succeed retiring councillors shall come into office on the day for the retirement of the councillors whom they are to succeed.

7. All members of the corporation constituted as aforesaid shall retire from office at noon on the first day of April three years after they take office, which day is in this Act referred to as the day for retirement.

8. Any person who ceases to be a councillor shall, unless disqualified, be re-eligible.

9. In the event of non-acceptance of office by a person elected or appointed to be a councillor or of the death, resignation or disqualification of a councillor, or of his becoming incapable of acting previous to the day for retirement, there shall be deemed to be a casual vacancy in the office and such vacancy shall be filled up, as soon as it conveniently may be, by the election or appointment, as the case may be, of a person thereto, who shall hold office so long only as the councillor in whose place he is elected or appointed would have been entitled to hold it, if the vacancy had not occurred.

10. The names of all persons elected or appointed to be councillors shall be published by the commissioner in the *Bombay Government Gazette*.

*Qualifications and Disqualifications of Voters and Councillors.*

11. (1) A person shall not be entitled to vote at a ward-election, unless he is enrolled in the municipal election roll as a voter of the ward for which such election is held.

(2) A person shall not be entitled to be enrolled in the municipal election roll as a voter of any ward, unless such person:

*The City of Bombay Municipal Act, 1888.*

[Ch. II.—Municipal Constitution, Sects. 11 (2) (a)—16 (2).]

(a) resides or is the owner of some building or land, in that ward; and

(b) has attained the age of twenty-one years;

and unless such person, either:

(c) has been assessed to the qualifying tax for the half-year from the first day of April to the thirtieth day of September last, preceding the preparation of the roll, at a rate of not less than thirty rupees per annum; or

(d) is a graduate of some university in British India or in the United Kingdom.

(3) In clause (c) "the qualifying tax" means either the general tax or the tax on vehicles and animals, other than vehicles and animals plying for hire or kept for the purpose of being let for hire, levied according to the provisions hereinafter contained, or the aggregate of both the said taxes.

12. (1) A person shall not be entitled to vote at a justices' election, unless he is at the time of such election a justice and is enrolled as a justice, in the municipal election roll.

(2) A person shall not be entitled to be enrolled in the municipal election roll as a justice, unless he resides in the city.

13. (1) A person shall not be entitled to vote at a fellows' election, unless he is at the time of such election a fellow and is enrolled as a fellow in the municipal election roll.

(2) A person shall not be entitled to be enrolled in the municipal election roll as a fellow, unless he resides in the city.

14. (1) A person shall not be qualified to be elected at a ward-election to be a councillor, unless he is enrolled in the municipal election roll as a voter of some ward, or unless he is at the time of the election a justice or a fellow and is enrolled as a justice or as a fellow in the municipal election roll:

(2) Provided that:

(a) if a joint stock company is enrolled in the said roll as a voter of a ward, such enrolment shall not be deemed to qualify any person to be elected to be a councillor;

(b) if the name of any other company or of a firm is enrolled in the said roll, any one person duly authorized by power-of-attorney to represent such company or firm shall be deemed to be qualified to be elected a councillor at a ward-election.

15. A person shall not be qualified to be elected to be a councillor at a justices' election or a fellows' election, or an election by the Bombay Chamber of Commerce, unless he is at the time of the election, a justice, or a fellow, or a member of the said chamber, as the case may be, and unless, in the case of a justice or a fellow, he is enrolled as such in the municipal election roll.

16. (1) A person shall be disqualified for being elected or appointed and for being a councillor if such person:

(a) is of the female sex; or

(b) has been sentenced by any court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence not having been subsequently reversed or quashed, and if and so long as such person's disqualification on account of such sentence has not been removed by an order which the Governor in Council is hereby empowered to make, if he shall think fit, in this behalf; or if and while such person:

(c) is an uncertificated bankrupt or an undischarged insolvent; or

(d) is the commissioner or a deputy commissioner or a municipal officer or servant, or a licensed surveyor or plumber; or

(e) is the Chief Judge of the Small Cause Court or is acting in that capacity; or

(f) has directly or indirectly, by himself or his partner, any share or interest in any contract or employment with, by, or on behalf of the corporation.

(2) But a person shall not be so disqualified or be deemed to have any share or interest in such a contract or employment, by reason only of his having any share or interest in:

*The City of Bombay Municipal Act, 1888.*

[Ch. II.—Municipal Constitution, Sects. 16 (2) (g)—19 (8).]

(g) any lease, sale or purchase of land or any agreement for the same; or

(h) any agreement for the loan of money or any security for the payment of money only; or

(j) any newspaper in which any advertisement relating to the affairs of the corporation is inserted; or

(k) any joint-stock company which shall contract with or be employed by the commissioner on behalf of the corporation; or

(l) the occasional sale to the commissioner on behalf of the corporation to a value not exceeding in any one official year two thousand rupees, of any article in which he regularly trades.

(3) Nor shall the police commissioner be deemed to be so disqualified by reason of his office merely.

A person becoming disqualified to cease to be a councillor. 17. Any councillor who—

(a) becomes disqualified for being a councillor for any reason mentioned in the last preceding section; or

(b) absents himself during three successive months from the meetings of the corporation, except from temporary illness or other cause to be approved by the corporation;

shall cease to be a councillor and his office shall thereupon be vacant.

18. Whenever it is alleged that any councillor has become disqualified for office for any reason aforesaid, and such councillor does not admit

the allegation, or whenever any councillor is himself in doubt whether or not he has become disqualified for office, such councillor or any other councillor may, and the commissioner, at the request of the corporation shall, apply to the Chief Judge of the Small Cause Court; and the said chief judge, after making such inquiry as he deems necessary, shall determine whether or not such councillor has become disqualified for being a councillor and his decision shall be conclusive.

*Municipal Election Roll.*

19. (1) On or before the first day of October, 1888, and on or before each first day of October thereafter, the com-

Preparation and revision of list of persons qualified to vote.

missioner shall prepare a list of persons appearing to be entitled to be enrolled in the municipal election roll as voters of wards, justices and fellows respectively.

(2) The arrangement of the list shall be alphabetical and it shall be in three parts, namely, for voters of wards, justices and fellows, respectively, and may be otherwise subdivided as the commissioner shall from time to time deem convenient.

(3) The list of voters of wards shall be made in separate lists, called ward lists, one for each ward into which the city is divided as hereinafter provided, containing the names of persons entitled to be enrolled as voters of that ward. The ward lists and the list of justices and the list of fellows shall be collectively deemed to constitute one list.

(4) In preparing the ward lists the commissioner shall enter therein the names of the persons who have been assessed to the qualifying tax, whether such persons be individuals, companies, firms, undivided families or other associations or bodies of individuals, and shall also enter the names of persons who have been assessed as the trustees of any building or land.

(5) If individual members of any company, firm, undivided family or other association or body so entered or if trustees whose names are so entered have been assessed on their own separate account to the qualifying tax, the commissioner shall enter their names in the list separately.

(6) The commissioner shall publish the list, prepared as aforesaid, by causing a printed copy thereof to be fixed for public inspection in a conspicuous position on every municipal office on or before the ninth day of October and to be kept so fixed during the remaining days of October. Printed copies thereof shall also be delivered to any person requiring the same, on payment of such reasonable fee for each copy as shall from time to time be prescribed by the commissioner, with the approval of the standing committee, in this behalf.

(7) On or before each tenth day of October, the commissioner shall give notice by advertisement in the local newspapers of the publication of the said list and of the place at which and the fee for which copies of it may be obtained.

(8) Every person whose name is not in the list so published and who claims to

*The City of Bombay Municipal Act, 1888.**[Ch. II.—Municipal Constitution, Sects. 19 (9)—(21).]*

have it inserted therein shall, on or before the first day of November, give notice in writing of his claim to the commissioner.

(9) Every person whose name is in the list may object to any other person as not being entitled to have his name retained therein. Every person objecting shall, on or before the first day of November, give to the commissioner and also give to the person objected to, or leave at his last known place of abode, notice in writing of the objection and of the nature thereof.

(10) If the name of any person is entered as a voter in more than one ward list, he may, by notice in writing, which he shall give to the commissioner, on or before the first day of November, choose for which one of those wards he shall be entitled to vote.

(11) If the name of an undivided family or of any association or body of individuals, other than a company or firm, has been entered in the list, or if the names of trustees being two or more in number, of any building or land have been so entered, any one individual person duly authorized in this behalf by the members of such family, association or body or by such trustees may, by notice in writing, which he shall give to the commissioner on or before the first day of November, apply that his name be entered in the list as the representative, for the purposes of the list, of such family, association, body or trustees.

(12) The commissioner shall, on some one of the first ten days of November, revise the list prepared as aforesaid.

(13) He shall for this purpose hear the claims, objections and applications which have been duly made as aforesaid in open office, giving three clear days' notice of the holding of the inquiry by written notice served upon each claimant, person objecting and applicant and upon each person objected to and also fixed on some conspicuous place in every municipal office.

(14) The commissioner shall insert in the list the name of every person who has duly claimed to have his name inserted therein and whose claim is proved to the commissioner's satisfaction.

(15) The commissioner shall expunge from the list the name of every person proved to his satisfaction to be dead and may correct any clerical error or omission in the list.

(16) Subject as aforesaid, the commissioner shall retain in the list the name of every person to whom objection has not been duly made.

(17) The commissioner shall also retain therein the name of every person objected to, unless the objector appears by himself or by some other person duly authorized by him in this behalf, in support of the objection.

(18) Where the objector so appears, the commissioner shall require proof of the qualification of the person objected to, and if within such reasonable time as the commissioner, subject to the provision of sub-section (22), fixes in this behalf, such person's qualification is not proved to his satisfaction, shall expunge his name from the list.

(19) The commissioner shall not retain the name of one person in more than one ward list. If any person whose name has been entered in more than one ward list has not chosen as aforesaid, the commissioner shall determine for which one of those wards he shall be entitled to vote. But this shall not be deemed to prevent the names of individual members of companies, firms, undivided families, or other associations or bodies, or of persons who are trustees, which have been separately entered in the list under sub-section (5), from being retained on the list for one ward each, in addition to the names of the companies, firms, undivided families or other associations or bodies of which they are, respectively, members, or in addition to the names of the trustees, as the case may be, if such individuals or persons are entitled on their own separate account to have their names so retained.

(20) The name of one person may be separately entered and retained by the commissioner in the list as a voter of a ward and as a justice and as a fellow, or in any two of those capacities, if such person is entitled to be enrolled in the municipal election roll in all or both such capacities, as the case may be.

(21) If no individual person has applied as aforesaid to have his name entered in the list as the representative of an undivided family or other association or body, not being a company or a firm, or of two or more trustees of any building or land, the commissioner shall determine what individual person shall be entitled to represent such undivided family, or other asso-

*The City of Bombay Municipal Act, 1888.*

[Ch. II.—Municipal Constitution, Sects. 19 (22)—24.]

ciation or body, or trustees, and enter his name in the list as the person qualified to vote or to be elected, in behalf of the undivided family or other association or body or of the trustees, as the case may be.

(22) The commissioner may adjourn the hearing of any matter under this section from time to time, so that no adjourned hearing be held after the tenth day of November.

20. In the event of the commissioner rejecting any claim,

Appeals against commissioner's orders on revision of the list by whom to be heard.

objection or choice duly made under the last preceding section, the claimant or objector or person aggrieved may, at any time within five days after such rejection, apply to the Chief Judge of the Small Cause Court, and the said chief judge shall, within twenty days after receipt of such application, and after such inquiry as he deems necessary, make such order for correcting the list or otherwise as shall seem to him fit and his order shall be conclusive.

21. (1) When the list prepared as aforesaid has been revised by the commissioner and corrected in compliance with any order passed in this behalf by the chief judge aforesaid, a printed copy thereof, signed by the commissioner, shall be the municipal election roll and shall come into operation on the tenth of December and continue in operation for the twelve months beginning on that day.

(2) The municipal election roll shall be divided and arranged in the same manner as the list from which it is made up. The separate ward lists, when completed, as hereinbefore provided, shall be called ward rolls. The ward rolls and the justices' roll and the fellows' roll shall collectively be deemed to constitute the municipal election roll.

(3) Every person enrolled in the municipal election roll shall be deemed to be entitled to vote at a ward election or as a justice or fellow, as the case may be, provided, in the case of a justice or a fellow, that such person be still a justice or fellow, as the case may be, at the time of the election; and every person not enrolled in the said roll shall be deemed to be not entitled so to vote.

(4) Printed copies of the municipal election roll shall be delivered to any person requiring the same, on payment of such reasonable fee for each copy as shall from time to time be prescribed by the commissioner, with the approval of the standing committee, in this behalf.

(5) If a municipal election roll is not made in due time, the municipal election roll in operation immediately before the time appointed for its preparation shall continue in operation until the new roll is made.

*Elections of Councillors.*

22. (1) General elections of councillors shall be fixed by the commissioner, subject to the provisions of section 23, to take place triennially on such days in the months of January and February as he shall think fit.

(2) The first general elections shall be held in the year 1889.

(3) Elections to fill casual vacancies shall be fixed by the commissioner to take place on such days as he shall think fit as soon as conveniently may be after the occurrence of the vacancies.

23. The dates for all general elections shall be fixed in the following order and with the following intervals, namely:

*first*, the ward-elections shall be fixed to take place simultaneously for all the wards;

*secondly*, the day for the election by the Bombay Chamber of Commerce shall be fixed at an interval not exceeding twenty-one days after the day fixed for the ward-elections;

*thirdly*, the day for the justices' election shall be fixed at an interval not exceeding seven days after the day fixed for the election by the Bombay Chamber of Commerce;

*fourthly*, the day for the fellows' election shall be fixed at an interval not exceeding fourteen days after the day fixed for the justices' election.

24. (1) For the purposes of elections, the city shall be divided into wards and the number of councillors to be elected at

Division of the city into wards for purposes of elections.



*The City of Bombay Municipal Act, 1888.*

[Ch. II.—Municipal Constitution, Sects. 24 (2)—26 (2) (k).]

ward-elections shall be apportioned over the said wards.

(2) The corporation may, with the sanction of Government, from time to time alter the number and boundaries of the wards and re-apportion the councillors to be elected at ward-elections among the wards, but not so as that any such alteration or re-apportionment shall first have effect at a ward-election to fill a casual vacancy.

(3) Unless and until they are so altered or re-apportioned, the number and respective boundaries of the wards and the number of councillors to be elected for each ward shall be as specified in schedule B.

25. Fifteen days at least before the day

Notice to be given of fixed days for ward-elections and justices' elections.

Such notice shall be given by advertisement in the *Bombay Government Gazette* and in the local newspapers, and, in the case of a ward-election, by posting placards in conspicuous places in the ward for which such election is to take place.

26. (1) Candidates for election at a

Candidates at ward-elections and justices' elections must be nominated.

with the provisions hereinafter contained.

(2) With respect to such nominations, the following provisions shall have effect, namely:—

Provisions regarding nominations.

(a) The commissioner shall provide printed forms of nomination-papers, and any person entitled to vote at the election shall be supplied, at any time within seven days previous to the day fixed for the election, with as many such forms as may be required, free of charge;

(b) Each nomination-paper must state the name, abode and description of the candidate in full, and be subscribed by two persons entitled to vote at the election as proposer and seconder;

(c) Every nomination-paper subscribed as aforesaid must be delivered at the commissioner's office before five o'clock in the afternoon of the day fixed for the election;

(d) Each candidate must be nominated by a separate nomination-paper, but any person entitled to vote at the election may subscribe as many nomination-papers as there are vacancies to be filled, but no more;

(e) If any person nominated:

(i) is not enrolled in the municipal election roll as a voter of a ward or as a justice or as a fellow; or

(ii) although enrolled in the municipal election roll as a justice or a fellow, has ceased to be a justice or a fellow; or

(iii) is disqualified for being a councillor for any of the reasons set forth in section 16;

the commissioner shall declare such person's nomination invalid;

(f) If there is no valid nomination, it shall be deemed that no councillor has been elected and proceedings for filling the vacancy or vacancies shall be taken under section 34;

(g) If the number of valid nominations is less than that of the vacancies, the persons nominated shall be deemed to be elected and for the remaining vacancy or vacancies it shall be deemed that no councillor has been elected and proceedings for filling such vacancy or vacancies shall be taken under section 34;

(h) If the number of valid nominations is the same as that of the vacancies, the persons nominated shall be deemed to be elected;

(j) If the number of valid nominations exceeds that of the vacancies, the election of councillors shall be made from among the persons nominated, and such election shall be termed "a contested election";

(k) If, when two or more ward-elections are held simultaneously for different wards, any person is deemed, under clause (g) or clause (h) to be elected a councillor for more than one ward, he shall within twenty-four hours after receipt of written notice thereof from the commissioner, choose, by writing signed by him and delivered to the commissioner, or in his default, the commissioner shall, when the time for choice has expired, declare for which one of those wards he shall serve. The choice or declaration so made shall be conclusive,

*The City of Bombay Municipal Act, 1888.*

[Ch. II.—Municipal Constitution, Sects. 26 (l)—28 (j).]

and such person's nomination for the ward or wards for which he is not to serve shall be deemed to be null and void;

(l) If, when ward-elections are held as aforesaid, any person who is deemed, under clause (g) or clause (h), to be elected a councillor for any one or more wards, has also been duly nominated for any one or more wards for which the number of nominations exceeds that of the vacancies, he shall within twenty-four hours after receipt of written notice thereof from the commissioner choose, by writing signed by him and delivered to the commissioner whether he shall serve for the ward, or for any one of the wards for which he is elected, or will stand as a candidate at the contested election or elections for the other ward or wards. In his default, the commissioner shall, when the time for choice has expired, declare that he shall serve for the ward or for some one of the wards for which he is elected, and his nomination for any other ward shall be deemed to be null and void. If such person chooses, by writing as aforesaid, to stand as a candidate at the contested election or elections, his nomination for the ward or wards for which he is elected shall be deemed to be null and void. Any choice or declaration made under this clause shall be conclusive.

27. (1) When a ward-election or a justices' election is contested, a poll shall be taken seven days after the day fixed for the election. At such poll, the municipal election roll which was in operation on the day fixed for the election shall be deemed to be the roll to which reference must be made for the purposes of the election.

(2) At least four days before the day of the poll, the commissioner shall cause the names of all the persons validly nominated, with their respective abodes and descriptions and the names of the persons subscribing their respective nomination-papers as proposers and seconders, to be published in the *Bombay Government Gazette* and in the local newspapers.

28. With respect to contested ward-elections, the following provisions shall have effect, namely:

(a) One or more polling-places shall be provided by the commissioner for each ward, as he thinks fit, and the commissioner may appoint such and so many polling-officers and other persons to assist at the poll as he shall think fit and, with the approval of the standing committee, pay them such reasonable remuneration for their services as he shall determine;

(b) The poll shall commence at nine o'clock in the forenoon and close at six o'clock in the afternoon of the same day;

(c) The commissioner shall have voting-papers, in such form as he from time to time thinks fit, printed, and the said forms shall be supplied to persons entitled to vote, on any of the four days (not being a Sunday or a public holiday) previous to the day of the poll at the municipal office and on the day of the poll at each polling-place, free of charge;

(d) At each election for any ward, every voter shall be entitled to a number of votes equal to the number of councillors to be elected at such election for such ward, and may give all such votes to one candidate, or may distribute them among the candidates, as he thinks fit;

(e) No vote shall be received for any candidate whose name has not been published by the commissioner, under sub-section (2) of section 27, as having been validly nominated;

(f) No vote shall be received from any person whose name is not enrolled in the ward-roll as a voter of the ward for which the election is being held;

(g) When the name in the ward-roll is that of a joint-stock company, a vote on behalf of the said company may be received from its secretary, agent or manager;

(h) When the name in the ward-roll is that of any company, other than a joint-stock company, or of a firm, a vote on behalf of such company or firm may be received from any person who produces to the polling-officer a power-of-attorney authorizing him to represent the said company or firm for the purpose of the election;

(j) The polling-officer shall, if required by two persons whose names

*The City of Bombay Municipal Act, 1888.*

[Ch. II.—Municipal Constitution, Sects. 28 (k)—29(a).]

are enrolled in the ward-roll, or by a candidate, put to any person offering to vote, at the time of his presenting his voting-paper, but not afterwards, the following questions, or either of them :

(i) Are you the person enrolled in the ward-roll as follows (*read the whole entry from the roll*) ?

(ii) Have you already voted at the present election (*add, in case of simultaneous elections in two or more wards, or at any election being at present held for any other ward*) ?

(k) A person to whom either of the said questions is put shall be bound to answer the same truly. His voting-paper shall not be received until he has answered the question or questions so put to him ;

(l) Except as aforesaid, no inquiry shall be permitted at a ward-election as to the right of any person to vote thereat ;

(m) The answers or answer made by any person to whom the said questions or either of them are or is put, shall be recorded by the polling-officer under his signature in writing, and such writing, together with the said person's voting-paper, shall be forwarded by the polling-officer, at the close of the poll, separately from the voting-papers of the persons whose right to vote has not been challenged as aforesaid ; and the polling-officer shall direct the parties to any such challenge to appear, within three days after the poll, before the commissioner ;

(n) The name of the person, or of every person for whom a voter votes and all other details prescribed by the form of the voting-paper shall be written legibly, in English, in the voting-paper, and the voter shall sign, or attach his mark to the voting-paper in the presence of the polling-officer ; and the said officer shall attest each such signature or mark and shall attach consecutive numbers to each of the voting-papers presented to him ;

(o) After the close of the poll, the polling-officer shall forward all the voting-papers presented to him, in one or more packets duly secured and sealed, to the commissioner, together with a list of the cases, if any, in which a person's right to vote has been challenged ;

(p) The commissioner shall, as soon as may be, hear and decide upon all challenges and other objections, if any, to or regarding the poll, made to him in writing not later than five o'clock in the afternoon of the day after the poll, and cause lists to be prepared of the valid votes given for each candidate. The said lists and the voting-papers on which they are based shall be kept in the commissioner's office, unless called for in the meantime by the Chief Judge of the Small Cause Court for the purpose of any appeal, for three months ;

(q) The person, or where there is more than one councillor to be elected, the persons not exceeding the number of councillors to be elected, who have the greatest number of valid votes shall be deemed to be elected ;

(r) Where an equality of such votes is found to exist between any candidates and the addition of a vote would entitle any of those candidates to be declared elected, the determination of the person or persons to whom such one additional vote shall be deemed to have been given shall be made by lot to be drawn in the presence of the commissioner in such manner as he shall determine ;

(s) If a candidate is elected councillor for more than one ward, he shall, within twenty-four hours after receipt of written notice thereof from the commissioner, choose, by writing signed by him and delivered to the commissioner, or, in his default, the commissioner shall, when the time for choice has expired, declare for which of those wards he shall serve, and the choice or declaration shall be conclusive ;

(t) When any such choice or declaration has been made, the votes recorded for the candidate aforesaid in any ward for which he is not to serve shall be deemed not to have been given, and the candidate, if any, who, but for the said votes, would have been declared elected for such ward, shall be deemed to have been duly elected for the same.

29. With respect to justices' contested elections the following provisions shall have effect, namely:—

(a) The poll shall be taken at a meeting of the justices, of the time and place of which reasonable notice shall be

*The City of Bombay Municipal Act, 1888.*

[Ch. II.—Municipal Constitution, Sects. 29 (b)—33 (1).]

given by the commissioner by advertisement in the *Bombay Government Gazette* and in the local newspapers and which shall be presided over by such one of the justices present, as may be chosen by the meeting to be chairman for the occasion.

(b) Every person entitled to vote may vote by signing and personally delivering, at the meeting held in accordance with the notice given under clause (a), to the chairman of such meeting, a voting-paper containing the name in full of the candidate or of each of the candidates for whom he votes ;

(c) Every voter shall be entitled to vote for any number of candidates not exceeding the number of vacancies ;

(d) No vote shall be received for any candidate whose name has not been published by the commissioner, under sub-section (2) of section 27, as having been validly nominated ;

(e) No vote shall be received from any person whose name is not enrolled in the justices' roll or who is not on the day of the meeting a justice ;

(f) The chairman of the meeting, as soon as all the voting-papers of the justices present and voting have been delivered to him, shall close the meeting and shall, as soon as may be, cause lists to be prepared of the valid votes given for each candidate. The said lists and the voting-papers on which they are based, shall be delivered by the chairman of the meeting to the municipal secretary by whom, unless they are called for in the meantime by the Chief Judge of the Small Cause Court for the purpose of any appeal, they shall be kept for three months ;

(g) The person, or where there is more than one councillor to be elected, the persons not exceeding the number of councillors to be elected, who have the greatest number of valid votes shall be deemed to be elected ;

(h) In case of an equality of such votes, the chairman of the meeting shall have a second or casting vote ;

(j) The chairman of the meeting shall make a return in duplicate to the commissioner setting forth the name in full of every person elected at the meeting.

30. (1) Elections of councillors by fellows shall be made, subject to the provisions of section 15, in such manner as shall from time to time be determined at a meeting of the senate of the University of Bombay convened in accordance with the rules at the time in force in this behalf: Provided that no vote shall be received from any person whose name is not enrolled in the fellows' roll or who is not on the day of the meeting a fellow.

(2) The registrar of the university shall make a return in duplicate to the commissioner setting forth the name, abode and description of every person so elected.

31. (1) Elections of councillors by the Bombay Chamber of Commerce shall be made by the members for the time being of the said chamber, subject to the provisions of section 15, in such manner as shall from time to time be determined at a meeting of the said chamber convened in accordance with the rules at the time in force in this behalf.

(2) The secretary to the said chamber shall make a return in duplicate to the commissioner setting forth the name in full of every person so elected.

32. (1) The result of every election shall be declared by fixing, as soon as may be after the election, in some conspicuous place on the chief municipal office, a notice certifying the names of the persons, if any, elected and, in the case of a contested election, the number of votes recorded for each candidate.

(2) The said notice shall be signed, in the case of a ward-election and in the case of a justices' election which is not contested, by the commissioner, in the case of a contested justices' election, by the chairman of the meeting of justices at which the election took place, in the case of a fellows' election, by the registrar of the University of Bombay, and in the case of an election by the Bombay Chamber of Commerce, by the secretary of that chamber.

33. (1) If the qualification of any person declared to be elected, for being a councillor is disputed, or if the validity of any elec-

Proceedings at fellows' elections.  
Proceedings at elections by the chamber of commerce.  
Declaration of results of elections.  
Election-petitions to be heard and disposed of by chief judge of the small cause court.

- *The City of Bombay Municipal Act, 1883.*

[Ch. II.—*Municipal Constitution, Sects. 33 (2)—36(b).*]

tion is questioned, whether by reason of the improper rejection by the commissioner of a nomination or of the improper reception or refusal of a vote, or for any other cause, any person enrolled in the municipal election roll may at any time, within eight days after the result of the election has been declared, apply to the Chief Judge of the Small Cause Court.

(2) If the said chief judge, after making such inquiry as he deems necessary, finds that the election was a valid election and that the person whose election is objected to is not disqualified, he shall confirm the declared result of the election. If he finds that the election was not a valid election he shall set it aside, so far as concerns the person whose election is objected to. If he finds that there is no objection to the validity of the election-proceedings, but that the person whose election is objected to is disqualified for being a councillor, he shall declare such person's election null and void, and direct that the candidate, if any, in whose favour the next highest number of votes was recorded after the said person, or after all the persons who were returned as elected at the said election, shall be deemed to have been elected.

(3) The said chief judge's order shall be conclusive.

(4) If he sets aside an election or if, when he declares a person who has been declared elected disqualified for being a councillor, there is no other candidate who can be deemed to have been elected, proceedings for filling the vacancy or vacancies shall be taken under section 34.

(5) Every election not called in question in accordance with the foregoing provisions shall be deemed to have been to all intents a good and valid election.

34. (1) If from any cause no councillor is elected at any  
Procedure if election fails. general election, not being one of the first general elections held in accordance with this Act, the retiring councillor or councillors shall, if willing to serve, be deemed to be re-elected.

(2) If, in any such case, the retiring councillor is not willing to serve, or some of the retiring councillors are willing to serve and some are not, or

if, in the case of a first general election held in accordance with this Act, or of an

election to fill a casual vacancy, no councillor is elected, or

if, in the case of any election, an insufficient number of councillors are elected,

the commissioner shall without delay inform the corporation of the circumstances, and thereupon the corporation, so far as it is constituted, may appoint a duly qualified person to fill the vacancy, or each vacancy, as the case may be, and if the corporation shall fail within fifteen days after receipt of such information to appoint a person as aforesaid, the commissioner shall appoint another day for holding a fresh election.

(3) A fresh election held under this section shall be held subject in all respects to the same provisions as if it were an election to fill a casual vacancy.

*Appointment of Councillors by Government.*

35. (1) The first appointment of councillors by Government under this chapter shall be made not less than seven days before the first day of April, 1889.

(2) Subsequent appointment of councillors by Government to succeed retiring councillors shall be made triennially not less than seven days before the day for retirement.

(3) Appointments of councillors by Government to fill casual vacancies shall be made as soon as conveniently may be after the occurrence of such vacancies.

*Proceedings of the Corporation.*

36. The corporation shall meet for the despatch of business and shall from time to time make such regulations with respect to the summoning-notice, place, management and adjournment of such meetings, and generally with respect to the mode of transacting and managing the business of the corporation as they think fit, subject to the following conditions :

(a) there shall be one ordinary meeting in each month; the ordinary meeting in the month of March shall be held not later than on the twentieth day of that month;

(b) the first meeting in the month of April, after general elections, shall be held as early as conveniently may be in the said month on a day and at a time and place to be fixed by the commis-

*The City of Bombay Municipal Act, 1888.*

[Ch. II.—Municipal Constitution, Sec. 36 (c)—(l).]

sioner, and if not held on that day shall be held on some subsequent day to be fixed by the commissioner ;

(c) the day, time and place of meeting shall in every other case be fixed by the president of the corporation, or in the event of the office of president being vacant, or of the death or resignation of the president, or of his ceasing to be a councillor, or of his being incapable of acting, by the chairman of the standing committee ;

(d) the president of the corporation, or in any such event as aforesaid, the chairman of the standing committee may, whenever he thinks fit, and shall, upon a written requisition signed by not less than sixteen councillors or by not less than four members of the standing committee, call a special meeting ;

(e) every meeting shall be open to the public, unless a majority of the councillors present thereat decide by a resolution, which shall be put by the presiding authority, of his own motion or at the request of any councillor present, without previous discussion, that any inquiry or deliberation pending before the corporation is such as should be held in private and provided that the presiding authority may at any time cause any person to be removed who interrupts the proceedings ;

(f) if at any time during a meeting it shall be brought to the notice of the presiding authority that the number of councillors present falls short of twenty, inclusive of the presiding authority, the presiding authority shall adjourn the meeting to some other day, fixing such time and place for the same as he shall think convenient, and the business which remains undisposed of at such meeting shall be disposed of at the adjourned meeting or, if the latter meeting should be again adjourned, at any subsequent adjourned meeting, whether there be a quorum of twenty members present thereat or not ;

(g) every meeting shall be presided over by the president, if he is present at the time appointed for holding the same, and if the office of president is vacant, or if the president is absent, by such one of the councillors present as may be chosen by the meeting to be chairman for the occasion ;

(h) at least seven clear days' notice shall ordinarily be given of every meeting, other than an adjourned meeting, but in cases of urgency any such meeting may be called, except for the purpose of considering an annual budget-estimate, in pursuance of a written requisition signed by not less than four members of the standing committee, upon a notice of not less than three clear days ; of adjourned meetings such previous notice shall be given as shall be practicable, having regard to the period of the adjournment ;

(j) every notice of a meeting shall specify the time and place at which such meeting is to be held and the business to be transacted thereat and shall be given by the municipal secretary by advertisement in the local newspapers and, except in the case of adjourned meetings or of meetings called upon a requisition of urgency, in the *Bombay Government Gazette* ;

(k) any councillor who desires at any meeting to bring forward any business, or to make any substantive proposition, which is not already specified in the notice of such meeting, shall give written notice of the same to the municipal secretary at least three clear days before the day fixed for the meeting ; and a supplementary announcement of the business or propositions, of which notice has been so given, shall be given by the said secretary in not less than one local daily newspaper not later than the day previous to the meeting ;

(l) except at a meeting called on a requisition of urgency or at the discussion at any meeting of a budget-estimate, no business shall be transacted at any meeting other than the business specified in the notice published under clause (j) or urgent business not specified in the said notice which the standing committee or the commissioner deem it expedient to bring before the meeting,—and no substantive proposition shall be made or discussed which is not specified in the said notice or in the supplementary announcement, if any, published under clause (k), or which is not in support of the recommendation of the standing committee or of the commissioner with reference to any urgent business brought by either of those authorities, respect-

*The City of Bombay Municipal Act, 1888.*

[*Ch. II.—Municipal Constitution, Sec. 36 (m)–(s).*]

ively, before the meeting : provided that no such urgent business as aforesaid shall be brought before any meeting, unless at least three-fourths of the councillors present at such meeting, such three-fourths being not less than fifteen in number, assent to its being brought forward thereat ;

(*m*) at a meeting called on a requisition of urgency and during the discussion at any meeting of a budget-estimate, no business shall be transacted and no substantive proposition shall be made or discussed which does not directly relate to the business for which the urgent meeting was called, or to the budget-estimate, as the case may be ; and no proposition involving any change in the taxes which the standing committee propose to impose, or an increase or decrease of any item of expenditure in a budget-estimate, shall be made or discussed at any meeting at which such budget-estimate is under consideration, unless such proposition is specified in the notice of the meeting published under clause (*j*) or in the supplementary announcement, if any, published under clause (*k*), or unless, in the case of an adjourned meeting, each of the conditions mentioned in the proviso to clause (*n*) has been fulfilled ;

(*n*) any meeting may, with the consent of a majority of the councillors present, be adjourned from time to time, but no business shall be transacted and, except as is hereinafter provided, no proposition shall be discussed at any adjourned meeting other than the business and propositions remaining undisposed of at the meeting from which the adjournment took place : provided that at any adjourned meeting at which a budget-estimate is under consideration a proposition involving any change such as is described in clause (*m*), may be made and discussed, notwithstanding that such proposition is not one remaining undisposed of at the meeting from which the adjournment took place, if each of the following conditions has been fulfilled (namely) :

(*i*) that written notice of such proposition has been given at the meeting from which the adjournment took place ;

(*ii*) that the adjournment has been for not less than three clear days ; and

(*iii*) that a special announcement of the proposition has been given by the municipal secretary (who shall be bound to give such announcement) in not less than one local daily newspaper not later than the day previous to the adjourned meeting ;

(*o*) a minute of the names of the councillors present and of the proceedings at every meeting shall, on the day following the meeting, or as soon thereafter as may be, be drawn up and fairly entered by the municipal secretary in a book to be provided for this purpose and shall be signed at, and by the presiding authority of, the next ensuing meeting ; and the said minute-book shall at all reasonable times be open at the chief municipal office to inspection by any councillor free of charge, and by any other person on payment of a fee of eight annas ;

(*p*) a councillor shall not vote or take part in the discussion of any matter before a meeting in which he has, directly or indirectly, by himself or by his partner, any share or interest such as is described in clauses (*g*) to (*l*), both inclusive, of section 16, or in which he is professionally interested on behalf of a client, principal or other person ;

(*q*) every question other than the question whether the standing committee or the commissioner shall be permitted to bring urgent business before a meeting without notice, shall be decided by a majority of votes of the councillors present and voting on that question, the presiding authority having a second or casting vote when there is an equality of votes ;

(*r*) a declaration by the presiding authority that a proposition has been carried and an entry to that effect in the minute-book shall, unless a poll be demanded at the time of such declaration by not less than four councillors, be conclusive evidence of the fact, without proof of the number of votes given for or against the proposition ;

(*s*) when a poll is taken, the vote of each councillor present and voting upon the proposition shall be taken by tellers appointed by the presiding authority and the names of the councillors voting respectively for or against the proposition shall be recorded in the minute-book ;

*The City of Bombay Municipal Act, 1888.*

[Ch. II.—Municipal Constitution, Sects. 36 (t)—39 (8).

(t) the commissioner shall have the same right of being present at a meeting of the corporation and of taking part in the discussions thereat as a councillor, and with the consent of a majority of the councillors present, ascertained by a show of hands, without discussion, may at any time make a statement or explanation of facts, but he shall not be at liberty to vote upon, or to make any proposition at such meeting.

*President of the Corporation.*

37. (1) The corporation shall at their first meeting in each official year, appoint one of their own number to be president until the first meeting of the corporation in the next following official year, unless the councillors in the meantime retire from office, and then until the day for retirement.

(2) Any councillor who ceases to be president shall be re-eligible.

(3) If any casual vacancy occurs in the office of president of the corporation, the corporation shall, as soon as they conveniently can after the occurrence of such vacancy, choose one of their number to fill such vacancy and every president so chosen shall continue in office so long only as the person in whose place he is appointed would have been entitled to continue if such vacancy had not occurred.

*Committees.*

38. The corporation may from time to time appoint out of their own body such and so many committees consisting of such number of persons, and may refer to such committees for inquiry and report or for opinion, such special subjects relating to the purposes of this Act as they shall think fit.

39. (1) It shall be the duty of the corporation and of Government each to appoint four members of a Joint Schools' Committee of eight members, for the purpose of giving effect to the provisions as to primary education hereinafter enacted.

(2) The first appointments to the said committee shall be made within one month from the date on which this Act comes into operation. The members then or thereafter duly appointed may perform all

the functions legally pertaining to the committee, notwithstanding any default, delay or defect in the appointment of any member.

(3) At the end of each of the first three years after this Act shall come into operation, one of the members of the Joint Schools' Committee appointed by Government and one appointed by the corporation shall retire by ballot. Thereafter the two senior members shall retire at the end of each calendar year and two shall be appointed or re-appointed by Government or by the corporation, whereof each shall appoint to the place vacated by any member previously appointed by itself, whether such vacancy have arisen as aforesaid or by death or resignation of the member.

(4) The names of all persons appointed to be members of the said committee shall be published by the municipal secretary in the *Bombay Government Gazette*.

(5) The Joint Schools' Committee shall, by election from amongst its own members, appoint one member to be chairman for the current term of his office or for any shorter period. The chairman so appointed shall preside and, in his absence, the senior member according to date of first appointment or, in case of equality of date, the member whose name appears first in the list published in the *Bombay Government Gazette* shall preside at meetings of the committee. He shall have a vote and, in case of equal division, a casting vote.

(6) The corporation shall provide for the Joint Schools' Committee a competent secretary and such clerks and messengers as shall be necessary. It shall also supply the committee with accommodation, stationery and the other material requisites for the due discharge of its duties on the requisition of the chairman, signified by him, by any member of the committee, or by the secretary.

(7) The Joint Schools' Committee shall administer the school-fund hereinafter defined and prescribed and shall provide thereout for the accommodation and maintenance of primary schools which at any time vest wholly or partly in the corporation and for otherwise aiding primary education in accordance with by-laws duly made under section 461, and with rules made or approved by Government in this behalf.

(8) An order signed by the chairman of the said committee shall be sufficient



*The City of Bombay Municipal Act, 1888.*

[Ch. II.—Municipal Constitution, Sects. 39 (9)—45.]

warrant for the disbursement by any person holding the school-fund or any part thereof, of any sum thereout in accordance with such order.

(9) The Joint Schools' Committee shall appoint and remove masters, teachers and other persons employed in the primary schools maintained out of the school-fund, and shall direct and control the instruction given in such schools and the terms and conditions of such instruction, and annex to the aid given to other primary schools such terms as shall seem expedient, subject always to by laws duly made under section 461 and to rules made or approved by Government in this behalf.

(10) The Joint Schools' Committee may, by a by-law duly made under section 461, be invested with the powers and duties of any authority constituted under this Act, in so far as shall be necessary or expedient in order to the fulfilment of the functions imposed on such committee as contemplated in this section and in section 61, clause (g), and to the extent to which such committee is invested as aforesaid, the powers and duties of the said authority shall be in abeyance, save as so vested and exercised accordingly.

40. The corporation may, for the purpose of giving effect to measures and arrangements in furtherance of secondary education or any branch of technical or other instruction, appoint or join in appointing a committee in the manner described in the last preceding section or as may be determined by any by-law made under section 461, and such committee shall have in relation to the branch of education and the institutions for which it is appointed the like powers and duties as are herein assigned to the Joint Schools' Committee, save as the same may be varied by any by-law made under the said section.

41. The corporation, either singly or in concurrence with Government, may appoint a Hospital Committee with such constitution, powers and duties with respect to hospitals and institutions for the benefit of the aged, sick and infirm, vesting wholly or partly in the corporation and supported or aided out of its funds, as may be defined and provided by by-laws made under section

461 or by any agreement made with Government in this behalf.

*(B). The Standing Committee.*

42. The standing committee shall consist of twelve councillors, eight appointed by the corporation and four by Government.

43. (1) The corporation shall at their first meeting in the month of April, after general elections, appoint eight persons out of their own body to be members of the standing committee.

(2) Four other councillors shall be appointed by Government to be members of the standing committee within one week after such appointment by the corporation.

44. (1) The standing committee shall at their first meeting in each official year appoint one of their own number to be their chairman until the first meeting of the said committee in the next following official year.

(2) A member of the standing committee who ceases to be chairman shall be re-eligible.

(3) If any casual vacancy occurs in the office of chairman, the standing committee shall, as soon as they conveniently can after the occurrence of such vacancy, choose one of their number to fill such vacancy and every chairman so chosen shall continue in office so long only as the person in whose place he is appointed would have been entitled to continue if such vacancy had not occurred.

45. (1) One-half of the members of each standing committee appointed by the corporation and one-half of those appointed by Government, the selection of the said members being made by lot at such time previous to the first day of March and in such manner as the chairman shall determine, shall retire from office at noon on the first day of April next following the date of their appointment.

(2) The remaining members of the standing committee shall retire from office at noon on the first day of April next following the first day of April aforesaid.

*The City of Bombay Municipal Act, 1888.*

[Ch. II.—Municipal Constitution, Sects. 46—49 (A).]

46. (1) The corporation shall at their ordinary meeting in the month of March appoint fresh members of the standing committee to fill the offices of those previously appointed by them who retire from time to time as aforesaid, and, within one week after any such appointment by the corporation, Government shall appoint fresh members to fill the offices of those previously appointed by them who retire as aforesaid.

(2) Any councillor who ceases to be a member of the standing committee shall be re-eligible.

47. In the event of non-acceptance of office by a councillor appointed to be a member of the standing committee or of the death, resignation or disqualification of a member of the said committee or of his becoming incapable of acting previous to the expiry of his term of office, the vacancy shall be filled up, as soon as it conveniently may be, by the appointment by the corporation or by Government, as the case may be, of a person thereto, who shall hold office so long only as the member in whose place he is appointed would have been entitled to hold it, if the vacancy had not occurred.

48. The standing committee in existence on the day for the retirement of councillors shall continue to hold office until such time as a new standing committee is appointed under section 43, notwithstanding that the members of the said committee or some of them may no longer be councillors.

49. The standing committee shall meet for the despatch of business in the chief municipal office and may, from time to time, make such regulations with respect to such meetings and with respect to the scrutiny of the municipal accounts, as they think fit, subject to the following conditions:—

(a) there shall be a meeting of the standing committee once a week, and at such other times as shall be found necessary;

(b) the first meeting of each standing committee shall be held on a day and at a time to be fixed by the commissioner, and if not held on that day shall be held on some subsequent day to be fixed by the commissioner; and every subsequent meeting of the standing committee shall be held on such day and at such time as the said committee from time to time determine;

(c) the chairman of the standing committee shall, upon a written requisition signed by the commissioner, call a special meeting of the said committee within twenty-four hours for the transaction of any business which, in the opinion of the commissioner, cannot be delayed until the next ordinary meeting of the said committee;

(d) no business shall be transacted at a meeting of the standing committee unless at least six members are present from the beginning to the end of such meeting;

(e) every meeting of the standing committee shall be presided over by the chairman, if the chairman is present at the time appointed for holding the meeting, and, if the chairman is absent, by such one of the members present as may be chosen by the meeting to be chairman for the occasion;

(f) every question shall be decided by a majority of votes of the members of the standing committee present and voting on that question, the presiding authority having a second or casting vote when there is an equality of votes;

(g) subject to any by-laws in this behalf made under clause (t) of section 461, the standing committee may from time to time, by a specific resolution in this behalf, delegate any of their powers or duties to sub-committees consisting of such members of the said committee not less in number than three on each sub-committee, as they think fit; and any sub-committee so formed shall conform to any instructions that may from time to time be given to them by the standing committee and the said committee may at any time discontinue or alter the constitution of any sub-committee so formed;

(h) a sub-committee may elect a chairman of their meetings, and if no such chairman is elected or if he is not pre-

*The City of Bombay Municipal Act, 1888.*

[Ch. II.—Municipal Constitution, Sects. 49 (j)—54.]

sent at the time appointed for holding any meeting, the members of the sub-committee present shall choose one of their number to be chairman of such meeting;

(j) sub-committees may meet and adjourn as they think proper, but the chairman of the standing committee may, whenever he thinks fit and shall, upon the written request of not less than two members of a sub-committee, call a special meeting of such sub-committee;

(k) questions at any meeting of a sub-committee shall be decided by a majority of votes of the members present and, in case of an equality of votes, the chairman of the meeting shall have a second or casting vote, but no business shall be transacted at any such meeting unless at least two-thirds of the members of the sub-committee are present from the beginning to the end thereof;

(l) a minute shall be kept by the municipal secretary of the names of the members present and of the proceedings at each meeting of the standing committee and at each sub-committee's meetings, in a book to be provided for this purpose, which shall be signed at, and by the presiding authority of, the next ensuing meeting;

(m) a member of the standing committee shall not vote or take part in the discussion before the said committee or before any sub-committee of any matter in which he has, directly or indirectly, by himself or by his partner, any share or interest such as is described in clauses (g) to (l), both inclusive, of section 16, or in which he is professionally interested on behalf of a client, principal or other person;

(n) the commissioner shall have the same right of being present at a meeting of the standing committee and of taking part in the discussions thereat as a member of the said committee, but he shall not be at liberty to vote upon, or make, any proposition at such meeting.

50. Every member of the standing committee shall be entitled to receive a fee of thirty rupees for each meeting of the said committee at which a quorum is present and business is transacted and which he attends from the beginning to the end thereof: provided

Fees payable to members of the standing committee.

that no more than one fee shall be paid to any member for his attendance at all such meetings in any one week.

*Provisions regarding validity of proceedings.*

51. No act or proceeding of the corporation or of the standing committee or of any committee or sub-committee appointed under this Act shall be questioned on account of any vacancy in their body.

52. No disqualification of, or defect in, the election or appointment of any person acting as a councillor or as the president or presiding authority of the corporation or as the chairman or as a member of the standing committee or of any committee or sub-committee appointed under this Act, shall be deemed to vitiate any act or proceeding of the corporation or standing committee or of any such committee or sub-committee, as the case may be, in which such person has taken part, whenever the majority of persons, parties to such act or proceeding, were entitled to attend.

53. Until the contrary is proved, every meeting of the corporation or standing committee or of a committee or sub-committee in respect of the proceedings whereof a minute has been made and signed in accordance with this Act, shall be deemed to have been duly convened and held, and all the members of the meeting shall be deemed to have been duly qualified; and where the proceedings are proceedings of a committee or sub-committee, such committee or sub-committee shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minute.

*(C). The Municipal Commissioner.*

54. (1) The Municipal Commissioner for the city of Bombay shall be from time to time appointed by the Governor in Council for a renewable period of three years.

(2) But he shall be forthwith removed by Government from office, if at a meeting of the corporation not less than forty-

*The City of Bombay Municipal Act, 1888.*

[Ch. II.—Municipal Constitution, Sects. 55—59.]

five councillors shall vote in favour of a proposition in this behalf; and he may be removed by the Governor in Council at any time, if it shall appear to the Governor in Council that he is incapable of performing the duties of his office, or has been guilty of any misconduct or neglect which renders his removal expedient.

*Deputy Municipal Commissioner.*

55. (1) Subject to confirmation by the Governor in Council, the corporation may at any time and from time to time appoint a person to be a Deputy Municipal Commissioner, if it shall appear to it expedient so to do.

(2) Every person so appointed shall be subject to the same liabilities, restrictions and conditions to which the commissioner is subject.

56. (1) A deputy commissioner so appointed shall be subordinate to the commissioner and, subject to his orders, shall exercise such of the powers and perform such of the duties of the commissioner as the commissioner shall from time to time depute to him:

(2) Provided that

(a) it shall not be lawful for a deputy commissioner to appear in the commissioner's stead at any meeting of the corporation or standing committee or to exercise thereat any right or power of the commissioner;

(b) the commissioner shall inform the corporation of the powers and duties which he from time to time deputes to a deputy commissioner.

(3) All acts and things performed and done by a deputy commissioner, during his tenure of the said office and in virtue thereof, shall for all purposes be deemed to have been performed and done by the commissioner.

*Remuneration of Commissioner and Deputy Commissioner.*

57. (1) The commissioner shall receive such monthly salary, not exceeding rupees two thousand five hundred and not less than rupees two thousand, as Government shall from time to time determine, in return wherefor he shall, except as hereinafter provided, devote his whole time and atten-

tion to the duties of his office as prescribed in this Act or in any other enactment for the time being in force:

Duties which may be undertaken by the commissioner outside of this Act. (2) Provided that he may at any time:

(a) hold the office of a trustee of the port of Bombay;

(b) with the sanction of the corporation, serve on any committee constituted for the purpose of any local inquiry or for the furtherance of any object of local importance or interest.

(3) Provided also that, with the approval of the corporation, the monthly salary of a commissioner, who has held the appointment for a period of not less than three years, may be raised to a sum not exceeding three thousand rupees.

58. A deputy municipal commissioner shall receive such monthly salary not exceeding rupees fifteen hundred and not less than rupees twelve hundred as the corporation shall from time to time determine.

*Provisions for absence of Commissioner or Deputy Commissioner on leave.*

59. (1) Leave of absence may be granted, from time to time: (a) to the commissioner, by the Governor in Council, with the assent of the standing committee;

(b) to a deputy commissioner, by the corporation.

(2) The allowance to be paid to the commissioner or to a deputy commissioner whilst so absent on leave shall be of such amount, not exceeding respectively the amount of the salary of the commissioner or deputy commissioner, as shall be fixed by the Governor in Council or the corporation, respectively; provided that if the commissioner or deputy commissioner is a Government officer, the amount of such allowance shall be regulated by the rules at the time in force relating to the leave allowances of officers of his class.

(3) During any absence of the commissioner or of a deputy commissioner the Governor in Council or the corporation may appoint a person

Appointment and remuneration of acting commissioner or acting deputy commissioner.

*The City of Bombay Municipal Act, 1888.*

[*Ch. II.—Municipal Constitution, Sect. 60 (1)—(3).*]

*Ch. III.—Duties and Powers of the Municipal Authorities, Sects. 61—62.]*

to act as commissioner or as deputy commissioner, as the case may be. Every person so appointed shall exercise the powers and perform the duties conferred and imposed by this Act or by any other enactment at the time in force on the person for whom he is appointed to act, and shall be subject to the same liabilities, restrictions and conditions to which the said person is liable, and shall receive such monthly salary, within the limits prescribed in sections 57 and 58 for a commissioner and a deputy commissioner, as Government or the corporation, respectively, shall determine.

*Disqualifications of the Commissioner and Deputy Commissioner.*

60. (1) No person shall be qualified to be appointed or to be commissioner or a deputy commissioner who has, directly or indirectly, by himself or his partner, any share or interest in any contract with, by or on behalf of the corporation or in any employment with, by or on behalf of the corporation other than as commissioner or deputy commissioner, as the case may be.

(2) Any commissioner or deputy commissioner who shall acquire, directly or indirectly, by himself or his partner, any share or interest in any such contract or employment as aforesaid, shall cease to be commissioner or a deputy commissioner, as the case may be, and his office shall become vacant.

(3) Nothing in this section shall apply to any such share or interest in any contract or employment with, by or on behalf of the corporation as, under clauses (h) and (k) of section 16, it is permissible for a councillor to have without his being thereby disqualified for being a councillor.

CHAPTER III.

DUTIES AND POWERS OF THE MUNICIPAL AUTHORITIES.

*Obligatory and Discretionary Duties of the Corporation.*

61. It shall be incumbent on the corporation to make adequate provision, by any means or measures which it is lawfully competent to them to use or to take, for each of the following matters, namely:—

Matters to be provided for by the corporation.

adequate provision, by any means or measures which it is lawfully competent to them to use or to take,

- (a) the construction, maintenance and cleansing of drains and drainage-works, and of public latrines, urinals and similar conveniences;
- (b) the construction and maintenance of works and means for providing a supply of water for public and private purposes;
- (c) scavenging and the removal and disposal of excrementitious and other filthy matter, and of all ashes, refuse and rubbish;
- (d) the reclamation of unhealthy localities, the removal of noxious vegetation and generally the abatement of all nuisances;
- (e) the regulation of places for the disposal of the dead and the provision of new places for the said purpose;
- (f) the registration of births and deaths;
- (g) measures for preventing and checking the spread of dangerous diseases;
- (h) the construction and maintenance of public markets and slaughter-houses and the regulation of all markets and slaughter-houses;
- (j) the regulation of offensive and dangerous trades;
- (k) the entertainment of a fire-brigade and the protection of life and property in the case of fire;
- (l) the securing or removal of dangerous buildings and places;
- (m) the construction, maintenance, alteration and improvement of public streets, bridges, culverts, causeways and the like;
- (n) the lighting, watering and cleansing of public streets;
- (o) the removal of obstructions and projections in or upon streets, bridges and other public places;
- (p) the naming of streets and the numbering of premises;
- (q) maintaining, aiding and suitably accommodating schools for primary education;
- (r) the maintenance of a municipal office and of all public monuments and other property vesting in the corporation.

Share of the expenses of the police of the city to be paid by the corporation.

62. The corporation shall also provide and pay to Government:

*The City of Bombay Municipal Act, 1888.*

[Ch. III.—Duties and Powers of the Municipal Authorities, Sects. 62 (a)—65.]

(a) such proportion of the annual expenses of the police of the city as Government shall from time to time determine; and

(b) the necessary contingent expenses, as determined from time to time by Government, incurred by the police commissioner in granting licenses under Bombay Act VI of 1863 (*an Act for the regulation of public conveyances in the town, suburbs and harbour of Bombay*), to public conveyances in the city.

63. The corporation may, in their discretion, provide from time to time, either wholly or partly, for all or any of the following matters, namely:—

- (a) public vaccination;
- (b) educational objects other than those set forth in clause (g) of section 61;
- (c) constructing, maintaining or aiding libraries, museums and art galleries;
- (d) constructing or maintaining public parks and gardens and botanical and zoological collections;
- (e) planting and maintaining trees on road-sides and elsewhere;
- (f) surveys of buildings or lands;
- (g) registration of marriages;
- (h) taking of a census;
- (j) preparation and presentation of addresses to persons of distinction;
- (k) any measure not hereinbefore specifically named, likely to promote public safety, health, convenience or instruction.

And, with the previous sanction of Government, the corporation may make:

- (l) such contribution as they think fit towards any public ceremony or entertainment in the city.

*Respective Functions of the several Municipal Authorities.*

64. (1) The respective functions of the several municipal authorities, and of any committee appointed under section 39, 40 or 41, shall be such as are specifically prescribed in or under this Act.

(2) Except as in this Act otherwise expressly provided, the municipal government of the city vests in the corporation.

(3) Subject, whenever it is in this Act expressly so directed, Special functions of the commissioner to the approval or sanction of the corporation or the standing committee and subject also to all other restrictions, limitations and conditions imposed by this Act, the entire executive power for the purpose of carrying out the provisions of this Act vests in the commissioner, who shall also:

(a) perform all the duties and exercise all the powers specifically imposed or conferred upon him by this Act;

(b) prescribe the duties of, and exercise supervision and control over, the acts and proceedings of all municipal officers and servants, other than the municipal secretary and the municipal officers and servants immediately subordinate to him, and, subject to the regulations at the time being in force under section 81, dispose of all questions relating to the service of the said officers and servants and their pay, privileges and allowances;

(c) on the occurrence or the threatened occurrence of any sudden accident or unforeseen event, involving or likely to involve extensive damage to any property of the corporation or danger to human life, take such immediate action as the emergency shall appear to him to justify or to require, reporting forthwith to the standing committee and to the corporation, when he has done so, the action he has taken and his reasons for taking the same and the amount of cost, if any, incurred or likely to be incurred, in consequence of such action, which is not covered by a current budget-grant, within the meaning of that expression as defined in section 130.

65. The corporation may at any time call for any extract from any proceedings, &c., from the standing committee, &c. Corporation may call from any proceedings of the standing committee or of any committee or sub-committee constituted under this Act and for any return, statement, account or report concerning or connected with any matter with which the standing committee or any such committee or sub-committee is empowered by or under this Act to deal; and every such requisition shall be complied with by the standing committee or other committee or sub-committee, as the case may be, without unreasonable delay.

*The City of Bombay Municipal Act, 1888.*

[Ch. III.—Duties and Powers of the Municipal Authorities, Sects. 66 (1)—68 (1).]

Corporation may require the commissioner to produce documents and furnish returns and reports, &c.

66. (1) The corporation may at any time require the commissioner:

(a) to produce any record, correspondence, plan or other document which is in his possession or under his control, as commissioner, or which is recorded or filed in his office or in the office of any municipal officer or servant subordinate to him;

(b) to furnish any return, plan, estimate, statement, account or statistics concerning or connected with any matter appertaining to the administration of this Act or the municipal government of the city:

(c) to furnish a report by himself or to obtain from any head of a department subordinate to him and furnish, with his own remarks thereon, a report, upon any subject concerning or connected with the administration of this Act or the municipal government of the city.

(2) Except as is hereinafter provided, every such requisition shall be complied with, by the commissioner without unreasonable delay; and it shall be incumbent on every municipal officer and servant to obey any order made by the commissioner in pursuance of any such requisition:

(3) Provided that if, on such a requisition as aforesaid being made, the commissioner shall declare that immediate compliance therewith would be prejudicial to the interests of the corporation or of the public, it shall be lawful for him to defer such compliance until a time not later than the second ordinary meeting of the corporation after he shall have declared as aforesaid. If at such meeting, or any meeting subsequent thereto, the corporation shall repeat the requisition, and it shall then still appear to the commissioner inexpedient to comply therewith, he shall make a declaration to that effect, whereon it shall be lawful for the corporation to elect one councillor who with the president of the corporation and the chairman of the standing committee (or if the president of the corporation is also chairman of the standing committee, with the said president and one member of their own body elected by the standing committee) shall form a committee who shall engage to keep secret, save as hereinafter provided, the existence and purport of such documents and matters as may be disclosed to them; and to the

said committee the commissioner shall be bound to make known and to disclose all writings and matters within his knowledge, under his control, or available to him, and embraced within the requisition, and the said committee having taken cognizance of the information, writings and matters so laid before them shall determine, by a majority in case of difference, whether or not the whole or any part and which part, if any, of such matters ought to be disclosed to the corporation or kept secret for a defined time, which decision shall be conclusive and shall be reported to the corporation at the next ordinary meeting thereof, where also the commissioner shall be prepared to produce documents and to make any report or statement requisite to give effect to the decision of the committee when called on to do so by the corporation.

(4) The heads of departments subordinate to the commissioner are the executive engineer, the executive health officer, the assessor and collector, and the chief accountant.

67. The exercise by any municipal authority of any power conferred or the performance of any duty imposed by or under this Act, which will involve expenditure, shall, except in any case specified in sub-section (2) of section 115, be subject to the following provisos, namely:—

(a) that such expenditure, so far as it is to be incurred in the official year in which such power is exercised or duty performed, shall be provided for under a current budget-grant, within the meaning of that expression as defined in section 130; and

(b) that if the exercise of such power or the performance of such duty involves or is likely to involve expenditure for any period or at any time after the close of the said official year, liability for such expenditure shall not be incurred without the sanction of the corporation.

68. (1) Any of the powers, duties or functions conferred or imposed upon or vested in the commissioner by any of the sections, sub-sections or clauses mentioned in sub-section (2)

Municipal officers may be empowered to exercise certain of the powers, &c., of the commissioner.

*The City of Bombay Municipal Act, 1888.*

[Ch. III.—Duties and Powers of the Municipal Authorities, Sects. 68 (2)—70 (1).]

may be exercised, performed or discharged, under the commissioner's control and subject to his revision and to such conditions and limitations, if any, as he shall think fit to prescribe, by any municipal officer whom the commissioner generally or specially empowers in writing in this behalf; and in each of the said sections, sub-sections and clauses, the word "commissioner" shall, to the extent to which any municipal officer is so empowered, be deemed to include such officer.

(2) The sections, sub-sections and clauses of this Act referred to in sub-section (1) are the following, (namely):

Section 82.	Section 258, cls. (a), (b) & (c).
" 83.	" 259.
" 84.	" 263, sub-s. (1).
" 85, sub-s. (1).	" 265.
" 112.	" 266.
" 113, sub-s. (3).	" 272.
" 142, sub-s. (2).	" 273.
" 149.	" 276.
" 152, sub-s. (1).	" 278.
" 153, sub-s. (1).	" 279, sub-s. (1);
" 155, sub-ss. (1) & (3).	" 287.
" 160.	" 298, sub-ss. (1) & (2).
" 162.	" 300, sub-s. (1)
" 163, sub-s. (1).	" 311.
" 164.	" 314.
" 165, sub-ss. (1) & (2).	" 317.
" 174.	" 319.
" 175.	" 321, sub-s. (2).
" 176.	" 322.
" 177.	" 324.
" 187.	" 325.
" 188.	" 326, sub-ss. (2) & (3).
" 189.	" 329.
" 200.	" 333, sub-s. (4).
" 201, sub-s. (2).	" 334, sub-s. (1).
" 202, sub-s. (1).	" 337, sub-s. (1).
" 209, sub-s. (1)	" 338.
" 210, sub-s. (1)	" 339.
" 214, sub-ss. (2) & (3).	" 340.
" 222, sub-ss. (1) & (2).	" 342.
" 226, sub-s. (2).	" 343.
" 228.	" 345.
" 229.	" 346, sub-s. (1).
" 234.	" 347, cl. (a).
" 240.	" 348, cls. (a), (b) & (c).
" 243, sub-s. (2).	" 349.
" 244, sub-s. (1).	" 350.
" 248.	" 353.
" 249.	" 354.
" 250, sub-s. (2).	" 355.
" 251.	" 368.
" 253.	" 374.
" 254.	" 375.
" 255.	" 377.
" 257.	" 380.

Section 383.	Section 416.
" 38 <sup>1</sup> , cl. (a).	" 422.
" 394.	" 424, sub-s. (1).
" 396, sub-s. (1).	" 425, sub-s. (1).
" 403, cl. (e).	" 427, sub-s. (3).
" 409.	" 455.
" 410, sub-s. (1).	" 479, sub-s. (5).
" 412, sub-ss. (1) & (2).	" 488.
" 413, sub-s. (1).	" 489.
" 415.	" 492, cl. (a).
	" 517, cl. (a).

*Contracts.*

69. With respect to the making of contracts under or for any purpose of this Act, the following provisions shall have effect; namely:

(a) Every such contract shall be made on behalf of the corporation by the commissioner;

(b) No such contract for any purpose which, in accordance with any provision of this Act, the commissioner may not carry out without the approval or sanction of some other municipal authority, shall be made by him until or unless such approval or sanction has first of all been duly given;

(c) No contract, other than an agreement for the acquisition of immoveable property, which will involve an expenditure exceeding five thousand rupees shall be made by the commissioner, unless the same is previously approved by the standing committee;

(d) Every contract made by the commissioner involving an expenditure exceeding five hundred and not exceeding five thousand rupees shall be reported by him, within fifteen days after the same has been made, to the standing committee;

(e) The foregoing provisions of this section shall apply, respectively, to every contract which the commissioner shall have occasion to make in the execution of this Act; and the same provisions of this section which apply to an original contract shall be deemed to apply also to any variation or discharge of such contract.

70. (1) Every contract entered into by the commissioner on behalf of the corporation shall be entered into in such manner and form as would bind the commissioner if such contract were on his own behalf, and may



*The City of Bombay Municipal Act, 1888.*

[Ch. III.—Duties and Powers of the Municipal Authorities, Sects. 70 (1) (a)—73.

Ch. IV.—Municipal Officers and Servants, Sect. 74 (1)—(3) (f).]

in the like manner and form be varied or discharged;

Provided that:

(a) where any such contract, if entered into by the commissioner, would require to be under seal, the same shall be sealed with the common seal of the corporation; and

(b) every contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding five hundred rupees shall be in writing and shall be sealed with the common seal of the corporation and shall specify the work to be done or the materials or goods to be supplied, as the case may be, the price to be paid for such work, materials, or goods, and, in the case of a contract for work, the time or times within which the same or specified portions thereof shall be completed.

(2) The common seal of the corporation, which shall remain in the custody of the municipal secretary, shall not be affixed to any contract, or other instrument, except in the presence of two members of the standing committee, who shall attach their signatures to the contract or instrument in token that the same was sealed in their presence. The signatures of the said members shall be distinct from the signatures of any witnesses to the execution of any such contract or instrument.

71. No contract not executed as in the last preceding section provided shall be binding on the corporation.

Contract not binding on the corporation unless executed as prescribed in section 70.

72. (1) Except as is hereinafter otherwise provided, the commissioner shall, at least seven days before entering into any contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding three thousand rupees, give notice by advertisement in the local newspapers, inviting tenders for such contract.

Tenders to be invited for contracts involving expenditure exceeding Rs. 3,000.

(2) The commissioner shall not be bound to accept any tender which may be made in pursuance of such notice, but may accept, subject to the provision of clause (c) of section 69, any of the tenders so made

which appears to him, upon a view of all the circumstances, to be the most advantageous:

(3) Provided that the standing committee may authorize the commissioner, for reasons which shall be recorded in their proceedings, to enter into a contract without inviting tenders as herein provided or without accepting any tender which he may receive after having invited them.

73. The commissioner shall require sufficient security for the due performance of every contract into which he enters under the last preceding section, and may, in his discretion, require security for the due performance of any other contract into which he enters under this Act.

Security when to be taken for performance of contract.

#### CHAPTER IV.

##### MUNICIPAL OFFICERS AND SERVANTS.

###### *Executive Engineer and Executive Health Officer.*

74. (1) The corporation shall appoint fit persons to be municipal executive engineer and executive health officer.

Appointment of executive engineer and executive health officer.

(2) Each of the said officers shall:

(a) be appointed for a renewable term of five years;

(b) devote his whole time and attention to the duties of his office;

(c) receive such monthly salary, not exceeding rupees fifteen hundred and not less than rupees twelve hundred, as the corporation shall from time to time determine;

(d) be removeable at any time from office for misconduct or for neglect of, or incapacity for, the duties of the office, on the votes of not less than two-thirds of the members present at a meeting of the corporation:

(3) Provided that:

(e) no person shall be appointed to be executive health officer who is not a legally qualified medical practitioner;

(f) the corporation may, in their discretion, appoint a person probationally for a limited period only, to either of the said offices, previous to appointing him for the full term of five years;

*The City of Bombay Municipal Act, 1888.*

[Ch. IV.—Municipal Officers and Servants, Sects. 74 (3) (g)—79 (1).]

(g) every appointment made under this section shall be subject to confirmation by the Governor in Council.

75. (1) On the occurrence of a vacancy in the office of executive engineer or of executive health officer, an appointment shall be made thereto by the corporation within four months from the date on which the vacancy occurred or in the event of any appointment so made by them not being confirmed by Government, within thirty days from the date of the receipt by the corporation of the order of Government.

(2) In default of an appointment being made by the corporation as aforesaid, the Governor in Council may appoint a person to fill the vacancy and such appointment shall for all purposes be deemed to have been made by the corporation.

(3) Pending the settlement of an appointment under sub-section (1) or (2), the corporation may appoint a person to fill the vacancy temporarily and may direct that the person so appointed shall receive such monthly salary not exceeding rupees fifteen hundred as it shall think fit. A person so appointed to be temporary executive health officer need not be a legally qualified medical practitioner.

76. The executive health officer appointed under this Act shall be the consulting officer of health for the purposes of Bombay Act VI of 1867 (*an Act for the better sanitary regulation of the city of Bombay*).

*Municipal Secretary.*

77. (1) The standing committee shall from time to time appoint a fit person to be municipal secretary.

(2) The municipal secretary shall be secretary of the corporation and also of the standing committee and shall:

(a) perform such duties as he is directed by this Act to perform and such other duties in and with regard to the corporation and the standing committee as shall be required of him by those bodies respectively;

(b) have the custody of all papers and documents connected with the proceedings of:

(i) the corporation and any committee appointed by the corporation;

(ii) the standing committee and any sub-committee thereof;

(c) devote his whole time and attention to the duties of his office;

(d) receive a monthly salary of rupees seven hundred which, with the previous sanction of the corporation, may be increased to a sum not exceeding rupees one thousand;

(e) be removeable at any time from office for misconduct or for neglect of, or incapacity for, the duties of the office by the standing committee, with the approval of the corporation.

78. (1) The standing committee may from time to time:

(a) appoint such clerks and servants subordinate to the municipal secretary. be immediately subordinate to the municipal secretary as they think fit;

(b) determine the nature and amount of the salaries, fees and allowances to be paid to the said servants and clerks respectively;

(c) prescribe or delegate to the municipal secretary the power of prescribing the duties of the said clerks and servants.

(2) The municipal secretary, subject to the orders of the standing committee, shall exercise supervision and control over the acts and proceedings of the said clerks and servants, and the standing committee, subject to the regulations at the time being in force under section 81, shall dispose of all questions relating to the service of the said clerks and servants and their pay, privileges and allowances.

*Other Officers and Servants.*

79. (1) The commissioner shall, as soon as may be after this Act comes into force and afterwards from time to time, prepare and bring before the standing committee a schedule setting forth the designations and grades of the other officers and servants

Schedule of other officers and servants to be prepared by the commissioner and sanctioned by the standing committee.

*The City of Bombay Municipal Act, 1888.*

[Ch. IV.—Municipal Officers and Servants, Sects. 79 (2)—84 (1).]

who should, in his opinion, be maintained, and the amount and nature of the salaries, fees and allowances which, he proposes, should be paid to each.

(2) The standing committee shall sanction such schedule either as it stands or subject to such modifications as they deem expedient: provided that no new office of which the aggregate emoluments exceed rupees two hundred per month shall be created without the sanction of the corporation.

80. No permanent officer or servant shall be entertained in any department of the municipal administration unless he has been appointed under section 74, 77, or 78, or his office and emoluments are included in the schedule at the time in force prepared and sanctioned under the last preceding section.

*Leave of absence, acting appointments, &c.*

81. (1) The standing committee shall from time to time frame regulations, in consonance with any resolution that may be passed by the corporation:

(a) fixing the amount and the nature of the security to be furnished by any municipal officer or servant from whom it may be deemed expedient to require security;

(b) regulating the grant of leave to municipal officers and servants;

(c) authorizing the payment of allowances to the said officers and servants, or to certain of them, whilst absent on leave;

(d) determining the remuneration to be paid to the persons appointed to act for any of the said officers or servants during their absence on leave;

(e) regulating the period of service of all the said officers and servants;

(f) determining the conditions under which the said officers and servants, or any of them, shall on retirement or discharge receive pensions, gratuities or compassionate allowances, and under which the widows, or other relations dependent on any of the said officers and servants, shall, after their death, receive compassionate allowances, and the amounts of such pensions, gratuities or compassionate allowances;

(g) authorizing the payment of contributions, at certain prescribed rates and subject to certain prescribed conditions, to any pension or provident fund which may, with the approval of the standing committee, be established by the said officers and servants.

(2) No regulation made by the standing committee under this section shall have force or validity, unless and until it has been confirmed by the corporation, nor, if it is made under clause (f), unless and until it has been confirmed by Government.

Such regulations to be subject to confirmation by the corporation and, if made under clause (f), by Government.

is made under clause (f), unless and until it has been confirmed by Government.

82. Except as is hereinbefore otherwise provided, the power of appointing municipal officers and

servants shall, subject to the schedule at the time being in force prepared and sanctioned under section 79, vest in the commissioner.

83. (1) Every municipal officer and servant may be fined, reduced, suspended or dismissed for any breach of departmental rules or discipline or for carelessness, unfitness, neglect of duty or other misconduct, by the authority by whom such officer or servant is appointed:

Power of suspending, punishing and dismissing in whom to vest.

(2) Provided that:

(a) no officer whose monthly emoluments exceed rupees three hundred shall be dismissed by the commissioner, without the approval of the standing committee;

(b) any officer appointed by the corporation may be suspended by the standing committee pending an order of the corporation, such suspension and the reason therefor being forthwith reported to the corporation.

84. (1) Leave of absence may be granted by the commissioner, subject to the regulations at the

time being in force under section 81, to any municipal officer or servant the power of appointing whom is vested in him and, for a period not exceeding one month, to any other municipal officer, other than an officer immediately subordinate to the municipal secretary.

*The City of Bombay Municipal Act, 1888.*

[Ch. IV.—Municipal Officers and Servants, Sects. 84 (2)—86 (3).

Ch. V.—Municipal Property and Liabilities—Sects. 87—89 (1).]

(2) Leave of absence may be granted, subject as aforesaid, by the standing committee:

(a) to any clerk or servant appointed under section 78;

(b) for a period exceeding one month, to any other municipal officer, the power of appointing whom is not vested in the commissioner.

85. (1) The appointment of a person to act in the place of an officer absent on leave may be made, when necessary, and subject to the regulations aforesaid, by the same authority who grants the leave of absence:

(2) Provided that:

(a) when the executive engineer or the executive health officer is granted leave of absence for a period exceeding one month, the appointment of a person to act for him shall be made by the corporation;

(b) any appointment of a person to act as executive engineer or as executive health officer may be disallowed by the Governor in Council, and from the time of being so disallowed shall be null and void;

(c) no person shall be appointed to act for the executive health officer for a period exceeding three months, unless such person is a legally qualified medical practitioner, but a person appointed to act for the said officer for a period not exceeding three months need not be a legally qualified medical practitioner.

(3) A person appointed under this section to act for any officer or servant shall, while so acting, perform the same duties and exercise the same powers and be subject to the same liabilities, restrictions and conditions which the permanent incumbent of the office or place is bound to perform or may exercise or to which the said incumbent is liable.

*Disqualifications of Municipal Officers and Servants.*

86. (1) Any person who has, directly or indirectly, by himself or his partner, any share or interest in any contract with, by, or on behalf of the corporation, or in any employment with, by, or on behalf of the corporation, other than as a municipal officer or servant, shall be

disqualified for being a municipal officer or servant.

(2) Any municipal officer or servant who shall acquire, directly or indirectly, by himself or his partner, any share or interest in any such contract or employment as aforesaid, shall cease to be a municipal officer or servant and his office shall become vacant.

(3) Nothing in this section shall apply to any such share or interest in any contract or employment with, by, or on behalf of the corporation as under clauses (h) and (k) of section 16 it is permissible for a councillor to have, without his being thereby disqualified for being a councillor.

## CHAPTER V.

## MUNICIPAL PROPERTY AND LIABILITIES.

*Acquisition of Property.*

87. The corporation shall, for the purposes of this Act, have power to acquire and hold moveable and immoveable property, whether within or without the limits of the city.

88. All such immoveable and other property as is held by, or in trust for, or has been granted by Government to the corporation under, or in pursuance, or for the purposes of any Act hereby repealed, shall, upon and after the date when this Act comes into force, vest in the corporation in trust for the purposes of this Act, but subject to all charges and liabilities affecting the same.

89. (1) On the expiry of the term of ninety-nine years, commencing on the first day of July, 1863, for which, in accordance with section 64 of the Bombay Municipal Acts of 1872 and 1878, the Vehár lake and the property appurtenant thereto, hereinafter referred to as "the Vehár waterworks," were vested in the corporation, the Governor in Council may direct that the said Vehár waterworks shall vest, and the same shall in such case vest, in the corporation, on the conditions hereinafter provided and, for the purposes of this Act, for such further period not exceeding ninety-nine years as shall seem expedient;

*The City of Bombay Municipal Act, 1888.*

[*Ch. V.—Municipal Property and Liabilities, Sects. 89 (2)—92 (e).*]

(2) Provided that on the expiry of the said first term of ninety-nine years, or of any further term for which the Governor in Council may have directed that the said Vehár waterworks shall vest in the corporation, all rights and every power conveyed to the corporation shall forthwith cease and determine, and the said Vehár waterworks shall revert to and become vested in the Secretary of State for India in Council as the same were vested in the Secretary of State for India in Council before the first day of July, 1863.

90. (1) Whenever it is provided by this Act that the commissioner may acquire, or whenever it is necessary or expedient for any purpose of this Act that the commissioner shall acquire, any immoveable property, such property may be acquired by the commissioner on behalf of the corporation by agreement on such terms and at such rates or prices or at rates or prices not exceeding such maxima as shall be approved by the standing committee, either generally for any class of cases or specially in any particular case.

(2) And whenever, under any provision of this Act, the commissioner is authorized to agree to pay the whole or any portion of the expenses of acquiring any immoveable property, he shall do so on such terms and at such rates or prices or at rates or prices not exceeding such maxima as shall be approved by the standing committee as aforesaid :

(3) Provided that no agreement for the acquisition of any immoveable property under sub-section (1) or (2) shall be valid, if the price to be paid for such property exceeds one thousand rupees, unless and until such agreement has been approved by the corporation.

91. (1) Whenever the commissioner is unable to acquire any immoveable property under the last preceding section by agreement, Government may, in their discretion, upon the application of the commissioner, made with the approval of the standing committee, order proceedings to be taken for acquiring the same on behalf of the corporation, as if such property were land needed for a

public purpose within the meaning of the Land Acquisition Act, 1870.

X of 1870.

(2) The amount of compensation awarded and all other charges incurred in the acquisition of any such property shall, subject to all other provisions of this Act, be forthwith paid by the commissioner and thereupon the said property shall vest in the corporation.

*Disposal of Property.*

92. With respect to the disposal of property belonging to the corporation the following provisions shall have effect, namely :

Provisions governing the disposal of municipal property.

(a) the commissioner may, in his discretion, dispose of, by sale or otherwise, any moveable property belonging to the corporation not exceeding in value, in each instance, five hundred rupees, or grant a lease of any immoveable property belonging to the corporation, including any right of fishing or of gathering and taking fruit and the like, for any period not exceeding twelve months at a time : provided that every such lease granted by the commissioner shall be reported by him, within fifteen days after the same has been granted, to the standing committee ;

(b) with the sanction of the standing committee, the commissioner may dispose of, by sale or otherwise, any moveable property belonging to the corporation, of which the value does not exceed five thousand rupees, or grant a lease of any immoveable property belonging to the corporation, including any such right as aforesaid, for any period not exceeding three years at a time ;

(c) with the sanction of the corporation, the commissioner may lease, sell or otherwise convey any property, moveable or immoveable, belonging to the corporation ;

(d) the sanction of the standing committee or of the corporation under clause (b) or clause (c) may be given either generally for any class of cases or specially in any particular case ;

(e) the aforesaid provisions of this section shall apply, respectively, to every disposal of property belonging to the corporation made under or for any purpose of this Act.

*The City of Bombay Municipal Act, 1888.*

[Ch. V.—*Municipal Property and Liabilities, Sects. 93—98 (1.)*]

*Liabilities.*

93. So much of the following moneys as are still repayable on the day when this Act comes into force, shall be repaid, together with the interest due thereupon, by the corporation, namely:

(a) to the Secretary of State for India in Council—

(i) the balance of the debt due on account of the Vohár waterworks debt; in accordance with the terms heretofore prescribed in section 140 of the Bombay Municipal Acts of 1872 and 1878, with simple interest thereon at the rate of four per centum per annum;

(ii) the balance of the consolidated loan, as the same was defined in section 3, clause (3) of the Bombay Municipality's Consolidated Loan Act, 1880, due on various accounts, with interest thereon at the rate of four-and-a-half per centum per annum;

(b) to municipal security-holders—

(iii) the house-rate and market loans raised in 1867 and 1868 under the provisions of the Bombay Municipal Act, 1865, with interest thereon at the rate of six per centum per annum;

(iv) the drainage loan of 1878 raised under the provisions of the Public Works' Loan Act, 1871, with interest thereon at the rate of five per centum per annum;

(v) the sanitary works' loans of 1885, 1886 and 1888 contracted under the provisions of the Local Authorities Loan Act, 1879, with interest thereon at the rate of five per centum per annum;

(vi) the portion of the Tánsa waterworks' loan contracted under the Act last aforesaid previous to the coming into force of this Act;

(vii) the portion of the drainage and waterworks' loan of 1888 contracted under the said Act previous to the coming into force of this Act.

*Repayment of moneys due to the Secretary of State in Council.*

94. In order to secure the repayment of the Vohár waterworks' debt, the commissioner shall, on the first day of every month, until the whole of the said debt, together with the interest due thereon, shall be liquidated, pay to Government a sum of rupees fourteen thousand and six hundred.

95. (1) The whole of the consolidated loan, together with the interest due thereon, shall be repaid within thirty years from the first day of January, 1881.

(2) For better securing the repayment of the said loan, the commissioner shall pay half-yearly to Government, on every first day of January and every first day of July, until the whole of the said loan, together with the interest due thereon, shall be liquidated, a sum of one lách seventy-eight thousand three hundred and twenty-six rupees two annas and five pies.

96. (1) Every payment to be made by the commissioner under either of the two last preceding sections shall be made to the officer, or into the bank, for the time being appointed to receive Government dues.

(2) Notice of every such payment having been made shall be forthwith published by the commissioner in the *Bombay Government Gazette*.

97. If the commissioner fails to make any of the said payments at the prescribed time, the Accountant General shall, within seven days after the day on which such payment ought to have been made, report the fact to the Chief Secretary to Government or other officer acting in that capacity.

98. (1) It shall be lawful for the said chief secretary, or other officer acting in that capacity, when any of the said payments is in arrear, to direct any Government officer, not being a municipal authority or

*The City of Bombay Municipal Act, 1888.*

[Ch. V.—Municipal Property and Liabilities, Sects. 98 (2)—104 (1).]

officer, to detain, to the extent of any payment or payments then in arrear, any moneys due or that may become due to the corporation, which he may then or thereafter have in his custody or control.

(2) Such officer shall detain the moneys which he is so directed to detain and pay the same, as they become due to the corporation, to the officer, or into the bank, for the time being appointed to receive Government dues at Bombay.

(3) The moneys so paid shall be applied in or towards satisfaction of the amount for the time being due in respect of the Vehár waterworks' debt or of the consolidated loan, in preference to and with priority over all other incumbrances on and claims to such moneys.

99. (1) If the amount in arrear cannot be recovered in the manner provided in the last preceding section, the Governor in Council may attach the municipal fund, or any tax leviable by the corporation.

(2) After such attachment, no person, except an officer appointed by the Governor in Council, shall in any way deal with the attached fund or tax; but such officer may do all acts in respect thereof which the corporation or any municipal authority might have done, if such attachment had not taken place, and may apply the proceeds in satisfaction of the amount in arrear and of all expenses involved by the attachment and subsequent proceedings:

(3) Provided that no such attachment shall defeat or prejudice any debt for which the fund or tax attached was previously pledged in accordance with law; but all such prior charges shall be paid out of the proceeds of the fund or tax attached before any part of the proceeds is applied to the satisfaction of a liability for the Vehár waterworks' debt or the consolidated loan.

100. If the commissioner fails to make any monthly payment, in accordance with section 94, on account of the Vehár waterworks' debt and after notice in writing, signed by one of the secretaries to Government, requiring payment of the same has been served upon him and forwarded

to the president of the corporation and published for a period of not less than two months in the *Bombay Government Gazette*, shall still fail to make such payment,

the said Vehár waterworks shall, notwithstanding anything contained in section 88, cease to vest in the corporation and shall forthwith become vested in the Secretary of State for India in Council in trust for the purposes for which the same were previously vested in the corporation.

101. Nothing in the four last preceding sections shall affect the rights or remedies which the Secretary of State for India in Council has or shall have independently of this Act for the recovery of the moneys aforesaid.

102. The annual sum of the monthly instalments paid by the commissioner under section 94 and all recoveries made under any of the foregoing sections on account of the Vehár waterworks' debt shall be appropriated as follows, namely:

*first*, to the payment of the interest accrued on account of the principal sum of rupees thirty-seven lákhs thirty thousand and fifty-three due on account of the said debt on the first day of July, 1863;

*secondly*, to the payment of interest on all sums advanced by Government in connection with the said works since the first day of July, 1863;

*thirdly*, to the payment of all sums subsequently advanced as aforesaid; and

*lastly*, to the liquidation of the said principal sum of rupees thirty-seven lákhs thirty thousand and fifty-three.

103. Every payment made by the commissioner under section 95 and all recoveries made under any of the foregoing sections on account of the consolidated loan, shall be appropriated first to the payment of the interest due at the time of such payment or recovery and secondly to the reduction of the principal.

*Repayment of House-rate and Market Loans of 1867-68.*

104. (1) Until such time as the corporation repay the house-rate loan and the two market loans

Other rights and remedies of the Secretary of State for India in Council not to be affected.

Method of appropriating payments on account of the Vehár waterworks.

Method of appropriating payments on account of the consolidated loan.

Sinking-fund for house-rate and market loans to be maintained.

*The City of Bombay Municipal Act, 1888.*

[Ch. V.—Municipal Property and Liabilities, Sects. 104 (2)—105.]

[Ch. VI.—Borrowing Powers, Sects. 106—109 (d).]

raised in 1867 and 1868 under the provisions of sections 253 to 258 of the Bombay Municipal Act, 1865, it shall be incumbent on the corporation to maintain out of the taxes, on the security of which the said loans were raised, the sinking-fund prescribed by section 257 of the said Act:

(2) Provided that in the event of the corporation's discharging any portion of the said loans at any time previous to the time at which they are repayable in full, it shall be competent to the corporation to reduce *pro tanto* the amount of the said sinking-fund.

*Publication of Annual Account of Balances due on Loans.*

105 (1) The commissioner shall, in the month of January in each year, publish in the *Bombay Government Gazette* an account showing the balances due by the corporation on the last preceding thirty-first day of December to the Secretary of State for India in Council and to municipal security-holders, respectively, on account of each debt or loan, if any, at the time still repayable by the corporation.

(2) The commissioner shall also cause the said account to be printed and a printed copy thereof to be forwarded to the usual or last known local place of abode of each councillor.

CHAPTER VI.

BORROWING POWERS.

106. The corporation may from time to time borrow or re-borrow and take up at interest from the Secretary of State for India in Council, or, with the sanction of the Governor in Council, from any other person, any sum necessary for the purpose of defraying any costs, charges or expenses incurred, or to be incurred by them in the execution of this Act, or for the purpose of discharging any loan contracted under this Act or any other loan or debt for repayment of which they are liable.

107. If any new loan shall be contracted by the corporation under this Act with the Secretary of State for India in Council, the same shall be

subject, as regards repayment and security and in every other respect, to the same provisions as are hereinbefore contained in respect of the consolidated loan, save only that the rate of interest, the period of repayment and the number and amount of the instalments shall, in the case of any such new loan, be fixed, under the orders of the Governor General of India in Council, by the Governor in Council.

108. (1) The corporation may borrow or re-borrow any such sum as aforesaid from any person other than the Secretary of State for India in Council, on the security of any immoveable property belonging to them or proposed to be acquired by them under this Act or of all the taxes or of any tax which they are authorized to levy for the purposes of this Act or of all or any of those securities.

(2) And for the purpose of securing the repayment of any sum so borrowed, with interest thereon, they may mortgage to the person, by or on behalf of whom such sum is advanced, any such immoveable property or tax.

109. The exercise of the powers of borrowing conferred by this Act shall be subject to the following provisions, namely:

(a) money shall not be borrowed for the execution of any work other than a permanent work, including under this expression any work of which the cost ought, in the opinion of Government, to be spread over a term of years;

(b) the sum borrowed shall not at any time exceed, with the balances of all the outstanding loans and debts due by the corporation, in the whole, double the rateable value of the premises in the city assessable, as hereinafter provided, to property taxes;

(c) the money may be borrowed for such time, not exceeding sixty years, as the corporation, with the sanction of Government, determine in each case;

(d) the corporation shall either pay off the money so borrowed by equal annual instalments of principal, or of principal and interest, or they shall in every year set apart as a sinking-fund and accumulate in the way of compound interest, by investing the same in the purchase of public securities, such sum as will, with accu-



*The City of Bombay Municipal Act, 1888.*

[Ch. VI.—Borrowing Powers, Sects. 109 (e)—110.]

[Ch. VII.—Revenue and Expenditure, Sects. 111—112.]

Amortisations in the way of compound interest, be sufficient, after payment of all expenses, to pay off the moneys so borrowed within the period sanctioned;

(e) the corporation may at any time apply the whole or any part of a sinking-fund set apart under this section in or towards the discharge of the moneys for the repayment of which the fund has been established; provided that they pay into the fund each time that interest would have been received by the corporation in respect of the sinking-fund or the part of the sinking-fund so applied, and accumulate, until the whole of the moneys borrowed are discharged, a sum equivalent to the interest which would have been so received;

(f) the investment every year of any sum set apart as portion of the principal of a sinking-fund shall be made within fifteen days after the day on which the second half-yearly payment of interest is due by the corporation in respect of the loan for repayment of which such sinking-fund is established; and the re-investment of any sum received by the corporation on account of interest on moneys appertaining to a sinking-fund already invested, and the investment of any sum payable into the fund under clause (e) as the equivalent of interest which the corporation would have received, if the sinking-fund or a part thereof had not been applied in any manner authorized by the said clause, shall be made within one month from the day on which such interest is received or from the day on which such interest would have been received, as the case may be;

(g) where money is borrowed for the purpose of discharging a previous loan, the time for repayment of the money so borrowed, shall not, unless with the sanction of Government, extend beyond the unexpired portion of the period for which the original loan was sanctioned and shall in no case be extended beyond the period of sixty years from the date of the original loan.

110. (1) Every mortgage authorized to be made under this chapter shall be by debenture in the form contained in schedule C, or in such other form as the corporation, with the consent of Government, shall from time to time determine.

(2) Every debenture issued under this Act shall be transferable by endorsement, and such transfers may be in the form of schedule D, or to the like effect.

(3) The right to payment of the moneys secured by any of such debentures and to sue in respect thereof shall vest in the holder thereof for the time being, without any preference by reason of some of such debentures being prior in date to others.

## CHAPTER VII.

## REVENUE AND EXPENDITURE.

*The Municipal Fund.*

111. All moneys received by or on behalf of the corporation under the provisions of this Act or of any other enactment at the time in force, or under any contract,

all proceeds of the disposal of property by, or on behalf of, the corporation,

all rents accruing from any property of the corporation,

all moneys raised by any tax, levied for the purposes of this Act,

all fees and fines payable and levied under this Act or under any rule, regulation or by-law in force hereunder,

all fees for licenses for public conveyances granted by the police commissioner under Bombay Act VI of 1863 (*an Act for the regulation of public conveyances in the town, suburbs and harbour of Bombay*),

all fines levied by any magistrate in respect of any offence against the provisions of this Act, or of any regulation or by-law made under this Act,

all moneys received by or on behalf of the corporation from Government or private individuals by way of grant or gift or deposit, and

all interest and profits arising from any investment of, or from any transaction in connection with, any money belonging to the corporation,

shall be credited to a fund, which shall be called "the municipal fund" and which shall be held by the corporation in trust for the purposes of this Act, subject to the provisions herein contained.

112. All moneys payable to the credit of the municipal fund shall be received by the commissioner and shall be forthwith paid into the bank for the time being

Commissioner to receive payments on account of the municipal fund and to lodge them in a bank.

*The City of Bombay Municipal Act, 1888.*

[Ch. VII.—Revenue and Expenditure, Sects. 113—117.]

appointed to receive Government dues at Bombay to the credit of an account, which shall be styled "the account of the municipal fund of the city of Bombay."

113. (1) Subject to the provisions of section 520, no payment shall be made by the bank aforesaid out of the municipal fund, except upon a cheque signed by the commissioner, and by one member of the standing committee who shall attend at the chief municipal office for this purpose at least twice a week, and by the municipal secretary, or in the event of the illness or occasional absence of the commissioner from the city, by two members of the standing committee and by the said secretary.

(2) Payment of any sum due by the corporation in excess of one hundred rupees shall be made by means of a cheque signed as aforesaid and not in any other way.

(3) Payment of any sum due by the corporation, not exceeding one hundred rupees in amount, may be made by the commissioner in cash, cheques for sums not in excess of one thousand rupees each, signed as aforesaid, being drawn from time to time to cover such payments.

114. Notwithstanding anything contained in the two last preceding sections, the commissioner may, with the approval of the standing committee, from time to time remit any portion of the municipal fund to a bank or other agency at any place beyond the city at which it may be desirable for the corporation to have funds in deposit, and any money payable to the credit of the municipal fund or chargeable hereagainst, which can, in the opinion of the commissioner, be most conveniently paid into or out of the account of the corporation at any such bank or agency, may be so paid.

115. (1) Except as hereinafter provided, no payment of any sum shall be made by the commissioner out of the municipal fund, unless the expenditure of the same is covered by a current budget-grant, and a sufficient balance of such budget-grant is still available, notwithstanding any reduction or transfer thereof which may have been made under section 133 or section 134:

(2) Provided that the following items shall be excepted from this prohibition, namely:—

(a) sums of which the expenditure has been sanctioned by the standing committee under section 132;

(b) temporary payments under section 119 for works urgently required in the public service;

(c) refunds of taxes and other moneys which the commissioner is by or under this Act authorized to make;

(d) repayments of moneys belonging to contractors or other persons held in deposit and of moneys collected or credited to the municipal fund by mistake;

(e) sums which the commissioner is by sections 222, sub-section (3), 309, sub-section (2), 315, sub-section (2), 334, sub-section (2), 395, sub-section (2), 426, sub-section (2), 427, sub-section (4), 501, and 515, clause (b) required or empowered to pay by way of compensation;

(f) sums payable in any of the circumstances mentioned in clause (f) of section 118;

(g) expenses incurred by the commissioner in the exercise of the powers conferred upon him by section 434;

(h) costs incurred by the commissioner under clause (c) of section 64.

(3) In sub-section (1), "budget-grant" means a budget-grant within the meaning of that term as defined in section 130 and includes any sum by which such budget-grant may at any time be increased by a transfer under clause (b) of section 133.

116. The members of the standing committee and the municipal secretary shall not sign any cheque under section 113, without first satisfying themselves that the sum for which such cheque is drawn is either covered by a budget-grant as aforesaid or is an item of one of the excepted descriptions specified in sub-section (2) of the last preceding section.

117. Whenever any sum is expended by the commissioner under clause (e), (f), (g) or (h) of section 115, he shall forthwith communicate the circumstances to the standing committee, who shall take such

Procedure when money not covered by a budget-grant is expended under clause (e), (f), (g) or (h) of section 115.

*The City of Bombay Municipal Act, 1888.*

[Ch. VII.—Revenue and Expenditure, Sects 118—121.]

action under section 133 or recommend the corporation to take, under section 131, such action as shall, in the circumstances, appear possible and expedient for covering the amount of the additional expenditure.

118. The moneys from time to time credited to the municipal fund shall be applied in payment of all sums, charges and costs necessary for the purposes specified in sections 61, 62 and 63, or for otherwise carrying this Act into effect, or of which the payment shall be duly directed or sanctioned under any of the provisions of this Act, inclusive of:

Purposes to which the municipal fund is to be applied.

(a) the expenses of every ward-election and of every justices' election held under this Act;

(b) the fees payable under section 50 to members of the standing committee;

(c) the salaries and other allowances of the commissioner and of any deputy commissioner appointed under this Act;

(d) the salaries and other allowances of all municipal officers and servants, and all pensions, gratuities and compassionate allowances payable under the provisions of this Act or of any schedule or regulation framed under this Act and at the time in force;

(e) all expenses and costs incurred by the commissioner in the exercise of any power or the discharge of any duty conferred or imposed upon him by this Act, including moneys which he is required or empowered to pay by way of compensation;

(f) every sum payable:

(i) under sub-section (1) of section 520 to Government;

(ii) under a decree or order of a civil or criminal court passed against the corporation or against the commissioner or a deputy commissioner *ex-officio*;

(iii) under a compromise of any suit or other legal proceeding or claim effected under section 517.

119. (1) On the written requisition of a secretary to Government, the commissioner may at any time undertake the execution of any work certified by such secretary to be urgently required in the public service, and for this

Temporary payments from the municipal fund for works urgently required for public service.

purpose may temporarily make payments from the municipal fund, so far as the same can be made without unduly interfering with the regular working of the municipal administration. The cost of all work so executed and of the establishment engaged in executing the same shall be paid by Government and credited to the municipal fund.

(2) On receipt of any requisition under sub-section (1), the commissioner shall forthwith forward a copy thereof to the corporation, together with a report of the steps taken by him in pursuance of the same.

*The School Fund.*

120. (1) The portion of the municipal fund to be devoted to the purposes specified in clause (g) of section 61 shall be credited under a separate heading in the municipal accounts and shall be called "the school-fund."

(2) There shall be carried every official year to the school-fund:

(a) every grant made by Government for the maintenance or aid of primary education;

(b) the fees levied in schools wholly maintained at the cost of the school-fund;

(c) such contribution from the general revenue of the corporation as the corporation shall from time to time determine, the same being not less, in each official year, than a sum of such amount as added to the fees levied as aforesaid in the same year would be equal to double the Government grant for that year;

(d) the unexpended balance, if any, of the school-fund of the last preceding official year;

(e) all sums made over to the corporation, by way of endowment or otherwise, for the promotion of primary education.

*Other Special Funds.*

121. With the approval of the corporation, any other portion of the municipal fund may also, from time to time, be credited to a separate heading in the municipal accounts, provided that there shall be credited and debited to such special

Other special funds may be created with the approval of the corporation.

*The City of Bombay Municipal Act, 1888.*

[Ch. VII.—Revenue and Expenditure, Sects. 122—126 (1).]

heading such sums only as shall expressly relate to the object for which a special fund is so created.

*Disposal of Balances.*

122. (1) Surplus moneys at the credit of the municipal fund which are not required for current charges may from time to time be deposited at interest with the bank for the time being appointed to receive Government dues or be invested in public securities.

(2) Such deposits and investments shall be made by the commissioner, on behalf of the corporation, with the sanction of the standing committee, and, with the like sanction, the commissioner may at any time withdraw any deposit so made or dispose of any public securities and re-deposit or re-invest the money so withdrawn, or the proceeds of the disposal of such public securities; but no order for making any deposit, investment, withdrawal or disposal under this section shall have any validity, unless the same be in writing, signed by the commissioner and one member of the standing committee and the municipal secretary.

(3) The loss, if any, arising from any such deposit or investment shall be debited to the municipal fund.

*Accounts.*

123. Accounts of the receipts and expenditure of the corporation shall be kept in such manner and in such forms as the standing committee shall from time to time prescribe.

124. (1) The commissioner shall, as soon as may be after each first day of April, have prepared a detailed report of the municipal administration of the city during the previous official year, together with a statement showing the amounts of the receipts and disbursements respectively credited and debited to the municipal fund during the said year and the balance at the credit of the fund at the close of the said year.

(2) The commissioner shall incorporate with his said report and statement:

(a) a report for the same period from each head of a department subordinate to him;

(b) the account of balances due on loans then last published under section 105;

and shall cause the same to be printed.

(3) After examination and review of the said printed report and statement by the standing committee, there shall be added to the compilation printed copies of such of the appendices attached to the reports of the several heads of departments, if any, as the standing committee direct and a printed copy of the standing committee's review; and a copy of the complete compilation shall be forwarded to the usual or last known local place of abode of each councillor at least eight days previous to the ordinary meeting of the corporation in the next following month of October, and copies thereof shall be delivered to any person requiring the same, on payment of such reasonable fee for each copy as the commissioner, with the approval of the standing committee, shall determine.

*Annual Budget-estimate.*

125. The commissioner shall, on or before each tenth day of November, have prepared and lay before the standing committee, in such form as the said committee shall from time to time approve:

(a) an estimate of the expenditure which must or should, in his opinion, be incurred by the corporation in the next ensuing official year;

(b) an estimate of all balances, if any, which will be available for re-appropriation or expenditure at the commencement of the next ensuing official year;

(c) a statement of proposals as to the taxation which it will, in his opinion, be necessary or expedient to impose under the provisions of this Act in the said year.

126. (1) The standing committee shall, on or as soon as may be after the tenth day of November, consider the estimates and proposals of the commissioner and, after having obtained from the commissioner such further detailed information, if any, as they shall think fit to require, and having regard to all the requirements of this Act, shall frame therefrom, subject to such modifications and additions therein or thereto as they shall think fit, a budget-estimate of the income and expenditure of the corporation for the next official year.

The City of Bombay Municipal Act, 1888.

[Ch. VII.—Revenue and Expenditure, Sects. 126 (2) (a)—133 (1) (b).]

(2) In such budget-estimate, the standing committee, shall :

(a) propose, with reference to the provisions of chapter VIII, the levy of municipal taxes at such rates and, in the case of town-duties, on such articles, as they shall think fit ;

(b) provide for the payment, as they fall due, of all instalments of principal and interest for which the corporation may be liable under the provisions of chapter V, or on account of any loan contracted, after the passing of this Act, under chapter VI ;

(c) allow for a cash balance at the end of the said year of not less than one lakh of rupees.

(3) The commissioner shall cause the budget-estimate, as finally approved by the standing committee, to be printed and shall, not later than the fifteenth day of December, forward a printed copy thereof to the usual or last known local place of abode of each councillor.

127. At a meeting of the corporation which shall be called for some day in January, not later than the tenth, the budget-estimate prepared by the standing committee shall be laid before the corporation, and they shall proceed to consider the same.

128. (1) The corporation shall, on or before the thirty-first day of January, after considering the standing committee's proposals in this behalf, determine, subject to the limitations and conditions prescribed in chapter VIII, the rates at which municipal taxes shall be levied, and the articles on which town-duties shall be levied in the next ensuing official year.

(2) Except under sections 134 and 196, the rates so fixed and the articles so appointed shall not be subsequently altered for the year for which they have been fixed.

129. Subject to the exigency of sub-section (1) of the last preceding section, the corporation may refer the budget-estimate back to the standing committee for further consideration, or adopt the budget-estimate or any revised budget-estimate submitted to them, either as it stands or subject to such alteration as they deem expedient :

provided that the budget-estimate finally adopted by the corporation shall fully provide for each of the matters specified in clauses (b) and (c) of section 126.

130. Any sum entered on the expenditure side of a budget-estimate which has been adopted by the corporation shall be termed a " budget-grant."

131. (1) On the recommendation of the standing committee, the corporation may increase amount of budget-grants and make additional grants. the corporation may from time to time during an official year increase the amount of any budget-grant, or make an additional budget-grant for the purpose of meeting any special or unforeseen requirement arising during the said year, but not so that the estimated cash balance at the close of the year shall be reduced below one lakh of rupees.

(2) Such increased or additional budget-grants shall be deemed to be included in the budget-estimate adopted by the corporation for the year in which they are made.

132. If any portion of a budget-grant remains unexpended at the close of the year in the budget-estimate for which such grant was included ; and if the amount thereof has not been taken into account in the opening balance of the municipal fund entered in the budget-estimate of the next following year, the standing committee may sanction the expenditure of such unexpended portion during the next following year for the completion, according to the original intention or sanction, of the purpose or object for which the budget-grant was made, but not upon any other purpose or object.

133. (1) The standing committee may, if they think necessary, at any time during an official year :

(a) reduce the amount of a budget-grant ; or

(b) transfer and add the amount, or a portion of the amount of one budget-grant to the amount of any other budget-grant in the budget-estimate :

Provided that :

*The City of Bombay Municipal Act, 1878.*

[Ch. VII.—Revenue and Expenditure, Sects. 133 (1) (c)—137 (2).]

(c) due regard be had when making any such reduction or transfer to all the requirements of this Act;

(d) the aggregate sum of the budget-grants contained in the budget-estimate adopted by the corporation shall not be increased, except by the corporation under section 131;

(e) every such reduction or transfer shall be brought to the notice of the corporation at their next meeting.

(2) If any such reduction or transfer is of an amount exceeding five hundred rupees, the corporation may pass with regard thereto such order as they think fit, and it shall be incumbent on the standing committee and the commissioner to give effect to the said order.

134. (1) If it shall at any time during any official year appear to the corporation, upon the re-presentation of the standing committee, that, notwithstanding any reduction of budget-grants that may have been made by the standing committee under the last preceding section, the income of the municipal fund during the said year will not suffice to meet the expenditure sanctioned in the budget-estimate of the said year and to leave at the close of the year a cash balance of not less than one lakh of rupees, it shall be incumbent on the corporation to forthwith sanction any measure which shall be necessary for proportioning the year's income to the expenditure.

(2) For this purpose, the corporation may either diminish the sanctioned expenditure of the year, so far as it may be possible so to do with due regard to all the requirements of this Act, or have recourse to supplementary taxation.

*Scrutiny and Audit of Accounts.*

135. (1) The standing committee shall conduct, or cause to be conducted under their superintendence, a weekly scrutiny of the municipal accounts and publish weekly an abstract of the receipts and expenditure of the week last preceding, signed by not less than two members of the said committee and by the municipal secretary.

(2) For this purpose, the standing committee shall have access to all the municipal accounts and to all records and correspondence relating thereto, and the commissioner shall forthwith furnish to the standing committee any explanation concerning receipts and disbursements which they may call for.

136. (1) The municipal accounts shall also be examined and audited from week to week by auditors specially appointed in this behalf for each official year by the corporation.

(2) The auditors so appointed may :

(a) by summons in writing, require the production before them of any book, deed, contract, account, voucher or other document or paper necessary for the proper conduct of their audit;

(b) by summons in writing, require any person having the custody or control of, or accountable for any such book, deed, contract, account, voucher or other document or paper to appear in person before them;

(c) require any person so appearing before them to make and sign a declaration with respect to such book, deed, contract, account, voucher or other document or paper.

(3) The auditors so appointed shall receive such reasonable remuneration, not exceeding, in the whole, ten thousand rupees per annum, as the corporation shall from time to time determine.

137. (1) The auditors so appointed shall forthwith report to the standing committee any material impropriety or irregularity which they may at any time observe in the expenditure or in the recovery of moneys due to the corporation or in the municipal accounts, and shall furnish to the standing committee such information as the said committee shall from time to time require concerning the progress of their audit and shall, as soon as may be after the commencement of each official year, deliver to the standing committee a report upon the whole of the municipal accounts for the previous official year.

(2) The commissioner shall cause the said report to be printed and forward a

*The City of Bombay Municipal Act, 1888.*

[Ch. VII.—Revenue and Expenditure, Sect. 138.]

[Ch. VIII.—Municipal Taxation, Sects. 139—142 (2).]

printed copy thereof, along with the printed copy of the administration report and statement of accounts which he is required by sub-section (3) of section 124 to forward to each councillor.

138. (1) The Governor in Council

A special audit may be directed by the Governor in Council.

may at any time appoint an auditor for the purpose of making a special audit of the municipal accounts and of reporting thereon to Government: provided that the costs of any such audit shall not, without the consent of the corporation, be chargeable to the municipal fund.

(2) An auditor so appointed may exercise any power which an auditor appointed by the corporation may exercise.

#### CHAPTER VIII.—MUNICIPAL TAXATION.

##### MUNICIPAL TAXES DEFINED.

139. For the purposes of this Act,

Taxes to be imposed under this Act.

taxation shall be imposed as follows, namely:

- (1) property-taxes;
- (2) a tax on vehicles and animals;
- (3) a toll on vehicles entering the city from Salsette; and
- (4) town-duties.

##### PROPERTY-TAXES.

###### *Property-taxes leviable.*

140. The following taxes shall be levied

Property-taxes of what to consist, and at what rates leviable.

on buildings and lands in the city, and shall be called "property-taxes," namely:

(a) a water-tax of so many per centum of their rateable value as the corporation shall deem reasonable with reference to the expenses of providing a water-supply for the city;

(b) a halálkhor-tax of so many per centum, not exceeding three, of their rateable value as will, in the opinion of the corporation, suffice to provide for the collection, removal and disposal, by municipal agency, of all excrementitious and polluted matter from privies, urinals and cesspools and for efficiently maintaining and repairing the municipal drains constructed or used for the reception or conveyance of

such matter, subject, however, to the provisions that the minimum amount of such tax to be levied in respect of any one separate holding of land, or of any one building or of any one portion of a building which is let as a separate holding, shall be four annas per month, and that the amount of such tax to be levied in respect of any hotel, club or other large premises may be specially fixed under section 172;

(c) a general tax of not less than eight

General tax.

and not more than twelve per centum of their rateable value, together with not less than one-eighth and not more than three-quarters per centum of their rateable value added thereto in order to provide for the expense necessary for fulfilling the duties of the corporation arising under clause (k) of section 61 and chapter XIV.

141. Subject to the provisions of sec-

Water-tax on what premises to be levied.

tion 169, the water-tax shall be levied only in respect of premises:

(a) to which a private water-supply is furnished from, or which are connected by means of communication-pipes with, any municipal waterwork; or

(b) which are situated in a portion of the city in which the commissioner has given public notice that sufficient water is available from municipal waterworks for furnishing a reasonable supply to all the premises in the said portion.

142. (1) The halál-

Halálkhor-tax on what premises to be levied.

khor-tax shall be levied only in respect of premises:

(a) situated in any portion of the city in which public notice has been given by the commissioner that the collection, removal and disposal of all excrementitious and polluted matter from privies, urinals and cesspools will be undertaken by municipal agency; or

(b) in which, wherever situate, there is a privy, water-closet, cesspool, urinal, bathing-place or cooking-place connected by a drain with a municipal drain:

(2) Provided that the said tax shall not be levied in respect of any premises situated in any portion of the city specified in clause (a), in or upon which, in the opinion of the commissioner, no such matter as aforesaid accumulates or is deposited.

*The City of Bombay Municipal Act, 1888.*

[Ch. VIII.—Municipal Taxation, Sects. 142 (3)—145 (3).]

(3) If the commissioner directs, under sub-section (2) of section 248 that a separate water-closet, privy or urinal need not be required for any premises, the halál-khor-tax shall, nevertheless, be levied in respect of the said premises, if, but for such direction, the same would be leviable in respect thereof.

143. (1) The general tax shall be levied in respect of all buildings and lands in the city, except—

(a) buildings exclusively occupied for public worship or for charitable purposes;

(b) buildings and lands vesting in the Secretary of State for India in Council or in the corporation, in respect of which the said tax, if levied, would under the provisions hereinafter contained be primarily leviable from the Secretary of State for India in Council or the corporation, respectively.

(2) The following buildings shall not be deemed to be buildings exclusively occupied for public worship or for charitable purposes within the meaning of clause (a), namely:

(c) buildings in which any trade or business is carried on; and

(d) buildings in respect of which rent is derived, whether such rent is or is not applied exclusively to religious or charitable purposes.

144. (1) The Secretary of State for India in Council shall pay to the corporation annually, in lieu of the general tax from which buildings and lands vesting in him are exempted by clause (b) of section 143, a sum ascertained in the manner provided in sub-sections (2) and (3).

(2) The rateable value of the buildings and lands in the city vesting in the Secretary of State for India in Council and beneficially occupied, in respect of which, but for the said exemption, general tax would be leviable from the Secretary of State for India in Council, shall be fixed by a person from time to time appointed in this behalf by the Governor in Council, with the concurrence of the corporation. The said value shall be fixed by the said person, with a general regard to the provisions hereinafter contained concerning the valu-

ation of property assessable to property-taxes, at such amount as he shall deem to be fair and reasonable. The decision of the person so appointed shall hold good for a term of five years, subject only to proportionate variation, if in the meantime the number or extent of the buildings and lands vesting in the Secretary of State for India in Council in the city materially increases or decreases.

(3) The sum to be paid annually to the corporation by the Secretary of State for India in Council shall be eight-tenths of the amount which would be payable by an ordinary owner of buildings or lands in the city, on account of the general tax, on a rateable value of the same amount as that fixed under sub-section (2).

145. For section thirty-six of the Bombay Port Trust Act, 1879, the following section shall be substituted, namely:

“36. The Board shall pay annually, on the thirtieth day of September, to the Municipal Corporation of the city of

Bombay, in lieu of the general tax leviable by the said corporation in respect of the property, or some portion of the property, vested in the Board, which would otherwise be liable to be assessed to the said tax, a sum ascertained in the manner provided in sub-sections (2) and (3).

“ (2) The rateable value of the buildings and lands in the city vesting in the Board in respect of which the said tax would be leviable from the Board shall be fixed from time to time by the Governor in Council. The said value shall be fixed, with a general regard to the provisions contained in the City of Bombay Municipal Act, 1888, concerning the valuation of property assessable to property-taxes, at such amount as the Governor in Council shall deem to be fair and reasonable. Every such decision of the Governor in Council shall hold good for a term of five years, subject only to proportionate variation, if in the meantime the number or extent of the buildings and lands vesting in the Board materially increases or decreases.

“ (3) The sum to be paid annually to the corporation by the Board shall be nine-tenths of the amount which would



*The City of Bombay Municipal Act, 1888.*

[Ch. VIII.—Municipal Taxation, Sects. 146 (1)—149 (2).]

be payable by an ordinary owner of buildings or lands in the city, on account of the general tax, on a rateable value of the same amount as that fixed under subsection (2).”

*Liability for Property-taxes.*

146. (1) Property-taxes shall be leviable primarily from the actual occupier of the premises upon which the said taxes are assessed, if such occupier holds the said premises immediately from Government or from the corporation or from a fazendár.

(2) Otherwise the said taxes shall be primarily leviable as follows, namely :

(a) if the premises are let, from the lessor ;

(b) if the premises are sub-let, from the superior lessor ;

(c) if the premises are unlet, from the person in whom the right to let the same vests.

(3) But if any land has been let for any term exceeding one year to a tenant, and such tenant has built upon the land, the property-taxes assessed upon the said land and upon the building erected thereon shall be primarily leviable from the said tenant or his legal representative, whether the premises be in the occupation of the said tenant or of his legal representative, or of a sub-tenant.

147. (1) If any premises assessed to any property-tax are let, and their rateable value exceeds the amount of rents payable in respect thereof to the person

from whom, under the provisions of the last preceding section, the said tax is leviable, the said person shall be entitled to receive from his tenant the difference between the amount of the property-tax levied from him and the amount which would be leviable from him if the said tax were calculated on the amount of rent payable to him.

(2) If the premises are sub-let and their rateable value exceeds the amount of rent payable in respect thereof to the tenant by his sub-tenant, or the amount of rent payable in respect thereof to a sub-tenant by the person holding under him, the

said tenant shall be entitled to receive from his sub-tenant, or the said sub-tenant shall be entitled to receive from the person holding under him, as the case may be, the difference between any sum recovered under this section, from such tenant or sub-tenant and the amount of property-tax which would be leviable in respect of the said premises if the rateable value thereof were equal to the difference between the amount of rent which such tenant or sub-tenant receives and the amount of rent which he pays.

(3) Any person entitled to receive any sum under this section shall have, for the recovery thereof, the same rights and remedies as if such sum were rent payable to him by the person from whom he is entitled to receive the same.

148. If any person who is primarily liable for the payment of any property-tax himself pays rent to another person other than Government or the corporation in respect of the premises upon which such tax is assessed, he shall be entitled to credit in account with such other person for such sum as would be leviable on account of the said tax if the amount of the rent payable by him were the rateable value of the said premises.

*Notice of transfer, &c., of premises assessable to property-taxes.*

149. (1) Whenever the title of any person primarily liable for the payment of property-taxes on any premises to or over such premises is transferred, the person whose title is so transferred and the person to whom the same shall be transferred shall, within three months after execution of the instrument of transfer, or after its registration, if it be registered, or after the transfer is effected, if no instrument be executed, give notice of such transfer, in writing, to the commissioner.

(2) In the event of the death of any person primarily liable as aforesaid, the person to whom the title of the deceased shall be transferred, as heir or otherwise, shall give notice of such transfer to the commissioner within one year from the death of the deceased.

*The City of Bombay Municipal Act, 1888.*

[Ch. VIII.—Municipal Taxation, Sects. 150 (1)—155 (1) (b)].

150. (1) The notice to be given under the last preceding section shall be in the form, either of schedule E or schedule F, as the case may be, and shall state clearly and correctly all the particulars required by the said form.

(2) On receipt of any such notice, the commissioner may, if he thinks it necessary, require the production of the instrument of transfer, if any, or of a copy thereof obtained under section 57 of the Indian Registration Act, 1877.

151. (1) Every person primarily liable for the payment of a property-tax on any premises, who transfers his title to or over such premises without giving notice of such transfer to the commissioner as aforesaid shall, in addition to any other liability which he incurs through such neglect, continue liable for the payment of all property-taxes from time to time payable in respect of the said premises until he gives such notice, or until the transfer shall have been recorded in the commissioner's books.

(2) But nothing in this section shall be held to diminish the liability of the transferee for the said property-taxes, or to affect the prior claim of the commissioner on the premises, conferred by section 212, for the recovery of the property-taxes due thereupon.

152. (1) When any new building is erected, or when any building is rebuilt or enlarged,

or when any building which has been vacant is re-occupied,

the person primarily liable for the property-taxes assessed on the building shall within fifteen days give notice thereof, in writing, to the commissioner.

(2) The said period of fifteen days shall be counted from the date of the completion or of the occupation, whichever first occurs, of the building which has been newly erected or rebuilt, or of the enlargement, as the case may be, and, in the case of a building which has been vacant, from the date of the re-occupation thereof.

153. (1) When any building or any portion of a building, which is liable to the payment of a property-tax, is demolished or removed,

otherwise than by order of the commissioner, the person primarily liable for the payment of the said tax shall give notice thereof in writing to the commissioner.

(2) Until such notice is given, the person aforesaid shall continue liable to pay every such property-tax as he would have been liable to pay in respect of such building, if the same, or any portion thereof, had not been demolished or removed.

*Valuation of property assessable to property-taxes.*

154. (1) In order to fix the rateable value of any building or land assessable to a property-tax, there shall be deducted

from the amount of the annual rent for which such land or building might reasonably be expected to let from year to year, a sum equal to ten per centum of the said annual rent, and the said deduction shall be in lieu of all allowance for repairs or on any other account whatever.

(2) The value of any machinery contained or situate in or upon any building or land shall not be included in the rateable value of such building or land.

155. (1) To enable him to determine the rateable value of any building or land and the person primarily liable for the payment of any property-tax leviable in respect thereof, the commissioner may require the owner or occupier of such building or land, or of any portion thereof, to furnish him, within such reasonable period as the commissioner prescribes in this behalf, with information, or with a written return signed by such owner or occupier:

(a) as to the name and place of abode of the owner or occupier, or of both the owner and occupier of such building or land; and

(b) as to the dimensions of such building or land, or of any portion thereof

*The City of Bombay Municipal Act, 1888.*

[Ch. VIII.—Municipal Taxation, Sects. 155 (2)—159 (1)].

and the rent, if any, obtained for such building or land, or any portion thereof.

(2) Every owner or occupier on whom any such requisition is made shall be bound to comply with the same and to give true information or to make a true return to the best of his knowledge or belief.

(3) The commissioner may also, for the purpose aforesaid, make an inspection of any such building or land.

*Assessment-book.*

156. The commissioner shall keep a book, to be called "the Assessment-book," in which shall be entered every official year:

(a) a list of all buildings and lands in the city; distinguishing each, either by name or number, as he shall think fit;

(b) the rateable value of each such building and land determined in accordance with the foregoing provisions of this Act;

(c) the name of the person primarily liable for the payment of the property-taxes, if any, leviable on each such building or land;

(d) if any such building or land is not liable to be assessed to the general tax, the reason of such non-liability;

(e) when the rates of the property-taxes to be levied for the year have been duly fixed by the corporation and the period fixed by public notice, as hereinafter provided, for the receipt of complaints against the amount of rateable value entered in any portion of the assessment-book has expired, and, in the case of any such entry which is complained against, when such complaint has been disposed of in accordance with the provisions hereinafter contained, the amount at which each building or land entered in such portion of the assessment-book is assessed to each of the property-taxes, if any, leviable thereon;

(f) if, under section 169 or 170 a charge is made for water supplied to any building or land by measurement or the water-tax or charge for water by measurement is compounded for, or if, under section 172, the halalkhor-tax for any building or land is fixed at a special rate, the particulars and amount of such charge, composition or rate;

(g) such other details, if any, as the commissioner from time to time thinks fit to direct.

157. (1) The assessment-book shall be made in separate books, called "ward assessment-books," one for each of the wards into which the city is for the time being divided under the provisions of section 24; and each ward assessment-book may, if the commissioner thinks fit, be divided into two or more parts for such purposes and with such several designations as the commissioner shall determine.

(2) The ward assessment-books and their respective parts, if any, shall collectively constitute the assessment-book.

158. (1) When any building or land is let to two or more persons holding in severalty, the commissioner may, for the purpose of assessing such building or land to the property-taxes, either treat the whole thereof as one property or, with the written consent of the owner of such building or land, treat each several holding therein or any two or more of such several holdings together, or each floor or flat, as a separate property.

(2) When the commissioner has determined to treat all the several holdings comprised within any one building or land under this section as one property, he may, subject to any general conditions which may from time to time be prescribed by the standing committee in this behalf, at any time not later than seven days before the first day of any half-year for which an instalment of general tax will be leviable in respect of the said property, sanction a drawback of one-fifth part of the general tax so leviable.

159. (1) When the name of the person primarily liable for the payment of property-taxes in respect of any premises cannot be ascertained, it shall be sufficient to designate him in the assessment-book and in any notice which it may be necessary to serve upon the said person under this Act, "the holder" of such premises, without further description.

*The City of Bombay Municipal Act, 1883.*

[Ch. VIII.—Municipal Taxation, Sects. 159 (2)—166 (1)].

(2) If in any such case, any person in occupation of the premises shall refuse to give such information as may be requisite for determining who is primarily liable as aforesaid, such person shall himself be liable, until such information is obtained, for all property-taxes leviable on the premises of which he is in occupation.

160. (1) When the entries required by clauses (a), (b), (c) and (d) of section 156 have been completed, as far as practicable, in any ward assessment-book, the commissioner shall give public notice thereof and of the place where the ward assessment-book, or a copy of it, may be inspected.

(2) Such public notice shall be given by advertisement in the *Bombay Government Gazette* and in the local newspapers, and also by posting placards in conspicuous places throughout the ward.

161. (1) Every person who reasonably claims to be the owner or occupier of some premises entered in the assessment-book or the agent of any such owner or occupier shall be permitted, free of charge, to inspect and to take extracts from any portion of the said book which relates to the said premises.

(2) Any person not entitled under sub-section (1) to inspect and take extracts from any portion of the assessment-book free of charge, shall be permitted to do so on payment of such fee as shall from time to time be prescribed in this behalf by the commissioner, with the approval of the standing committee.

162. (1) The commissioner shall, at the time and in the manner prescribed in section 160, give public notice of a day, not being less than fifteen days from the publication of such notice, on or before which complaints against the amount of any rateable value entered in the ward assessment-book will be received in his office.

(2) In every case in which any premises have for the first time been entered in the assessment-book

as liable to the payment of property-rates, or in which the rateable value of any premises liable to such payment has been increased, the commissioner shall, as soon as conveniently may be after the issue of the public notice under sub-section (1), give a special written notice to the owner or occupier of the said premises specifying the nature of such entry and informing him that any complaint against the same will be received in his office at any time within fifteen days from the service of the special notice.

163. (1) Every complaint against the amount of any rateable value entered in the assessment-book must be made by written application to the commissioner, which shall be left at his office on or before the day or the latest day fixed in this behalf in the public or special notice aforesaid.

(2) Every such application shall set forth briefly but fully the grounds on which the valuation is complained against.

164. The commissioner shall cause all complaints so received to be registered in a book to be kept for this purpose and shall give notice, in writing, to each complainant of the day, time and place, when and whereat his complaint will be investigated.

165. (1) At the time and place so fixed, the commissioner shall investigate and dispose of the complaint in the presence of the complainant, if he shall appear, and, if not, in his absence.

(2) For reasonable cause, the commissioner may from time to time adjourn the investigation.

(3) When the complaint is disposed of, the result thereof shall be noted in the book of complaints kept under section 164, and any necessary amendment shall be made, in accordance with such result, in the assessment-book.

166. (1) When all such complaints, if any, have been disposed of, and the entries required by clause (e) of section 156 have been completed in the ward assessment-

*The City of Bombay Municipal Act, 1888.*

[Ch. VIII.—Municipal Taxation, Sects. 166 (2)—170.]

book, the said book shall be authenticated by the commissioner, who shall certify, under his signature, that except in the cases, if any, in which amendments have been made, as shown therein, no valid objection has been made to the rateable values entered in the said book.

(2) Thereupon the said ward assessment-book, subject to such alterations as may thereafter be made therein under the provisions of the next following section, shall be accepted as conclusive evidence of the amount of each property-tax leviable on each building and land in the ward in the official year to which the book relates.

167. (1) The commissioner may, upon the representation of any person concerned, or upon any other information, at any time during the official

Assessment-book may be amended by the commissioner during the official year.

year to which an assessment-book relates, amend the same by inserting therein the name of any person whose name ought to be so inserted or any premises previously omitted, or by striking out the name of any person not liable for the payment of any property-tax, or by increasing or reducing the amount of any rateable value and of the assessment based thereupon, or by making or cancelling an entry, exempting any premises from liability to any property-tax.

(2) Every such amendment shall be deemed to have been made, for the purpose of determining the liability or exemption of the person concerned in accordance with the altered entry, from the earliest day in the current official year when the circumstances justifying the amendment existed.

168. (1) It shall not be necessary to prepare a new assessment-book every official year. Subject to the provisions of sub-section (3), the commissioner may adopt the entries in the last preceding year's book, with such alterations as he thinks fit, as the entries for each new year.

(2) But public notice shall be given, in accordance with sections 160 and 162 every year, and the provisions of the said sections and of sections 163 to 167, both inclusive, shall be applicable each year.

(3) A new assessment-book shall be prepared at the least once in every four years.

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*Special provisions concerning the Water and Halalkhor Taxes.*

169. (1) The commissioner may :

(a) in such cases as the standing committee shall either generally or specially direct, instead of levying the water-tax in respect of any premises liable thereto under section 141, charge for the water supplied to such premises, by measurement, at such rate as shall from time to time be prescribed by the said committee in this behalf;

(b) with the approval of the standing committee, compound with any person for the supply of water to any premises for a renewable term of one or more years not exceeding five, on payment of a fixed periodical sum, in lieu of the water-tax or charge by measurement which would otherwise be leviable from such person in respect of the said premises.

(2) The standing committee may, for the cases in which the commissioner charges for water by measurement under clause (a), from time to time prescribe such conditions as they shall think fit, as to the use of the water and as to the charge to be paid for water consumed whilst a meter is out of order or under repair; and in each case in which a composition is made under clause (b), the said committee may prescribe such conditions as to the use of the water as they shall think fit: provided that no condition prescribed under this sub-section shall be inconsistent with this Act or with any by-law made under this Act.

(3) A person who is charged for water by measurement or who has compounded for a fixed periodical sum shall not be liable for payment of the water-tax, but any sum payable by him on account of water and not paid when it becomes due, shall be recoverable by the commissioner as if it were an arrear of water-tax.

170. If, in respect of any premises, water-tax would be leviable under this Act from the Secretary of State for India in Council or from the Trustees of the Port of Bombay, the commissioner, in lieu of levying such

Government and the Port Trust to be charged for water by measurement.

*The City of Bombay Municipal Act, 1888.*

[Ch. VIII.—Municipal Taxation, Sects. 171—176 (3).]

tax, shall charge for the water supplied to such premises, by measurement, at such rate as shall be prescribed by the standing committee in this behalf, not exceeding, in the case of the Secretary of State for India in Council, the minimum rate, and in the case of the said Trustees, the maximum rate at the time being charged under clause (a) of section 169 to any other person; and such charge shall be recoverable as provided in sub-section (3) of the said section.

171. No tax or charge of any kind shall be levied or demanded for the use of water in or from any drinking-fountain, tank, reservoir, cistern, pump, well, duct, stand-pipe or other work, used for the gratuitous supply of water to the inhabitants of the city and vesting in the corporation: provided that the use of water in or from any such work shall be limited as prescribed in sub-section (3) of section 269.

172. (1) The commissioner may, whenever he thinks fit, fix the halálkhor-tax to be paid in respect of any hotel, club or other large premises at such special rate as shall be approved by the standing committee in this behalf, either generally or in any particular case, whether the service in respect of which such tax is leviable be performed by halálkhors or by substituted means or appliances.

(2) In the case of premises in respect of which the halálkhor-tax is payable by the Secretary of State for India in Council or by the Trustees of the Port of Bombay, the commissioner shall fix the said tax at a special rate approved as aforesaid.

(3) In any such case the amount of the halálkhor-tax shall be fixed with reference to the cost or probable cost of the collection, removal and disposal, by the agency of municipal halálkhors, of excrementitious and polluted matter from the premises.

173. (1) Any person who has paid to the commissioner any water-tax or halálkhor-tax in respect of any premises, shall, if he was not himself in occupation of the

Water-tax or halálkhor-tax paid by any person may be recovered by him from the occupier of the premises for which it is paid.

said premises during the period for which he has made such payment, be entitled to receive the amount of the said payment from the person, if any, in actual occupation of the said premises for the said period.

(2) For the recovery of the said amount from the person aforesaid the person who has paid the same shall have the same rights and remedies as if such amount were rent payable to him by the person from whom he is entitled to receive the same.

*Refund of property-taxes for vacancies.*

174. When any building or land, or any portion of any premises which the commissioner has treated under section 158 as a separate property, has been vacant for not less than thirty consecutive days, the commissioner shall, subject to the provisions hereinafter contained, refund the amount of the water-tax and halálkhor-tax, if any, paid for the number of days that such vacancy lasted.

175. When any building or land, or any portion of any premises which the commissioner has treated under section 158 as a separate property, has been vacant for not less than sixty consecutive days, the commissioner shall, subject to the provisions hereinafter contained, refund two-thirds of the amount of the general tax, if any, paid for the number of days that such vacancy lasted.

176. (1) No refund of any property-tax shall be claimable from the commissioner as aforesaid, unless notice in writing of the vacancy shall have been given by the person liable for the payment of the tax, or his agent, to the commissioner.

(2) No refund shall be paid by the commissioner for any period previous to the day of the delivery of such notice.

(3) When a vacancy continues from one half-year in respect of which property-taxes are, under section 197, recoverable, into the next following half-year, no refund of any property-tax shall be claimable from the commissioner as aforesaid on account of such continued vacancy, unless notice thereof shall be given to the commissioner

Refund of general tax when and to what extent obtainable.

Refund of water and halálkhor-taxes when and to what extent obtainable.

Refund not claimable unless notice of vacancy is given to the commissioner.

*The City of Bombay Municipal Act, 1888.*

[Ch. VIII.—Municipal Taxation, Sects. 177—184.]

as aforesaid within thirty days from the commencement of the said next following half-year.

177. No refund of water-tax shall be claimable except from such time as a written application shall have been made to the commissioner to stop the water-supply to the vacant premises.

Refund of water-tax inadmissible unless application for stopping water-supply has been made.

178. No refund of general tax shall be claimable in any case in which the commissioner has sanctioned a drawback under sub-section (2) of section 158.

Refund of general tax inadmissible when drawback has been sanctioned.

179. It shall be in the discretion of the commissioner to disallow any claim for refund of any property-tax, unless application therefor is made to him in writing within thirty days after the expiry of the half-year to which the claim relates, accompanied by the bill presented to the applicant under section 200 for the amount of the tax from which the refund is claimed.

Applications for refund when and how to be made.

## TAX ON VEHICLES AND ANIMALS.

180. Except as hereinafter provided, a tax at rates not exceeding those specified in schedule G shall be levied on all vehicles and on all animals of the descriptions specified in the said schedule which are kept within the city.

Tax on what vehicles and animals to be levied.

181. The said tax shall not be leviable in respect of:

Exemptions from the tax.

(a) any vehicle or animal certified by the commissioner or the police commissioner, as the case may be, to be employed by the owner thereof for municipal or police purposes;

(b) gun-carriages, ordnance-carts or wagons, and artillery and cavalry horses;

(c) any horse which any person, exempted, by an order issued under section 3 of the Municipal Taxation Act, 1881, from the operation of any municipal tax on horses, is bound, by the regulations of the service to which he belongs, to keep;

(d) any horse exempted from municipal taxation by section twenty-five of the Indian Volunteers' Act, 1869;

(e) vehicles and animals belonging to the Secretary of State for India in Council or to the corporation;

(f) vehicles and animals which belong to the persons to whom the right of working street-tramways in the city is granted by the Bombay Tramways Act, 1874, and which are exempted from municipal taxation by the said Act;

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(g) vehicles kept by *bond fide* dealers in vehicles for sale merely, and not used;

(h) trucks used exclusively on a wharf, or in or upon any premises appertaining to a factory, workshop, warehouse or railway;

(j) hand-barrows having one wheel only and children's perambulators.

182. (1) Every person who has owned or had charge of any vehicle or animal in respect of which the tax aforesaid is leviable shall, if he has owned or had charge thereof:

Periods by which liability for the tax is determinable.

(a) for not less than thirty days in any quarter, be liable for the whole tax for that quarter;

(b) for less than thirty but more than seven days in any quarter, be liable for one-third of the whole tax for that quarter;

(c) for not more than seven days in any quarter, be exempt from liability for the tax for that quarter.

(2) When a person has owned or had charge of two or more vehicles or two or more animals of the same description, each at different periods in one quarter, he shall, for the purposes of this section, be deemed to have owned or had charge of one vehicle or one animal only, as the case may be, for the aggregate number of days in the said two or more periods.

183. If a vehicle has been under repair or standing at a carriage-maker's during the whole of any quarter, no tax shall be leviable in respect thereof for that quarter.

Vehicle under repair or standing at carriage-maker's exempt.

184. If an animal has been, during the whole of any quarter in any institution for the reception of infirm or disused animals, or if any animal

Animals unfit for use and not used, exempt.

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[Ch. VIII.—Municipal Taxation, Sects. 185—189 (2).]

certified by a veterinary surgeon to have been unfit for use during the whole of any quarter has not been used during such quarter, no tax shall be leviable in respect of such animal for that quarter.

185. The commissioner may, with the approval of the Livery-stable-keepers and others may be compounded with. standing committee, compound with any livery-stable-keeper or other person keeping vehicles or horses or bullocks for hire, or with any dealer having stables in which horses are kept for sale on commission or otherwise, for the payment of a lump sum for any period not exceeding one year at a time, in lieu of the taxes which such livery-stable-keeper or other person or dealer would otherwise be liable to pay under section 180.

186. (1) The commissioner shall keep a book, in which Vehicle and animal tax-book to be kept. shall be entered from time to time :

(a) a list of the persons liable to pay any tax under section 180;

(b) a specification of the vehicles and animals in respect of which the said persons are, respectively, liable to the said tax;

(c) the amount of tax payable by each such person and the period for which it is payable;

(d) the particulars of every composition made under section 185.

(2) Any person whose name is entered in the said book, or the agent of any such person, shall be permitted, free of charge, to inspect and take extracts from any portion of the said book which relates to such person.

(3) Any person not entitled under subsection (2) to inspect and take extracts from any portion of the said book free of charge, shall be permitted to do so on payment of such fee as shall from time to time be prescribed in this behalf by the commissioner, with the approval of the standing committee.

187. (1) In order that the said list Returns may be called for from owners of premises and persons supposed to be liable to the tax. may be prepared, the commissioner may require :

(a) the owner of any premises let to or occupied by more than one person

owning or having the charge of vehicles and animals, to furnish him with a written return signed by such owner, of the name and address of each of the said persons and of the animals and vehicles owned by or in the charge of each of the said persons kept upon such owner's premises;

(b) any person supposed to be liable to the payment of any tax on a vehicle or animal, to furnish him with a written return signed by such person and containing such information concerning the vehicles and animals, if any, owned by or in the charge of such person as the commissioner shall deem necessary.

(2) Every person on whom any such requisition is made shall be bound to comply with the same, within such reasonable period as the commissioner prescribes in this behalf, whether such person be liable to the payment of any such tax or not, and to make a true return to the best of his knowledge or belief.

188. Every person who, in any quarter Notice to be given to commissioner by a person not hitherto liable to the tax, who becomes possessed of a vehicle or animal in respect of which liability arises. for which a tax on vehicles and animals is leviable, becomes possessed of any vehicle or animal in respect of which he will be liable to the payment of the said tax, shall, if in the immediately preceding quarter he was not liable to the payment of any such tax, give notice, in writing, to the commissioner, within fifteen days after he has become possessed of such vehicle or animal, of the fact of his having become possessed thereof.

189. (1) The commissioner may make Power to inspect stables and summon persons liable to the tax. an inspection of any stable or coach-house or any place wherein he may have reason to believe that there is any vehicle or animal liable to a tax under this Act.

(2) The commissioner may, by written summons, require the attendance before him of any person whom he has reason to believe to be liable to the payment of a tax in respect of a vehicle or animal, or of any servant of any such person and may examine such person or servant as to the number and description of vehicles and animals owned by or in the charge of such person; and every person so summoned shall be bound to attend before the com-



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[Ch. VIII.—Municipal Taxation, Sects. 190 (1)—195 (3) (d).]

missioner and to give true information, to the best of his knowledge or belief, as to the said matters.

**TOLL ON VEHICLES ENTERING THE CITY FROM SALSETTE.**

190. (1) A toll at a rate not exceeding two annas each, shall be levied on all vehicles entering the city from Salsette which are not liable to the tax leviable under section 180, except vehicles of the descriptions specified in clauses (a), (b), (c), (f), and (h) of section 181.

(2) The said toll shall be leviable on each occasion that any vehicle liable thereto enters the city from Salsette.

191. (1) The driver of every vehicle in respect of which a toll is paid under the last preceding section shall be entitled to receive from the person who collects the same a ticket certifying payment thereof.

(2) The possession of any such ticket shall not, however, be deemed to exempt the person who owns or has charge of the vehicle from the tax leviable under section 180, if such vehicle is kept in the city for any such period as renders it liable to the said tax.

**TOWN-DUTIES.**

192. (1) Except as hereinafter provided, duties at rates not exceeding those respectively specified in schedule H. shall be levied in respect of the several articles mentioned in the said schedule or of so many of them as the corporation shall from year to year, in accordance with section 128, determine, when the said articles are imported from any place into the city.

(2) The said duties shall be called "town-duties."

193. The commissioner shall cause tables of the town-duties for the time being leviable, specifying the rates at which and the articles on which the same are leviable, to be printed in the English, Gujarathi, Marathi and Urdu languages and to

be affixed in a conspicuous position at every place at which the said town-duties are levied.

194. (1) No town-duty shall be leviable on any article belonging to Government which, at the time of its importation, is certified by an officer empowered by Government in this behalf to be the property of Government.

(2) If any article on which town-duty is paid is imported under a written declaration signed by the importer that such article is being imported for the purpose of fulfilling a specified contract with Government or otherwise for the use of Government, the full amount of the duty paid thereon shall be refunded, on production, at any time within six months after importation, of a certificate signed by an officer empowered by Government in this behalf certifying that the article so imported has become the property of Government.

195. (1) When any article upon which town-duty has been paid shall be exported from the city, the full amount of the duty so paid shall, subject to the provisions hereinafter contained, be refunded.

(2) Such refunds shall be paid under such rules as the commissioner, with the approval of the standing committee, shall from time to time frame in this behalf:

(3) Provided that:

(a) no refund shall be paid on any article, other than timber or flour, not exported within six months, or on any timber not exported within twelve months, from the date of its importation;

(b) a refund shall be claimable on all flour exported from the city, without proof of the importation of the same into the city, equal to seventy-five per centum of the amount of the duty at the time being leviable on the grain from which such flour has been prepared;

(c) no refund shall be paid unless the same is applied for within one month from the date of exportation;

(d) no refund shall be made of any less amount than five rupees;

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(e) no rule framed by the commissioner under this section shall have effect, unless and until it is confirmed by Government.

## SUPPLEMENTARY TAXATION.

196. Whenever the corporation determine, under section 134, to have recourse to supplementary taxation in any official year, they shall do so by increasing, for the unexpired portion of the said year, the rates at which any tax imposable under this Act is being levied or by adding to the number of articles on which town-duties are being levied, but every such increase or addition shall be made subject to the limitations and conditions on which any such tax is imposable.

## COLLECTION OF TAXES.

197. Each of the property-taxes shall be payable in advance in half-yearly instalments on each first day of April and each first day of October.

198. (1) Except as is hereinafter otherwise provided, the tax on vehicles and animals shall be payable quarterly in arrear on each first day of April and each first day of July and each first day of October and each first day of January :

(2) Provided that in the case of any public conveyance licensed by the police commissioner under Bombay Act VI of 1863 (*an Act for the regulation of public conveyances in the town, suburbs and harbour of Bombay*), the person who keeps or lets such public conveyance for hire shall be required by the said commissioner, before any license is issued to him under the said Act, to pay into the municipal office the tax leviable on the said public conveyance and the animal or animals used for the same, for the whole period for which such license is to be granted, together with the fee payable for such license.

199. Tolls on vehicles entering the city from Salsette and town-duties shall be payable on demand.

200. (1) When any property-tax or tax on vehicles and animals, other than public conveyances and the animals used therefor, or any instalment of any such tax, shall have become due, the commissioner shall, with the least practicable delay, cause to be presented to the person liable for the payment thereof a bill for the sum due.

(2) Every such bill shall specify the period for which and the premises, vehicle or animal in respect of which the tax is charged, and shall also give notice of the time within which an appeal may be preferred, as hereinafter provided, against such tax.

201. (1) All the sums due for each half-year for all or any of the three property-taxes by any one person on account of one and the same property shall be charged to such person in one bill and shall be recoverable from him in the lump : provided that nothing herein contained shall affect the liability of such person to any increased tax to which he may be assessed on account of the said property under section 167.

(2) If any one person is liable for all or any of the said taxes on account of more properties than one, it shall be competent to the commissioner to charge to such person in one or several bills, as he shall think fit, the several sums payable by him on account of such properties : provided that if such person, by written notice to the commissioner, requests to be furnished with several bills, the commissioner shall comply with such request in respect of all the said taxes for which such person becomes liable after receipt by the commissioner of his said notice.

202. (1) If the amount of tax for which any bill has been presented as aforesaid is not paid into the municipal office within fifteen days from the presentation thereof, the commissioner may cause to be served upon the person liable for the payment of the same a notice of demand in the form of schedule I, or to the like effect.

(2) For every notice of demand which the commissioner causes to be served on any person under this section, a fee of

*The City of Bombay Municipal Act, 1888.*

[Ch. VIII.—Municipal Taxation, Sects. 203—209 (4).]

such amount not exceeding one rupee as shall in each case be fixed by the commissioner shall be payable by the said person and shall be included in the costs of recovery.

203. If the person liable for the payment of the said tax do not within fifteen days from the service of the notice of demand pay the sum due, or show sufficient cause for non-payment of the same to the satisfaction of the commissioner, and if no appeal is preferred against the said tax, as hereinafter provided, such sum, with all costs of the recovery, may be levied under a warrant in the form of schedule J, or to the like effect, to be issued by the commissioner, by distress and sale of the goods and chattels of the defaulter, or if the defaulter be the occupier of any premises in respect of which a property-tax is due, by distress and sale of any goods and chattels found on the said premises.

204. The goods and chattels of any person liable for the payment of any tax, for levy of which a warrant has been issued as aforesaid, may be distrained wherever the same may be found.

205. The officer charged with the execution of a warrant of distress, issued under section 203, shall forthwith make an inventory of the goods and chattels which he seizes under such warrant, and shall at the same time give a written notice, in the form of schedule K, to the person in possession thereof at the time of seizure that the said goods and chattels will be sold as therein mentioned.

206. (1) If the warrant is not in the meantime suspended by the commissioner or discharged, the goods and chattels seized shall, after the expiry of the period named in the notice served under the last preceding section, be sold by order of the commissioner, who shall apply the proceeds or such part thereof as shall be requisite, in discharge of the sum due and of the costs of recovery.

(2) The surplus, if any, shall be forthwith credited to the municipal fund, but if the same be claimed by written application to the commissioner within one

year from the date of the sale, a refund thereof shall be made to the person in possession of the goods and chattels at the time of the seizure. Any surplus not claimed within one year as aforesaid shall be the property of the corporation.

207. For every distraint made under this Act a fee shall be charged at the rate set forth in schedule L, and the said fee shall be included in the costs of recovery.

208. The commissioner may, in his discretion, remit the whole or any part of any fee chargeable under the last preceding section or under sub-section (2) of section 202.

209. (1) If the sum due on account of any property-tax remains unpaid after a bill for the same has been duly presented to the person primarily liable for the payment thereof, and the said person be not the occupier for the time being of the premises in respect of which the tax is due, the commissioner may present a bill for the amount to the occupier of the said premises, or, if there are two or more occupiers thereof, may present a bill to each of them for such portion of the sum due as bears to the whole amount due, the same ratio which the rent paid by such occupier bears to the aggregate amount of rent paid by them both or all in respect of the said premises.

(2) If the occupier or any of the occupiers fails within fifteen days from the presentation of any such bill to pay the amount therein claimed, the said amount may be recovered from him in accordance with the foregoing provisions.

(3) No arrear of a property-tax shall be recovered from any occupier under this section, which has remained due for more than one year or which is due on account of any period for which the occupier was not in occupation of the premises on which the tax is assessed.

(4) If any sum is paid by, or recovered from, an occupier under this section, he shall be entitled to credit therefor in account with the person primarily liable for the payment of the same.

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[Ch. VIII.—Municipal Taxation, Sects. 210 (1)—214 (4).]

210. (1) If the commissioner shall at any time have reason to believe that any person from whom any sum is due on account of any property-tax or tax on vehicles and animals, or who would be liable for any sum on account of the tax on vehicles and animals if the current quarter had come to a close, is about forthwith to remove from the city, the commissioner may direct the immediate payment by such person of the sum so due or about to become due by him and cause a bill for the same to be presented to him.

(2) If, on presentation of such bill, the said person do not forthwith pay the sum due or about to become due by him, the amount shall be leviable by distress and sale in the manner hereinbefore prescribed, except that it shall not be necessary to serve upon the defaulter any notice of demand, and the commissioner's warrant for distress and sale may be issued and executed without any delay.

211. Instead of proceeding against a defaulter by distress and sale as hereinbefore provided, or after a defaulter shall have been so proceeded against unsuccessfully or with only partial success, any sum due or the balance of any sum due, as the case may be, by such defaulter, on account of a property-tax or of the tax on vehicles and animals, may be recovered from him by a suit in any court of competent jurisdiction.

212. Property-taxes due under this Act in respect of any building or land shall, subject to the prior payment of the land-revenue, if any, due to Government thereupon, be a first charge upon the said building or land and upon the goods and chattels, if any, found within or upon such building or land and belonging to the person liable for such taxes.

213. (1) Tolls on vehicles entering the city from Salsette and town-duties :

(a) may be collected under the orders of the commissioner, by municipal officers

(b) if the commissioner thinks fit, may, with the approval of the standing committee, be farmed by him for any period not exceeding one year at a time or be collected by or under the orders of any person, whom the commissioner, with the approval of the standing committee, appoints to be his agent for this purpose.

(2) The said tolls and town-duties shall be collected and refunds of town-duties shall be made at such places and be managed and controlled in such manner, as the commissioner, with the approval of the standing committee, shall from time to time direct.

214. (1) If any toll payable in respect of a vehicle entering the city from Salsette is not paid on demand, the person authorized under section 213 to collect the same may seize :

(a) any part of the contents of the vehicle in respect of which the toll is payable of sufficient value to defray the toll; or

(b) if the vehicle is empty, or the contents are of insufficient value to defray the toll, the vehicle itself.

(2) If the toll and the costs, if any, incurred on account of the seizure, remain undischarged for twenty-four hours after the seizure, the case shall be reported to the commissioner, and the commissioner shall forthwith issue a public notice, fixing some convenient time within three days after the date of the seizure for the sale by public auction of the property which has been seized.

(3) If at any time before the sale is commenced in accordance with such public notice, the person in whose possession the property was at the time it was seized shall pay to the commissioner a sum equal to double the amount of the toll due, together with all the expenses incurred on account of the non-payment of the toll and of the seizure and intended sale, the commissioner shall forthwith release the property seized.

(4) If such payment is not made, the property seized shall be sold by auction in accordance with the public notice and the proceeds shall be devoted to the discharge

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[Ch. VIII.—Municipal Taxation, Sects. 215—219.]

and of the seizure and sale. The surplus, if any, shall be forthwith credited to the municipal fund, but if the same be claimed by written application to the commissioner within one year from the date of the sale, a refund thereof shall be made to the person in whose possession the property was at the time of the seizure. Any surplus not claimed within one year as aforesaid shall be the property of the corporation.

215. Every person authorized under section 213 to collect or to refund town-duties shall have, in respect of the collection of the said duties and of paying refunds and of the confiscation of goods in connection therewith, the same powers as are conferred by any law at the time in force on the Commissioner of Customs of Bombay and the officers subordinate to him in respect of the levy of customs-duties and of the grant of drawbacks and of the confiscation of goods in connection therewith, and shall also have the same privileges and be subject to the same liabilities in respect of anything done by him in or for the purpose of collecting or refunding town-duties, as the said Commissioner of Customs and the officers subordinate to him have or are subject to, under any law at the time in force relating to customs-duties.

216. The commissioner may, with the approval of the standing committee, from time to time write off any sum due on account of any tax or of the costs of recovering any tax, which shall, in his opinion, be irrecoverable.

## APPEALS AGAINST VALUATIONS AND TAXES.

217. (1) Subject to the provisions hereinafter contained, appeals when and to whom to lie. appeals against any rateable value or tax fixed or charged under this Act shall be heard and determined by the Chief Judge of the Small Cause Court.

(2) But no such appeal shall be heard by the said chief judge, unless:

(a) it is brought within fifteen days after the accrual of the cause of complaint;

(b) in the case of an appeal against a rateable value, a complaint has previ-

ously been made to the commissioner under section 163, and such complaint has been disposed of;

(c) in the case of an appeal against any amendment made in the assessment-book under section 167 during the official year, a complaint has been made by the person aggrieved within fifteen days after he first received notice of such amendment and his complaint has been disposed of;

(d) in the case of an appeal against a tax, or in the case of an appeal made against a rateable value after a bill for any property-tax assessed upon such value has been presented to the appellant, the amount claimed from the appellant has been deposited by him with the commissioner.

218. For the purposes of the last preceding section, cause of complaint when to be deemed to have accrued. shall be deemed to have accrued as follows, namely:

(a) in the case of an appeal against a rateable value, on the day when the complaint made to the commissioner under section 163 against such value is disposed of;

(b) in the case of an appeal against any amendment made in the assessment-book, under section 167, during the official year, on the day when the complaint made to the commissioner by the person aggrieved against such amendment is disposed of;

(c) in the case of an appeal against a tax, on the day when payment thereof is demanded or when a bill therefor is presented.

219. (1) Every rateable value fixed under this Act and taxes and decisions against which no appeal to be final. shall be final, complaint is made as hereinbefore provided, and

the amount of every sum claimed from any person under this Act on account of any tax, if no appeal therefrom is made as hereinbefore provided, and

the decision of the chief judge aforesaid upon any appeal against any such value or tax,

shall be final.

(2) Effect shall be given by the commissioner to every decision of the said

*The City of Bombay Municipal Act, 1888.*

[Ch. IX.—Drains and Drainage-works, Sects. 220—226.]

chief judge on any appeal against any such value or tax.

## CHAPTER IX.

## DRAINS AND DRAINAGE-WORKS.

*Municipal Drains.*

220. All drains belonging to the corporation, — which in this Act are referred to as “municipal drains” — shall be under the control of the commissioner.

Municipal drains to be under the control of the commissioner.

221. The commissioner shall maintain and keep in repair all municipal drains and, when authorized by the corporation in this behalf, shall construct such new drains as shall from time to time be necessary for effectually draining the city.

Drains to be constructed and kept in repair by the commissioner.

222. (1) The commissioner may carry any municipal drain through, across or under any street, or any place laid out as or intended for a street, or under any cellar or vault which may be under any street, and, after giving reasonable notice in writing to the owner or occupier, into, through or under any land whatsoever within the city, or, for the purpose of outfall or distribution of sewage, without the city.

Powers for making drains.

(2) The commissioner may enter upon, and construct any new drain in the place of an existing drain in any land wherein any municipal drain has been already lawfully constructed, or repair or alter any municipal drain so constructed.

(3) In the exercise of any power under this section, as little damage as can be shall be done, and compensation shall be paid by the commissioner to any person who sustains damage by the exercise of such power

223. (1) Without the written permission of the commissioner, no building, wall or other structure shall be newly erected, and no street or railway shall be constructed over any municipal drain.

Buildings, &c., not to be erected without permission over drains.

(2) If any building, wall or other structure be so erected, or any street or railway be so constructed, the commis-

sioner may, with the approval of the standing committee, remove or otherwise deal with the same, as he shall think fit, and the expenses thereby incurred shall be paid by the person offending.

224. (1) The commissioner may enlarge, arch over or otherwise improve any municipal drain and may discontinue, close up or destroy any such drain which has, in his opinion, become useless or unnecessary:

Alteration and discontinuance of drains.

(2) Provided that the discontinuance, closing up or destruction of any drain shall be so done as to create the least practicable nuisance or inconvenience to any person, and, if by reason of any thing done under this section any person is deprived of the lawful use of any drain, the commissioner shall, as soon as may be, provide for his use some other drain as effectual as the one which has been discontinued, closed up or destroyed.

225. (1) The municipal drains shall be so constructed, maintained and kept as to create the least practicable nuisance and shall be from time to time properly flushed, cleansed and emptied.

Cleansing drains.

(2) For the purpose of flushing, cleansing and emptying the said drains, the commissioner may, when authorized by the corporation in this behalf, construct or set up such reservoirs, sluices, engines and other works as he shall from time to time deem necessary.

226. (1) Every drain in, alongside or under any street which has been or shall be constructed, whether at the cost of the municipal fund or not, for the sole use and benefit of, or which shall be continued for the sole use and benefit of, any premises adjoining or near to such street, shall be maintained and from time to time repaired, flushed, cleansed and emptied by the owner or occupier of the said premises.

Maintenance of drains kept up for the benefit of certain premises only.

(2) The commissioner may, by written notice, require the owner or occupier of the said premises to repair, flush, cleanse, empty or, with the approval of the standing committee, to take such other order with any such drain as the commissioner shall deem necessary.

*The City of Bombay Municipal Act, 1888:*

[Ch. IX.—Drains and Drainage-works, Sects. 227—230 (3).]

*Drains of private streets and drainage of premises.*

227. The owner of a private street shall be entitled to connect the drain of such street with a municipal drain, subject to the following conditions, (namely):

Power to connect drains of private streets with municipal drains.

(a) Before commencing to construct such drain, the owner of the street shall submit to the commissioner a plan of the street, bearing the signature of a licensed surveyor in token of its having been made by him or under his supervision, and drawn to such a convenient scale as the commissioner shall require, and there shall be shown on such plan the position, course and dimensions of the proposed drain, with a section or sections thereof, and such other particulars in relation thereto as the commissioner shall deem necessary and require, and no such drain shall be proceeded with, without the approval in writing or contrary to the directions of the commissioner.

(b) The drain of such private street shall, at the expense of the owner of the street, be constructed of such size, material and description and be branched into the municipal drain in such manner and form of communication in all respects, as the commissioner, with the approval of the standing committee, shall direct.

(c) The commissioner may, if he thinks fit, construct such part of such drain and such part of the work necessary for branching the same into the municipal drain as shall be in or under any public street or place vesting in the corporation and, in such case, the expenses incurred by the commissioner shall be paid by the owner of the private street.

228. The owner or occupier of any premises shall be entitled to cause his drain to empty into a municipal drain, provided that he first obtains the written permission of the commissioner and that he complies with such conditions as the commissioner prescribes as to the mode in which and the superintendence under which the communications between drains not belonging to the corporation and municipal drains are to be made.

Power of owners and occupiers of premises to drain into municipal drains.

229. No person shall, without complying with the provisions of section 227 or 228, as the case may be, make or cause to be made any connection of a drain

Connections with municipal drains not to be made except in conformity with section 227 or 228.

belonging to himself or to some other person with any municipal drain; and the commissioner may, with the approval of the standing committee, close, demolish, alter or re-make any such connection made in contravention of this section and the expenses incurred by the commissioner in so doing shall be paid by the owner of the street or the owner or occupier of the premises for the benefit of which the connection was made, or by the person offending.

230. (1) If it shall appear to the commissioner that the only means or the most convenient means, by which the owner or occupier of any premises can

Rights of owners and occupiers of premises to carry drains through land belonging to other persons.

cause his drain to empty into a municipal drain, is by carrying the same into, through or under any land belonging to some person other than the said owner or occupier, the commissioner, after giving to the owner of the land a reasonable opportunity of stating any objection, may, with the approval of the standing committee, if no objection is raised, or if any objection which is raised appears to him invalid or insufficient, by an order in writing, authorize the said owner or occupier to carry his drain into, through or under the said land, in such manner as he shall think fit to allow.

(2) Every such order, bearing the signature of the commissioner, shall be a complete authority to the person in whose favour it is made, or to any agent or person employed by him for this purpose, after giving to the owner of the land reasonable written notice of his intention so to do, to enter upon the said land with assistants and workmen, at any time between sunrise and sunset, and to execute the necessary work.

(3) Subject to all other provisions of this Act, the owner or occupier of any premises, or any agent or person employed by him for this purpose, may, after giving to the owner of any land, wherein a drain has been already lawfully con-

*The City of Bombay Municipal Act, 1858.*

[Ch. IX.—Drains and Drainage-works, Sect. 230 (4)—233 (a).]

structed for the drainage of his said premises, reasonable written notice of his intention so to do, enter upon the said land with assistants and workmen, at any time between sunrise and sunset, and construct a new drain in the place of the existing drain or repair or alter any drain so constructed.

(4) In executing any work under this section, as little damage as can be shall be done, and the owner or occupier of premises by whom or in whose behalf the work is done shall :

(a) cause the work to be executed with the least practicable delay ;

(b) fill in, re-instate and make good, at his own cost and with the least practicable delay, the ground or portion of any building or other construction, opened, broken up or removed for the purpose of executing the said work ;

(c) pay compensation to any person who sustains damage by the execution of the said work.

(5) If the owner of any land, into, through or under which a drain has been carried under this section, whilst such land was unbuilt upon, shall, at any time afterwards, desire to erect a building on such land, the commissioner shall, with the approval of the standing committee, by written notice, require the owner or occupier of the premises for the benefit of which such drain was constructed, to close, remove or divert the same in such manner as shall be approved by the said committee, and to fill in, re-instate and make good the land as if the drain had not been carried into, through or under the same : provided that no such requisition shall be made, unless, in the opinion of the standing committee, it is necessary or expedient, in order to admit of the construction of the proposed building or the safe enjoyment thereof, that the drain be closed, removed or diverted.

231. Where any premises are, in the opinion of the commissioner, without sufficient means of effectual drainage and a municipal drain or some place legally set apart for the discharge of drainage, is situated at a distance not exceeding one hundred feet from some part of the said premises, the commissioner may, by written notice,

require the owner or occupier of the said premises :

(a) to make a drain of such material, size and description and laid at such level and with such fall and outlet as may appear to the commissioner necessary, emptying into such municipal drain or place aforesaid ;

(b) to provide and set up all such appliances and fittings as may appear to the commissioner necessary for the purposes of gathering and receiving the drainage from, and conveying the same off the said premises and of effectually flushing such drain and every fixture connected therewith ;

(c) to remove any existing drain, or other appliance or thing used or intended to be used for drainage, which is injurious to health.

232. (1) Where any premises are, in the opinion of the commissioner, without sufficient means of effectual drainage, but no municipal drain or such place as aforesaid is situated at a distance not exceeding one hundred feet from some part of the said premises, the commissioner may, by written notice, require the owner or occupier of the said premises to make a drain emptying into a covered cesspool.

(2) And the commissioner may in like manner require any such drain and, if no suitable cesspool already exists, any such cesspool to be of such materials, size and description, and to be made at such level and with allowance for such fall, as may appear to him to be necessary.

233. (1) Where a drain connecting any premises with a municipal drain is sufficient for the effectual drainage of the said premises and is otherwise unobjectionable, but is not, in the opinion of the commissioner, adapted to the general drainage system of the city, the commissioner, with the approval of the standing committee, may :

(a) subject to the provision of subsection (2), close, discontinue or destroy the said drain and cause any work necessary for that purpose to be done ;



*The City of Bombay Municipal Act, 1888.*

[Ch. IX.—Drains and Drainage-works, Sect. 233 (b)—238 (2).]

(b) direct that the said drain shall, from such date as he prescribes in this behalf, be used for sullage, excrementitious matter and polluted water only or for rain-water and unpolluted subsoil water only, and, by written notice, require the owner or occupier of the premises to make a new and entirely distinct drain for rain-water and unpolluted subsoil water or for sullage, excrementitious matter and polluted water, as the case may be.

(2) No drain may be closed, discontinued or destroyed, by the commissioner under clause (a), except on condition of his providing another drain as effectual for the drainage of the premises and communicating with any municipal drain which the commissioner thinks fit; and the expenses of the construction of any drain so provided by the commissioner and of any work done under clause (a) shall be paid by the commissioner.

(3) Any requisition made by the commissioner under clause (b) may embrace any detail specified in clause (a) or clause (b) of section 231.

234. (1) It shall not be lawful newly to erect any building, or to rebuild any building, or to occupy any building newly erected or rebuilt, unless and until:

(a) a drain be constructed, of such size, materials and description, at such level and with such fall, as shall appear to the commissioner to be necessary for the effectual drainage of such building;

(b) there have been provided for and set up in such building and in the premises appurtenant thereto, all such appliances and fittings as may appear to the commissioner to be necessary for the purposes of gathering and receiving the drainage from, and conveying the same off the said building and the said premises and of effectually flushing the drain of the said building and every fixture connected therewith.

(2) The drain to be constructed as aforesaid shall empty into a municipal drain or into some place legally set apart for the discharge of drainage, situated at a distance not exceeding one hundred feet from such building; but if no such drain or place is within that distance, then such drain

shall empty into such cesspool as the commissioner directs.

235. No person shall, except with the permission of the commissioner, pass or permit to be passed any excrementitious matter into any cesspool made or used under section 232 or section 234, or into any drain communicating with any such cesspool.

236. Every owner of a drain connected with a municipal drain shall be bound to allow the use of it to others or to admit other persons as joint owners thereof on such terms as may be prescribed under section 238.

237. Any person desiring to drain his premises into a municipal drain, through a drain of which he is not an owner, may make a private arrangement with the owner for permitting his use of the drain or may apply to the commissioner for authority to use such drain or to be declared joint owner thereof.

238. (1) On receipt of any such application, the commissioner, after giving the owner of the drain a reasonable opportunity of stating any objection thereto, may, with the approval of the standing committee, if no objection is raised or if any objection which is raised appears to him invalid or insufficient, by an order in writing, either authorize the applicant to use the drain or declare him to be a joint owner thereof, on such conditions as to the payment of rent or compensation and as to connecting the drain of the applicant with the drain to which his application refers and as to the respective responsibilities of the parties for maintaining, repairing, flushing, cleaning and emptying the joint drain, or otherwise, as may appear to him equitable.

(2) Every such order bearing the signature of the commissioner shall be a complete authority to the person in whose favour it is made, or to any agent or person employed by him for this purpose, after

*The City of Bombay Municipal Act, 1888.*

[Ch. IX.—Drains and Drainage-works, Sects. 238 (a)—244 (a).]

giving or tendering to the owner of the drain the compensation or rent specified in the said order and otherwise fulfilling, as far as possible, the conditions of the said order, and after giving to the owner of the drain reasonable written notice of his intention so to do, to enter upon the land in which the said drain is situate, with assistants and workmen, at any time between sunrise and sunset, and, subject to all provisions of this Act, to do all such things as may be necessary for :

(a) connecting the two drains ; or

(b) renewing, repairing or altering the connection ; or

(c) discharging any responsibility attaching to the person in whose favour the commissioner's order is made for maintaining, repairing, flushing, cleaning or emptying the joint drain or any part thereof.

(3) In respect of the execution of any work under sub-section (2), the person in whose favour the commissioner's order is made shall be subject to the same restrictions and liabilities which are specified in sub-section (4) of section 230.

239. Whenever it is provided in this chapter that steps shall or may be taken for the effectual drainage of any premises, it shall be competent to the commissioner to require that there shall be one drain for sullage, excrementitious matter and polluted water and another and an entirely distinct drain for rain-water or unpolluted subsoil water or for both rain-water and unpolluted subsoil water, each emptying into separate municipal drains or other suitable places.

240. Except with the written permission of the commissioner, and in conformity with such conditions as shall be prescribed by the standing committee, either generally or specially, in this behalf, no drain shall be so constructed as to pass beneath any part of a building.

241. No person shall construct a cesspool beneath any part of a building used or intended to be used for human habitation or in which any person may be or may be intended to

be employed in any manufacture, trade or business ;

nor, within twenty feet of any well, spring, or tank, nor, except with the written permission of the commissioner, within twenty feet of any cistern, main, pipe or other work containing or carrying water for drinking or other domestic purpose, or for manufacturing drinks for the use of man.

242. All drains, ventilation-shafts and pipes and all appliances and fittings connected with drainage-works constructed, erected or set up at the charge of the municipal fund upon premises not belonging to the corporation, whether before or after the passing of this Act, and whether for the use of the owner or occupier of the said premises or not, shall, unless the corporation has otherwise determined or shall at any time otherwise determine, vest and be deemed to have always vested, in the corporation.

243. (1) Every drain and cesspool, whether belonging to the corporation or to any other person, shall be provided with proper traps and coverings and with proper means of ventilation.

(2) The commissioner may, by written notice, require the owner of any drain or cesspool not belonging to the corporation to provide and apply to the said drain or cesspool such trap and covering and such means of ventilation as would be provided and applied if such drain or cesspool belonged to the corporation.

244. (1) For the purpose of ventilating any drain or cesspool, whether belonging to the corporation or to any other person, the commissioner may erect upon any premises or affix to the outside of any building, or to any tree, any such shaft or pipe as shall appear to the commissioner necessary :

(2) Provided that any shaft or pipe so erected or affixed shall :

(a) be carried at least ten feet higher than any sky-light or window situated

*The City of Bombay Municipal Act, 1888.*

[Ch. IX.—Drains and Drainage-works, Sects. 244 (b)—248.]

within a distance of twenty feet therefrom;

(b) if the same be affixed to a wall supporting the eave of a roof, be carried at least five feet higher than such eave;

(c) be erected or affixed so as to create the least practicable nuisance or inconvenience to the inhabitants of the neighbourhood;

(d) be removed by the commissioner to some other place, if at any time the owner of the premises, building or tree upon or to which the same has been erected or affixed, is desirous of effecting any change in his property, which either cannot be carried out, or cannot, without unreasonable inconvenience, be carried out, unless the shaft or pipe is removed.

(3) If the commissioner declines to remove a shaft or pipe under clause (d), the owner of the premises, building or tree, upon or to which the same has been erected or affixed, may apply to the Chief Judge of the Small Cause Court; and the said chief judge may, after such inquiry as he thinks fit to make, direct the commissioner to remove the shaft or pipe, and it shall be incumbent on the commissioner to obey such order.

*Disposal of Sewage.*

245. The commissioner may cause all or any municipal drains to empty into the sea or other place, whether within or without the city and dispose of the sewage at any place, whether within or without the city, and in any manner, which he shall deem suitable for such purpose; Provided that—

(a) the commissioner shall not cause any municipal drain to empty into any place into which a municipal drain has not heretofore emptied or dispose of sewage at any place or in any manner at or in which sewage has not heretofore been disposed of, without the sanction of the corporation;

(b) any power conferred by this section shall be exercised in such manner as to create the least practicable nuisance;

(c) no municipal drain shall be made to empty into any place, and no sewage

shall be disposed of at any place or in any manner which Government shall think fit to disallow.

246. (1) For the purpose of receiving, storing, disinfecting, distributing or otherwise disposing of sewage, the commissioner may, when authorized by the corporation in this behalf:

(a) construct any work within or without the city;

(b) purchase, or take on lease any land, building, engine, material or apparatus, either within or without the city;

(c) enter into an arrangement with any person, for any period not exceeding twenty years, for the removal or disposal of sewage:

(2) Provided that any power conferred by this section shall be exercised in such manner as to cause the least practicable nuisance.

*Water-closets, Privies, Urinals, &c.*

247. It shall not be lawful newly to erect any building or to rebuild any building without a sufficient water-closet, or privy and urinal.

New buildings to be supplied with sufficient privy accommodation.

248. (1) If it appears to the commissioner that any premises are without a water-closet or privy or urinal, or that the existing water-closet or privy or urinal available for the occupiers of any premises is insufficient, inefficient or, for sanitary reasons, objectionable, the commissioner shall, by written notice, require the owner of such premises to provide a water-closet, privy or urinal or an additional water-closet, privy or urinal, as the case may be, to his satisfaction:

(2) Provided that where a water-closet, privy or urinal has been and is used in common by the occupiers of two or more premises, or, if in the opinion of the commissioner, a water-closet, privy or urinal may be so used and is sufficient for all the occupiers of the two or more premises using or intending to use the same, he need not require a separate water-closet or privy or urinal to be provided on or for each of the said premises.

*The City of Bombay Municipal Act, 1888.*

[Ch. IX.—Drains and Drainage-works, Sects. 249 — 253.]

249. Where it appears to the commissioner that any premises are, or are intended to be used as a market, railway-station, dock, wharf, or other place of public resort, or as a place in which persons exceeding twenty in number are employed in any manufacture, trade or business or as workmen or labourers, the commissioner may, by written notice, require the owner or occupier of the said premises to construct a sufficient number of water-closets or latrines or privies and urinals for the separate use of each sex.

250. (1) The owner or occupier of any premises on which there is a privy shall:

(a) have between such privy and any building or place used or intended to be used for human habitation, or in which any person may be or may be intended to be employed in any manufacture, trade or business, an air-space of at least three feet in width and open to the sky;

(b) have such privy shut off by a sufficient roof and wall, or fence, from the view of persons dwelling in the neighbourhood or passing by;

(c) unless and except for such period as he shall be permitted by the commissioner, under the power next hereinafter conferred, to continue any existing door or trap-door, close up and not keep any door or trap-door in such privy opening on to a street:

(2) Provided that the commissioner may permit the continuance for such period as he may think fit of any existing door or trap-door in a privy opening on to a street, if a nuisance is not thereby created.

(3) Provided also that clause (a) shall not be deemed to apply to any privy in existence when this Act comes into force, unless:

(d) there is space available on the premises of the owner or occupier for the erection of a new privy conformably to the said clause; and

(e) the existing privy can be removed and a new one erected as aforesaid, without destroying any portion of a permanent building other than the existing privy.

251. The owner or occupier of any premises on which there is a water-closet shall:

(a) have such water-closet divided off from any part of a building or place used or intended to be used for human habitation, or in which any person may be or may be intended to be employed in any manufacture, trade or business, by such means as the commissioner shall deem sufficient;

(b) have such water-closet in such a position that one of its sides at the least shall be an external wall;

(c) have the seat of such water-closet placed against an external wall;

(d) cause such water-closet to be provided with such means of constant ventilation as the commissioner shall deem adequate, by a window or other aperture in one of the walls of such water-closet opening directly into the external air, or by an air-shaft or by some other suitable method or appliance:

(e) have such water-closet supplied by a supply-cistern and flushing apparatus and fitted with a soil-pan or receiver and such other appliances of such materials, size and description as the commissioner shall deem necessary: provided always that a cistern from which a water-closet is supplied shall not be used, or be connected with another cistern which is used, for supplying water for any other purpose.

252. The commissioner shall provide and maintain, in proper and convenient situations and on sites vesting in the corporation, water-closets, latrines, privies and urinals and other similar conveniences for public accommodation.

*Inspection.*

253. All drains, ventilation-shafts and pipes, cesspools, house-gullies, water-closets, privies, latrines and urinals which do not belong to the corporation or which have been constructed, erected or set up at the charge of the municipal fund on premises not belonging to the corporation, for the use or benefit of the

*The City of Bombay Municipal Act, 1888.*

[Ch. IX.—Drains and Drainage-works, Sects. 254—258 (b).]

owner or occupier of the said premises, shall be open to inspection and examination by the commissioner.

254. For the purpose of such inspection and examination, the commissioner may cause the ground or any portion of any drain or other work exterior to a building, or, with the approval of the standing committee, any portion of a building, which he shall think fit, to be opened, broken up or removed: Provided that in the prosecution of any such inspection and examination, as little damage as can be, shall be done.

255. If upon any such inspection and examination as aforesaid, it shall be found that the drain, ventilation-shaft or pipe, cesspool, house-gully, water-closet, privy, latrine or urinal examined is in proper order and condition, and that none of the provisions of this chapter has been contravened in respect of the construction or maintenance thereof, and that no encroachment has been made thereupon, the ground or portion of any building, drain or other work, if any, opened, broken up or removed for the purpose of such inspection and examination shall be filled in, re-instated and made good by the commissioner.

256. But if it shall be found that any drain, ventilation-shaft or pipe, cesspool, house-gully, water-closet, privy, latrine or urinal so examined is not in good order or condition, or has been repaired, changed, altered or encroached upon, or except when the same has been constructed by or under the order of the commissioner, if it has been constructed in contravention of any of the provisions of this chapter or of any enactment at the time in force,

the expenses of the inspection and examination shall be paid by the owner of the premises, and the said owner shall fill in, re-instate and make good the ground, or portion of any building, drain or other work opened, broken up or removed for the purpose of such inspection and examination, at his own cost.

257. (1) When the result of the inspection and examination is as described in the last preceding section, the commissioner may, by written notice, require the owner of the premises in which the drain, ventilation-shaft or pipe, cesspool, house-gully, water-closet, privy, or urinal is situate:

(a) to close or remove the same or any encroachment thereupon; or

(b) to renew, repair, cover or recover, trap, ventilate, pave and pitch, flush, cleanse or take such other order with the same as he shall think fit to direct, and to fill in, re-instate and make good the ground or portion of any building, drain or other work opened, broken up or removed for the purpose of the inspection and examination aforesaid.

(2) In any such case as aforesaid, the commissioner may forthwith and without notice, stop up or demolish any drain by which sullage, excrementitious matter or polluted water is carried through, from, into, or upon any premises in contravention of any of the provisions of this chapter: and all expenses incurred by the commissioner in so doing shall be paid by the owner of the premises.

*General Provisions.*

258. No person shall:

(a) in contravention of any of the provisions of this chapter, or of any notice issued or direction given under this chapter or without the written permission of the commissioner, in any way alter the fixing, disposition or position of, or construct, erect, set up, renew, rebuild, remove, obstruct, stop up, destroy or change any drain, ventilation-shaft or pipe, cesspool, water-closet, privy, latrine, or urinal, or any trap, covering or other fitting or appliance connected therewith;

(b) without the written permission of the commissioner, renew, rebuild, or unstop any drain, ventilation-shaft or pipe, cesspool, water-closet, privy, latrine or urinal, or any fitting or appliance, which has been or has been ordered to be discontinued, demolished

*The City of Bombay Municipal Act, 1888.*

[Ch. IX.—Drains and Drainage-works, Sect. 258 c—260 (2). Ch. X.—Water-supply, Sects. 261 & 262.]

or stopped up under any of the provisions of this chapter ;

(c) without the written permission of the commissioner, make any encroachment upon or in any way injure or cause or permit to be injured, any drain, cess-pool, house-gully, water-closet, privy, latrine or urinal ;

(d) drop, pass or place, or cause or permit to be dropped, passed or placed into or in any drain, any brick, stone, earth, ashes, or any substance or matter by which or by reason of the amount of which such drain is likely to be obstructed ;

(e) pass, or permit or cause to be passed into any drain provided for a particular purpose, any matter or liquid for the conveyance of which such drain has not been provided ;

(f) cause or suffer to be discharged into any drain from any factory, bake-house, distillery, workshop or workplace or from any building or place in which steam, water or mechanical power is employed, any hot water, steam, fumes, or any liquid which would prejudicially affect the drain or the disposal by sale or otherwise of the sewage conveyed along the drain or which would, from its temperature or otherwise, be likely to create a nuisance.

259. (1) On the written request of any person who is required under any of the provisions of this chapter to supply any materials or fittings or to do any work, the commissioner may, in such person's behalf, supply the necessary materials or fittings, or cause the necessary work to be done, but he shall not do so in any case to which the provisions of section 493 or 495 will not apply, unless a deposit is first of all made by the said person of a sum which will, in the opinion of the commissioner, suffice to cover the cost of the said materials, fittings and work.

When materials and work may be supplied and done under this chapter for any person by the commissioner.

(2) The commissioner shall not permit any work which any person is required to do under any of the provisions of this chapter to be done except through the agency of a licensed plumber.

260. (1) The commissioner may, if he thinks fit, cause any work described in sections 230, 231, 238, 256 or 257 to be executed by municipal or other agency under his own orders, without first of all giving the person by whom the same would otherwise have to be executed the option of doing the same.

(2) The expenses of any work so done shall be paid by the person aforesaid, unless the corporation shall, by a general or special order or resolution, sanction, as they are hereby empowered to sanction, the execution of such work at the charge of the municipal fund.

Commissioner may execute certain works under this chapter without allowing option to persons concerned of executing the same.

Expenses in such cases by whom to be paid.

## CHAPTER X.

## WATER-SUPPLY.

*Construction and maintenance of municipal waterworks.*

261. For the purpose of providing the city with a supply of water proper and sufficient for public and private purposes, the commissioner, when authorized by the corporation in this behalf, may :

(a) construct and maintain waterworks, either within or without the city, and do any other necessary acts ;

(b) purchase or take on lease any waterwork or any water or right to store, or to take and convey water, either within or without the city ;

(c) enter into an arrangement with any person for a supply of water.

262. The commissioner shall manage all waterworks belonging to the corporation—and all which waterworks are in this Act referred to as "municipal water-works"—and maintain the same in good repair and efficient condition, and shall cause all such alterations and extensions to be from time to time made in the said water-works as shall be necessary or expedient for improving the said works.

Municipal water-works to be managed and kept in repair by the commissioner.

*The City of Bombay Municipal Act, 1888.*

[Ch. X.—Water-supply, Sects. 263 (1)—268 (2).]

263. (1) The commissioner and any person appointed by Government under section 264 in this behalf, may, for the purpose of inspecting or repairing or executing any work in, upon or in connection with any municipal waterwork, at all reasonable times :

(a) enter upon and pass through any land, within or without the city, adjacent to or in the vicinity of such waterwork, in whomsoever such land may vest ;

(b) convey into and through any such land all necessary materials, tools and implements.

(2) In the exercise of any power conferred by this section, as little damage as can be shall be done, and compensation for any damage which may be done in the exercise of any of the said powers shall be paid by the commissioner, or, if any person appointed under section 264 by Government has caused the damage, by Government.

264. Any person appointed by Government in this behalf shall at all reasonable times have liberty to enter upon and inspect any municipal waterwork.

265. The commissioner shall have the same powers and be subject to the same restrictions for carrying, renewing and repairing water-mains, pipes and ducts within or without the city as he has and is subject to under the provisions hereinbefore contained, for carrying, renewing and repairing drains within the city.

266. The commissioner shall cause fire-hydrants and all necessary works, machinery and assistance for supplying water in case of fire to be provided and maintained ; and shall have painted or marked on the buildings and walls or in some other conspicuous manner, within the streets, words or marks near to such hydrants to denote the situation thereof, and shall cause a hydrant-key to be deposited at each place within the city where a municipal fire-engine is kept, and do such

other things for the purpose aforesaid as he shall deem expedient.

267. (1) Except with the sanction of the corporation, and, in the case of the Vohár waterworks, of Government, or, for the purposes of section 262, under the authority of the commissioner, no person shall :

Prohibition of building and other acts which would injure sources of water-supply.

(a) erect any building for any purpose whatever within the limits of the water-shed of any lake or reservoir from which a supply of water is derived for any municipal waterwork ;

(b) extend, alter or apply to any purpose different to that to which the same has been heretofore applied, any building already existing within the said limits ;

(c) carry on, within the said limits, any operation of manufacture, trade or agriculture in any manner, or do any act whatsoever, whereby injury may arise to any such lake or reservoir or to any portion thereof, or whereby the water of any such lake, tank or reservoir may be fouled or rendered less wholesome.

(2) The limits of the water-shed of the Vohár lake shall, for the purposes of this section, be deemed to be the limits defined in a plan marked "B," authenticated by the signatures of the Governor and Members of Council, and deposited in the office of the Secretary to the Government of Bombay.

268. (1) Without the written permission of the commissioner, no building, wall or other structure shall be newly erected and no street or railway shall be constructed over any municipal water-main.

(2) If any building, wall or other structure be so erected or any street or railway be so constructed, the commissioner may, with the approval of the standing committee, cause the same to be removed or otherwise dealt with as to him shall appear fit, and the expenses thereby incurred shall be paid by the person offending.

*The City of Bombay Municipal Act, 1888.*[Ch. X — *Water-supply*, Sects 269 (1)—272.]*Public gratuitous water-supply.*

269. (1) All existing public drinking-fountains, tanks, reservoirs, cisterns, pumps, wells, ducts, and works for the supply of water for the gratuitous use of the inhabitants of the city shall vest in the corporation and be under the control of the commissioner.

(2) The commissioner may maintain the said works and provide them with water, and, when authorized by the corporation in this behalf, may construct any other such works for supplying water for the gratuitous use of the inhabitants of the city :

(3) Provided that water carried away by any of the inhabitants from any such work shall be taken only for his private use and not for sale, and shall not, except with the written permission of the commissioner, be carried away in a cask, cart, pakhál or masak.

(4) The commissioner may temporarily, and, with the approval of the corporation, permanently close any of the said works, either entirely or partially.

(5) In case any such work permanently closed, either entirely or partially, by the commissioner, the site thereof, or of the portion thereof which is so closed, and the materials of the same may be disposed of as the property of the corporation: provided that if any such work, which is permanently closed, either entirely or partially, was a gift to the public by some private person, the said site and materials or the proceeds of the sale thereof shall, unless by reason of their value being insignificant or for other sufficient reason, the corporation think fit to otherwise direct, be applied to or towards some local work of public utility bearing the name of such person or to or towards any such local work, which shall be approved by the corporation and by the heirs or other representatives, if any, of the said person.

270. (1) The commissioner may assign and set apart each of the said works and the water therein for use by the public for such purpose only as he shall think fit,

and shall cause to be indicated by a notice affixed on a conspicuous spot on or near each such work, the purpose for which the same is so assigned and set apart.

(2) No person shall make use of any such work or of any water therein for any purpose other than the purpose for which the same has been so assigned or set apart.

*Private water-supply.*

271. (1) Communication-pipes for conveying to any premises a private supply of water from a water-main or other municipal waterwork shall not ordinarily be connected with the main or other waterwork, except on the written application or with the written assent of the owner of the premises, or of the person primarily liable for the payment of property-taxes on the said premises.

(2) But if it shall appear to the commissioner that any premises, situate within any portion of the city in which a public notice has been given by the commissioner under clause (b) of section 141, are without a proper supply of pure water, the commissioner shall, by written notice, require the owner of the said premises, or the person primarily liable for the payment of property-taxes thereon, to obtain a supply from a municipal waterwork adequate to the requirements of the persons usually occupying or employed upon the said premises, and to provide communication-pipes and do all such works as may be necessary for that purpose.

272. Communication-pipes and all fittings and works necessary for making connection with any municipal waterwork or for conveying a private supply of water from any municipal waterwork into any premises shall be procured and executed, subject to the inspection and to the satisfaction of the commissioner, at the cost of the person who obtains the supply.



The City of Bombay Municipal Act, 1888.

[Ch. X.—Water-supply, Sects. 273—279 (1).]

273. No communication-pipe shall be laid, except with the written permission of the commissioner, and no connection with any municipal waterwork shall be made except by a municipal officer or servant empowered by the commissioner in this behalf, nor until such municipal officer as the commissioner appoints in this behalf shall have certified that the communication-pipes and all necessary fittings and works have been laid, applied and executed in a satisfactory manner.

274. (1) The commissioner may, whenever it shall appear to him to be necessary, by written notice require that any premises furnished with a private water-supply from any municipal waterwork, shall, within a reasonable period which shall be prescribed in the said notice, be provided with a storage-cistern of such size, material, quality and description and with such fittings and placed in such position as he thinks fit.

(2) The commissioner shall also from time to time prescribe the size, material, quality, description and position of the pipes, taps, cocks and other fittings to be employed for the purposes of any connection with, or of any communication from, any municipal waterwork, and no such connection or communication shall be made by any person otherwise than as so prescribed.

275. It shall be incumbent on the owner or occupier of any premises to which a private water-supply is furnished from any municipal waterwork, to keep in efficient repair every pipe conveying water from the said waterwork to such premises and every meter for measuring water, not being a municipal meter, and every tap, cock or other fitting and every storage-cistern in or connected with any such pipe, so as effectually to prevent the water from running to waste.

276. (1) Where water is supplied by measurement, the commissioner may either provide a meter and charge the con-

sumer for the same such rent as shall from time to time be prescribed in this behalf by the standing committee, or may permit the consumer to provide a meter of his own of such size, material and description as the commissioner shall approve for this purpose.

(2) The commissioner shall at all times keep all meters and other instruments for measuring water, let by him for hire to any person, in proper order for correctly registering the supply of water, and in default of his so doing, such person shall not be liable to pay rent for the same during such time as such default continues.

277. Where water is supplied by measurement, the register of meter to be evidence of the meter or other instrument for measuring water shall be *prima facie* evidence of the quantity consumed.

*Inspection.*

278. (1) The commissioner may make an inspection of any premises, to which a private water-supply is furnished by the corporation in order:

(a) to remove, test, examine and replace any meter for measuring water; or

(b) to examine the communication-pipes, and the taps, cocks and other fittings thereof and the storage-cisterns connected therewith; or

(c) to see if there be any waste or misuse of water.

(2) The commissioner may, by written notice, require the owner or occupier of the premises to remedy any defect which shall be found to exist in any such meter, not being a municipal meter let to him for hire, or in any such communication-pipe, tap, cock or other fitting or cistern.

*Cutting off private water-supply.*

279. (1) The commissioner may, with the sanction of the standing committee, cut off the connection between any municipal waterwork and any premises to which a private water-supply is furnished by the

Provision of meters when water is supplied by measurement.

Power to cut off private water-supply or to turn off water.

*The City of Bombay Municipal Act, 1888.*

[Ch. X.—Water-supply, Sects. 279 (1) (a)—283 (2).]

corporation or turn off the water from such premises in any of the following cases, namely:

(a) in default of payment of any instalment of water-tax or of any sum due for water within fifteen days after a bill for such tax or sum has been duly presented;

(b) if the owner or occupier of the premises neglects, within the period prescribed in this behalf in any notice given under sub-section (1) of section 274, to comply with any requisition made to him by the commissioner regarding the provision of a storage cistern;

(c) if the owner or occupier of the premises fails, within the period prescribed in this behalf in any notice given under sub-section (2) of section 278, to put any such cistern or any pipe conveying water from any municipal waterwork or any tap, cock, or other fitting thereof into good repair, so as effectually to prevent the water from running to waste;

(d) if, after receipt of a written notice from the commissioner requiring him to refrain from so doing, the owner or occupier of the premises continues:

(i) to use the water, or to permit the same to be used in contravention of any by-law made under this Act or of any condition prescribed under sub-section (2) of section 169;

(ii) when payment for the water is not made by measurement, to permit any person not residing on premises in respect of which water-tax is paid, to carry away from such owner's or occupier's premises water derived from the municipal water-work;

(e) if the owner or occupier of the premises wilfully or negligently injures or damages his meter or any pipe conveying water from any municipal waterwork.

(2) The expense of cutting off the connection or of turning off the water in any such case as aforesaid shall be paid by the owner or occupier of the premises.

280. No person to whom water is supplied by measurement or on payment of a fixed periodical sum shall contravene any

Conditions as to use of water not to be contravened.

condition prescribed under sub-section (2) of section 169 for the use of such water or permit any such condition to be contravened.

281. No water-pipe shall be laid in a drain or on the surface of an open channel or house-gully or within twenty feet of a cesspool or in any position where the pipe is likely to be injured or the water therein polluted; and no well or tank and, except with the consent of the commissioner, no cistern shall be constructed within twenty feet of a cesspool.

282. (1) No person shall fraudulently dispose of any water supplied to him by the corporation.

Prohibition of fraudulent and unauthorized use of water.

(2) No person to whom a private supply of water is furnished by the corporation shall, except when the water supplied is charged for by measurement, permit any person who does not reside on premises in respect of which water-tax is paid, to carry away water from the premises to which it is supplied.

(3) No person, who does not reside on premises in respect of which water-tax is paid, shall carry away water from any premises to which a private supply is furnished by the corporation, unless, in any case in which such supply is charged for by measurement, he does so with the permission of the person to whom such supply is furnished.

283. (1) No person shall fraudulently:

Prohibition of fraud in respect of meters.

(a) alter the index to any meter or prevent any meter from duly registering the quantity of water supplied;

(b) abstract or use water before it has been registered by a meter set up for the purpose of measuring the same.

(2) The existence of artificial means, under the control of the consumer, for causing any such alteration, prevention, abstraction or use, shall be evidence that the consumer has fraudulently effected the same.

*The City of Bombay Municipal Act, 1888.*[Ch. X.—*Water-supply, Sects. 284—288.**General Provisions.*

284. No person shall wilfully or negligently :
- Prohibition of wilful or neglectful acts relating to waterworks.
- (a) injure or suffer to be injured any meter belonging to the corporation or any of the fittings of any such meter ;
- (b) break, injure or open any lock, cock, valve, pipe, work or engine appertaining to any municipal waterwork ;
- (c) flush or draw off the water from any such waterwork, thereby causing such water to be wasted ;
- (d) do any act whereby the water in or derived from any municipal waterwork shall be wasted ;
- (e) obstruct, divert or in any way injure or alter any water-main or duct.

285. Compensation shall be paid by the offender for any damage which the corporation sustains by reason of any contravention of section 283 or section 284.

Compensation to be payable by offenders against section 283 or 284.

286. If it shall be shown that an offence against some provision of this chapter or against some by-law made under this Act at the time in force relating to water-supply, has occurred on any premises to which a private supply of water is furnished by the corporation, it shall be presumed, until the contrary is proved, that such offence has been committed by the occupier of the said premises.

Occupier of premises to be primarily liable for certain offences against this chapter.

287. (1) On the written request of any person who is required under any of the provisions of this chapter to supply any materials or fittings or to do any work, the commissioner may, in such person's behalf, supply the necessary materials or fittings, or cause the necessary work to be done, but he shall not do so in any case to which the provisions of section 493 or 495 will not apply, unless a deposit is first of all made by the said person of a sum which will, in the opinion of the commissioner, suffice to cover the cost of the said materials, fittings and work.

When materials and work may be supplied and done under this chapter for any person by the commissioner.

[Ch. XI.—*Regulation of Streets, Sect. 289 (3).*]

(2) The commissioner shall not permit any work, which any person is required to do under any of the provisions of this chapter, to be done except through the agency of a licensed plumber, and any person who causes or allows communication-pipes or any fittings or work necessary for conveying a private supply of water from a municipal waterwork into any premises to be laid, applied or executed by any person other than a licensed plumber shall not be entitled to demand a connection with the municipal waterwork.

288. The commissioner may supply water from a municipal waterwork to any local authority or person without the city on such terms as to payment and as to the period and conditions of supply as shall be, either generally or specially, approved by the corporation.

Power to supply water without the city.

## CHAPTER XI.

## REGULATION OF STREETS.

*Construction, maintenance and improvement of public streets.*

289. (1) All streets within the city, being or which at any time become public streets, and the pavements, stones and other materials thereof shall vest in the corporation and be under the control of the commissioner.

Vesting of public streets in the corporation.

(2) The commissioner shall from time to time cause all such streets to be levelled, metalled or paved, channelled, altered and repaired, as occasion shall require; he may also from time to time widen, extend or otherwise improve any such street or cause the soil thereof to be raised, lowered or altered, and may place and keep in repair fences and posts for the safety of foot-passengers : provided that no widening, extension or other improvement of a public street, the aggregate cost of which will exceed five thousand rupees, shall be undertaken by the commissioner unless or until such undertaking has been authorized by the corporation.

Powers of commissioner in respect of public streets.

(3) With the sanction of the corporation, the commissioner may permanently

*The City of Bombay Municipal Act, 1888.*

[Ch. XI.—Regulation of Streets, Sects. 290—296 (2).]

close the whole or any part of a public street: provided that such sanction of the corporation shall not be given, unless one month at least before the meeting at which the matter is decided, a notice signed by the commissioner has been put up in the street or part of a street which it is proposed to close, informing the residents of the said proposal, nor until the objections to the said proposal, if any, made in writing at any time before the day of the said meeting have been received and considered by the corporation.

290. Whenever any public street, or part of a public street, is permanently closed under section 289, the site of such street or of the portion thereof which has been closed, may be disposed of as land vesting in the corporation.

Disposal of land forming site of closed street.

291. The commissioner, when authorized by the corporation in this behalf, may at any time:

Power to make new public streets.

(a) lay out and make a new public street;

(b) agree with any person for the making of a street for public use through the land of such person, either entirely at the expense of such person or partly at the expense of such person and partly at the expense of the corporation and that such street shall become, on completion, a public street.

292. Nothing in sub-sections (1) and (3) of section 289 or in the two last preceding sections shall be deemed to affect

Saving of provisions of sections 37 and 38, Bombay Act VI of 1879.

the provisions of sections 37 and 38 of the Bombay Port Trust Act, 1879.

Bo. VI of 1879

293. (1) Permission shall not be granted to any person to lay or work upon any public street, any tramway or railway or the like, by any municipal authority other than the corporation, and no such permission shall have validity unless and until it is confirmed by Government.

Permission to lay tramways or railways on public streets to need the sanction of the corporation and confirmation by Government.

(2) Nothing in this section shall be deemed to affect the provisions of the Bombay Tramways Act, 1874.

Bo. I of 1874.

294. No new public street made under section 291 shall be less than forty feet in width, if such street be made for carriage traffic, or twenty feet, if such street be made for foot traffic only, and no steps and, except with the written permission of the commissioner under section 310, no other projection shall extend on to any such street.

Minimum width of new public streets.

295. The commissioner, when authorized by the corporation in this behalf, may agree:

Power to construct or adopt public bridges, &c., over or under railways, &c.

(a) with any person to adopt and maintain any existing or projected bridge, viaduct, or arch and the approaches thereto, and may accordingly adopt and maintain such bridge, viaduct or arch and approaches as parts of public streets, or as property vesting in the corporation; or

(b) for the construction or alteration of any such bridge, viaduct or arch or for the purchase or acquisition of any adjoining land required for the foundation and support thereof or for the approaches thereto, either entirely at the expense of such person or partly at the expense of such person and partly at the expense of the corporation.

296. (1) The commissioner may, subject to the provisions of sections 90, 91 and 92:

Power to acquire premises for improvement of public streets.

(a) acquire any land required for the purpose of opening, widening, extending, or otherwise improving any public street or of making any new public street and the buildings, if any, standing upon such land;

(b) acquire, in addition to the said land and the buildings, if any, standing thereupon, all such land, with the buildings, if any, standing thereupon, as it shall seem expedient for the corporation to acquire outside of the regular line, or of the intended regular line, of such street;

(c) lease, sell or otherwise dispose of any land or building purchased under clause (b).

(2) Any conveyance of land or of a building under clause (c) may comprise such conditions as the commissioner thinks fit, as to the removal of the existing building, the description of new building to

*The City of Bombay Municipal Act, 1888.*

[Ch. XI.—Regulation of Streets, Sects. 297—300.]

be erected, the period within which such new building shall be completed and other such matters.

*Preservation of regular line in public streets.*

297. (1) The commissioner shall prescribe a line on each side of any public street within which, except under the provisions of section 310, no portion of any building abutting on the said street shall, after such line has been prescribed, be constructed.

(2) A line so prescribed shall be called "the regular line of the street."

298. (1) If any part of a building abutting on a public street is within the regular line of such street, the commissioner may, whenever it is proposed :

(a) to rebuild such building or to take down such building to an extent exceeding one-half thereof above the ground-level, such half to be measured in cubic feet ; or

(b) to remove, re-construct, or make any addition to any portion of such building which is within the regular line of the street ;

in any order which he issues, under section 345 or 346, concerning the re-building, alteration or repair of such building, require such building to be set back to the regular line of the street.

(2) When any building, or any part thereof within the regular line of a public street, falls down, or is burnt down or is taken down, whether under the provisions of section 351 or 354, or otherwise, the commissioner may at once take possession, on behalf of the corporation, of the portion of land within the regular line of the street theretofore occupied by the said building, and, if necessary, clear the same.

(3) Land acquired under this section shall thenceforward be deemed a part of the public street and shall vest, as such, in the corporation.

299. (1) If any land, not vesting in the corporation whether open or enclosed, lies within the regular line of a public street, and is not occupied by a building, or if a platform, verandah, step or

some other structure external to a building abutting on a public street, or a portion of a platform, verandah, step or other such structure, is within the regular line of such street,

the commissioner may, after giving to the owner of the land or building not less than seven clear days' written notice of his intention so to do, take possession, on behalf of the corporation, of the said land, with its enclosing wall, hedge or fence, if any, or of the said platform, verandah, step, or other such structure as aforesaid, or of the portion of the said platform, verandah, step or other such structure as aforesaid which is within the regular line of the street, and, if necessary, clear the same, and the land so acquired shall thenceforward be deemed a part of the public street :

(2) Provided that when the land or building is vested in the Secretary of State for India in Council or in any corporation constituted by royal charter or by an Act of Parliament or of the Governor General of India in Council or of the Governor in Council, possession shall not be taken as aforesaid, without the previous sanction of Government.

300. (1) If any building which abuts on a public street is in rear of the regular line of such street, the commissioner may, whenever it is proposed,

(a) to re-build such building ; or

(b) to alter or repair such building in any manner that will involve the removal or re-erection of such building, or of the portion thereof which abuts on the said street, to an extent exceeding one-half of such building or portion thereof, above the ground-level, such half to be measured in cubic feet,

in any order which he issues, under section 345 or 346, concerning the re-building, alteration or repair of such building, permit or, with the approval of the standing committee, require such building to be set forward to the regular line of the street.

(2) For the purposes of this section, a wall separating any premises from a public street shall be deemed to be a building ; and it shall be deemed to be a sufficient compliance with a permission or requisition to set forward a building to the regular line of a street if a wall of such

*The City of Bombay Municipal Act, 1888.*

[Ch. XI.—Regulation of Streets Sects. 301—304 (2).]

materials and dimensions as are approved by the commissioner is erected along the said line.

301. (1) Compensation shall be paid by the commissioner to the owner of any building or land acquired for a public street under section 298 or 299, for the value of the said land and for any loss, damage or expense sustained by such owner in consequence of the order made by the commissioner under either of the said sections.

(2) If, in consequence of any order to set forward a building made by the commissioner under the last preceding section, the owner of such building sustains any loss or damage, compensation shall be paid to him by the commissioner for such loss or damage.

(3) If the additional land which will be included in the premises of any person required or permitted under the last preceding section to set forward a building, belongs to the corporation, the order or permission of the commissioner to set forward the building shall be a sufficient conveyance to the said owner of the said land; and the terms and conditions of the conveyance shall be set forth in the said order or permission.

(4) If, when the commissioner requires a building to be set forward, the owner of the building is dissatisfied with any of the terms or conditions of the conveyance, the commissioner shall, upon the application of the said owner at any time within fifteen days after the said terms and conditions are communicated to him, refer the case for the determination of the Chief Judge of the Small Cause Court, whose decision thereupon shall be conclusive.

*Provisions concerning private streets.*

302. Every person who intends to make or lay out a new private street shall give written notice of his intention to the commissioner, and shall, along with such notice, submit plans and sections, showing the intended level, direction and width and means of drainage of such street and the height and means of drainage of the buildings to be erected on each side thereof.

Notice of intention to lay out new private street to be given to commissioner.

303. (1) The level, direction, width and means of drainage of every new private street and the height and means of drainage of the buildings to be erected on each side thereof shall be fixed and determined by the commissioner, with the approval of the standing committee.

(2) But if within thirty days after the receipt by the commissioner of any notice under the last preceding section, the disapproval by the commissioner of the level, direction, width or means of drainage of the proposed new street or of the proposed height or means of drainage of the buildings to be erected on each side thereof, shall not be communicated to the person who gave the notice under the last preceding section, the proposals of the said person shall be deemed to have been approved by the commissioner.

304. (1) No person shall make or lay out any new private street or erect any building on either side thereof otherwise than in accordance with the directions of the commissioner under the last preceding section or with proposals approved by him under the said section, as the case may be.

(2) If any new private street be made or laid out, or if any building on either side of any such street be erected in contravention of this section, the commissioner may, by written notice, require the person who is making or laying out or has made or laid out such street, or who is erecting or has erected such building, on or before such day as shall be specified in such notice, by a statement in writing subscribed by him in that behalf and addressed to the commissioner, to show sufficient cause why such street or building should not be altered to the satisfaction of the commissioner or, if that be impracticable, why the same should not be demolished, or removed;

or shall require the said person on such day and at such time and place as shall be specified in such notice to attend personally, or by an agent duly authorized by him in that behalf and show cause as aforesaid.

New private street not to be made and buildings on either side thereof not to be erected except in accordance with commissioner's directions or approval.

*The City of Bombay Municipal Act, 1888.*

[Ch. XI.—Regulation of Streets, Sects. 304 (3)—310 (1).]

(3) If such person shall fail to show sufficient cause, to the satisfaction of the commissioner, why such street or building should not be so altered or demolished or removed, the commissioner may cause the street or building to be so altered or demolished or removed and the expenses thereof shall be paid by the said person.

305. If any private street be not levelled, metalled or paved, Levelling and draining of private streets. sewered, drained, channelled and lighted to the satisfaction of the commissioner, he may, with the sanction of the standing committee, by written notice, require the owners of the several premises fronting or adjoining the said street or abutting thereon to level, metal or pave, drain and light the same in such manner as he shall direct.

306. (1) When any private street has been levelled, metalled or paved, sewered, drained, channelled and made good to the satisfaction of the commissioner, he may and, upon the request of the owner or of any of the owners of such street, shall, if lamps, lamp-posts and other apparatus necessary for lighting such street have been provided to his satisfaction,

by notice in writing put up in any part of such street, declare the same to be a public street, and thereupon the same shall become a public street :

(2) Provided that no such street shall become a public street if, within one month after such notice has been put up, the owner of such street or of the greater part thereof, shall, by notice in writing to the commissioner, object thereto.

(3) Nothing in this section shall be deemed to affect the provisions of sections 37 and 38 of the Bombay Port Trust Act, 1879.

307. If a portion only of any street is a public street, within the meaning of that term as defined in clause (x) of section 3, the other portion of such street may for all purposes of sections 305 and 306, be deemed to be a private street.

Applicability of sections 305 and 306 when a street is in part public and in part private

*Projections and obstructions.*

308. (1) No person shall erect, set up or place against or in front of any premises any structure or fixture, which will :

(a) overhang, jut or project into, or in any way encroach upon, or obstruct the safe or convenient passage of the public along any street, or

(b) jut or project into or encroach upon any drain or open channel in any street, so as in any way to interfere with the use or proper working of such drain or channel or to impede the inspection or cleansing thereof.

(2) The commissioner may, by written notice, require the owner or occupier of any premises to remove any structure or fixture which has been erected, set up or placed against, or in front of, the said premises in contravention of this section, or to alter the same in such manner as the commissioner thinks fit to direct.

(3) If the occupier of the said premises removes or alters any structure or fixture in accordance with such notice, he shall be entitled, unless the structure or fixture was erected, set up or placed by himself, to credit in account with the owner of the premises for all reasonable expenses incurred by him in complying with the said notice.

309. (1) If any such structure or fixture as is described in the last preceding section has been erected, set up or placed against, or in front of, any premises, at any time before the Bombay Municipal Act, 1872, came into force, the commissioner may give notice as aforesaid to the owner or occupier of the said premises.

(2) But, if in any such case the structure or fixture shall have been lawfully erected, set up or placed, compensation shall be paid by the commissioner to every person who sustains loss or damage by the removal or alteration thereof.

310. (1) The commissioner may give a written permission, on such terms as he shall in each case think fit, to the

Projections over streets may be permitted in certain cases.

*The City of Bombay Municipal Act, 1888.**[Ch. XI.—Regulation of Streets, Sects. 310(1)(a)—315.]*

owner or occupier of any building abutting on any street :

(a) to erect an arcade over such street or any portion thereof, or

(b) to put up a verandah, balcony, sunshade, weather-frame or other such structure or thing projecting from any upper story over any street or portion thereof :

(2) Provided that no permission shall be given by the commissioner for the erection of an arcade in any public street in which the construction of arcades has not been previously sanctioned by the corporation.

(3) The provisions of section 308 shall not be deemed to apply to any arcade, verandah, balcony, sunshade, weather-frame or other structure or thing erected or put up under and in accordance with the terms of a permission granted under this section.

311. The commissioner may at any time, by written notice, require the owner of any premises on the ground-floor of which any door, gate, bar or window opens outwards upon a street, or upon any land required for the improvement of a street, in such manner as, in the opinion of the commissioner, to obstruct the safe or convenient passage of the public along such street, to have the said door, gate, bar or window altered so as not to open outwards.

312. (1) No person shall, except with the permission of the commissioner under section 310 or 317, erect or set up any wall, fence, rail, post, step, booth or other structure or fixture in or upon any street or upon or over any open channel, drain, well, or tank in any street so as to form an obstruction to, or an encroachment upon, or a projection over, or to occupy, any portion of such street, channel, drain, well or tank.

(2) Nothing in this section shall be deemed to apply to any erection or thing to which clause (c) of section 322 applies.

313. (1) No person shall, except with the written permission of the commissioner :

Prohibition of deposit, &c., of things in streets.

(a) place or deposit

upon any street or upon any open channel, drain or well in any street, any stall, chair, bench, box, ladder, bale or other thing so as to form an obstruction thereto or encroachment thereon ;

(b) project at a height of less than twelve feet from the surface of the street any board or shelf beyond the line of the plinth of any building, over any street, or over any open channel, drain, well or tank in any street ;

(c) attach to or suspend from any wall or portion of a building abutting on a street, at a less height than aforesaid, any thing whatever.

(2) Nothing in clause (a) applies to building-materials.

314. The commissioner may, without notice, cause to be removed :

Commissioner may, without notice, remove anything erected in contravention of section 312, after it comes into force, or deposited, &c., in contravention of section 313.

(a) any wall, fence, rail, post, step, booth or other structure or fixture which shall be erected or set up

in or upon any street, or upon or over any open channel, drain, well or tank contrary to the provisions of sub-section (1) of section 312, after the same comes into force ;

(b) any stall, chair, bench, box, ladder, bale, board or shelf, or any other thing whatever placed, deposited, projected, attached or suspended in, upon, from or to any place in contravention of sub-section (1) of section 313.

315. (1) The commissioner may, by written notice, require the owner or occupier of any premises contiguous to, or in front of, or in connection with which any wall, fence, rail, post, step, booth or other structure or fixture, which it would be unlawful to erect or set up after section 312 comes into force, has been erected or set up before the said section comes into force, to remove the said wall, fence, rail, post, step, stall or other structure or thing.

(2) But, if in any such case the structure or fixture shall have been lawfully erected or set up, compensation shall be paid by the commissioner to every person who sustains loss or damage by the removal or alteration thereof.



*The City of Bombay Municipal Act, 1888.*

[Ch. XI.—Regulation of Streets, Sects. 316—322 (1) (a).]

316. (1) No person shall tether any animal or cause or permit the same to be tethered by any member of his family or household in any public street.

Prohibition of the tethering of animals in the public streets.

(2) Any animal tethered as aforesaid may be removed by the commissioner or by any municipal officer or servant and made over to a police officer, or may be removed by a police officer, who shall deal therewith as with an animal found straying.

*Temporary erections on streets during festivals.*

317. With the concurrence of the police commissioner, the commissioner may permit booths, &c., to be erected on streets on festivals.

Commissioner may permit booths, &c., to be erected on streets on festivals.

commissioner, the commissioner may grant a written permission for the temporary erection of a booth and any other such structure on any street on occasions of ceremonies and festivals.

*Provisions concerning execution of works in or near to streets.*

318. Whenever the soil or pavement of any street is opened or broken up by or under the order of the commissioner or of any municipal officer or servant, for the execution of any work on behalf of the corporation, the work on account of which the same shall have been opened or broken up shall be completed and the soil or pavement filled in, re-instated and made good with all convenient speed; and on completion of the work, the surplus of earth and materials, if any, excavated and all rubbish occasioned thereby shall be removed without delay.

Street when broken up for any municipal purpose to be restored without delay.

any street is opened or broken up by or under the order of the commissioner or of any municipal officer

319. (1) The commissioner may, whilst any such work as aforesaid or any work which may lawfully be executed in any street is in progress, direct that the said street shall be wholly or partially closed for traffic or for traffic of such description as he shall think fit; and shall set up in a conspicuous position an order prohibiting traffic to the extent so directed, and fix such bars, chains or posts across or in the street as he shall think proper for preventing or restricting traffic therein.

Commissioner may close street in which work is in progress.

any such work as aforesaid or any work which may lawfully be executed in any

(2) No person shall, without the permission of the commissioner or without

other lawful authority, remove any bar, chain or post so fixed or infringe any order prohibiting traffic so set up.

320. Whilst the execution of any work on behalf of the corporation is in progress in any street, the commissioner shall, so far as may be reasonably practicable, make adequate provision for the passage or diversion of traffic, for securing access to all premises approached from such street and for any drainage, water-supply or means of lighting which may be interrupted by reason of the execution of the said work, and shall pay compensation to any person who sustains special damage by reason of the execution thereof.

Commissioner to provide for traffic, &c., pending execution of municipal work in any street.

corporation is in progress in any street, the commissioner shall, so far as may be reasonably practicable,

make adequate provision for the passage or diversion of traffic, for securing access to all premises approached from such street and for any drainage, water-supply or means of lighting which may be interrupted by reason of the execution of the said work, and shall pay compensation to any person who sustains special damage by reason of the execution thereof.

321. (1) Whilst the execution of any work on behalf of the corporation is in progress in any street, the commissioner shall:

Precautions to be taken for the public safety whilst municipal works are in progress in any street.

work on behalf of the corporation is in progress in any street, the commissioner shall:

(a) take proper precaution for guarding against accident by shoring up and protecting the adjoining buildings;

(b) have any place where the soil or pavement has been opened or broken up fenced and guarded;

(c) have a light sufficient for the warning of passengers set up and kept every night against any such place and against any bars, chains or posts set up under section 319, for so long as such place shall be continued open or broken up, or such bars, chains or posts shall remain set up.

(2) No person shall, without the written permission of the commissioner or without other lawful authority, remove any shoring-timber, or fence, or extinguish any light employed or set up for any of the purposes of this section.

322. (1) No person, other than the commissioner or a municipal officer or servant, shall, without the written permission of the commissioner or without other lawful authority:

Streets not to be opened or broken up and building-materials not to be deposited thereon without permission.

commissioner or a municipal officer or servant, shall, without the written permission of the commissioner

(a) open, break up, displace, take up or make any alteration in or cause any injury to the soil or pavement, or any wall, fence, post, chain, or other mate-

*The City of Bombay Municipal Act, 1888.*[Ch. XI.—*Regulation of Streets, Sects. 322 (1) (b)—327 (1) (b).*]

rial or thing forming part of any street ;  
or

(b) deposit any building-materials in any street ; or

(c) set up in any street any scaffold or any temporary erection for the purpose of any work whatever, or any posts, bars, rails, boards or other things by way of enclosure, for the purpose of making mortar or depositing bricks, lime, rubbish or other materials.

(2) Any permission granted under clause (b) or clause (c) shall be terminable at the discretion of the commissioner, on his giving not less than twenty-four hours' written notice of the termination thereof to the person to whom such permission was granted.

323. Every person to whom any permission is granted under section 322 shall, at his own expense, cause the place where the soil or pavement has been opened or broken up or where he has deposited building-materials or set up any scaffold, erection or other thing, to be properly fenced and guarded, and in all cases in which the same is necessary to prevent accidents, shall cause such place to be well lighted during the night.

324. (1) Every person to whom permission is granted under section 322 to open or break up the soil or pavement of any street, or who, under other lawful authority, opens or breaks up the soil or pavement of any street, shall with all convenient speed complete the work for which the same shall be opened or broken up and fill in the ground and re-instate and make good the street or pavement so opened or broken up without delay, to the satisfaction of the commissioner.

(2) If the said person shall fail to re-instate and make good the street or pavement as aforesaid, the commissioner may restore such street or pavement and the expenses incurred by the commissioner in so doing shall be paid by the said person.

325. The commissioner may, by written notice, require any person to whom permission is granted under section 322 to open or break up the soil or pavement of

Provisions to be made by persons to whom permission is granted under section 322 for traffic, &c., when their works interrupt streets

any street, or who, under any other lawful authority, opens or breaks up the soil or pavement of any street, for the purpose of executing any work, to make provision to his satisfaction for the passage or diversion of traffic, for securing access to the premises approached from such street and for any drainage, water-supply or means of lighting which may be interrupted by reason of the execution of the said work.

326. (1) No person who proposes to build, take down or re-build any building or wall, or to alter or repair any part of any building or wall, shall, in any case in which the footway in any adjacent street will be thereby obstructed or rendered less convenient, commence doing so, without first having caused to be put up a proper and sufficient hoard or fence, with a convenient platform and handrail, if there be room enough for the same and the commissioner shall think the same desirable, to serve as a footway for passengers outside of such hoard or fence.

(2) No hoard or fence shall be so put up without the previous written permission of the commissioner, and every such hoard or fence put up with such permission, with such platform and handrail as aforesaid, shall be continued standing and maintained in good condition to the satisfaction of the commissioner, by the person who carries on the work, during such time as may be necessary for the public safety and convenience; and, in all cases in which the same is necessary to prevent accidents, the said person shall cause such hoard or fence to be well lighted during the night.

(3) The commissioner may, by written notice, require the person aforesaid to remove any hoard or fence so put up.

*Naming of streets, &c.*

327. (1) The commissioner may, from time to time :

(a) with the sanction of the corporation, determine the name by which any street shall be known ;

(b) cause to be put up or painted on a conspicuous part of any house at or near each end, corner or entrance to every street, the name of such street as so determined ;

Naming streets, and numbering of houses.

*The City of Bombay Municipal Act, 1888.*[Ch. XI.—*Regulation of Streets, Sects. 327 (1) (c)—333 (1).*]

(c) cause a number to be put up or painted in a conspicuous place on the outer side, wall, door or gate of any premises.

(2) No person shall, without the written permission of the commissioner or without other lawful authority, destroy, remove, deface, or in any way injure any such name or number, or put up or paint any name or number different from that put up or painted by order of the commissioner.

*Bill-posting.*

328. No person shall, without the consent of the owner or occupier, affix any posting-bill, placard or other paper or means of advertisement against or upon any building, wall, board, fence or pale, or write upon, soil, deface or mark any such building, wall, board, fence or pale with chalk or paint or in any other way whatsoever.

*Dangerous places.*

329. (1) If any place is, in the opinion of the commissioner, from want of sufficient repair, protection or enclosure, or owing to some work being carried on thereupon, dangerous to passengers along a street, or to persons, other than the owner or occupier of the said place, who have legal access thereto or to the neighbourhood thereof, he may, by notice in writing, require the owner or occupier thereof, to repair, protect or enclose the said place or take such other step as shall appear to the commissioner necessary, in order to prevent danger therefrom.

(2) The commissioner may, before giving any such notice or before the period of any such notice has expired, take such temporary measures as he thinks fit to prevent danger from the said place. Any expense incurred by the commissioner in taking such temporary measures shall be paid by the owner or occupier of the place to which the said notice refers.

*Lighting of streets.*

330. The commissioner shall :

(a) take measures for lighting in a suitable manner the public streets and

municipal markets and all buildings vesting in the corporation ; and

(b) procure, erect and maintain such a number of lamps, lamp-posts and other appurtenances as may be necessary for the said purpose ; and

(c) cause such lamps to be lighted by means of oil, gas, electricity or such other light as the corporation shall from time to time determine ;

and may :

(d) place and maintain electric wires for the purpose of lighting such lamps under, over, along or across, and posts, poles, standards, stays, struts, brackets, and other contrivances for carrying, suspending or supporting, lamps or electric wires in or upon any immoveable property, without being liable to any claim for compensation thereon :

Provided that such wires, posts, poles, standards, stays, struts, brackets and other contrivances shall be so placed as to occasion the least practicable inconvenience or nuisance to any person.

331. No person shall, without lawful authority, take away or wilfully break, throw down, or damage :

(a) any lamp, lamp-post, or lamp-iron set up in any public street or in any municipal market or building vesting in the corporation ;

(b) any electric wire for lighting any such lamp ;

(c) any post, pole, standard, stay, strut, bracket or other contrivance for carrying, suspending or supporting any such electric wire or lamp ;

and no person shall wilfully extinguish the light, or damage any appurtenance of any such lamp.

332. If any person shall, through negligence or accident, break any lamp set up in any public street, or municipal market or building vesting in the corporation, he shall pay the expenses of repairing the damage so done by him.

333. (1) No gas-pipe shall be laid in a drain or on the surface of an open channel or house-gully.

*The City of Bombay Municipal Act, 1888.*

[Ch. XI.—Regulation of Streets, Sects. 333 (2)—338.]

(2) Gas-pipes shall be laid at the greatest practicable distance from water-pipes, having regard to the width of the street. Where the width of the street will allow of it, the said distance shall not be less than four feet.

(3) When it is necessary for a gas-pipe to cross a water-pipe, the gas-pipe shall, if practicable, be laid above the water-pipe. A gas-pipe so laid shall be at least nine feet in length and, as nearly as the situation will admit of, shall be so placed as to form with the water-pipe a right angle and so that no joint in the gas-pipe will be nearer to any water-pipe than four feet. The greatest practicable distance shall be kept between a water-pipe and a gas-pipe which crosses it and the gas-pipe shall, throughout its entire length, be sufficiently bedded in with good sound clay or other fit material of a proper consistence, which shall be well worked and rammed into a trench all round the gas-pipe.

(4) If any gas-pipe be laid in any way contrary to the provisions of this section, the commissioner may make such alteration with respect to such pipe as he shall think necessary and the expenses thereof shall be paid by the person under whose order or management the pipe has been laid.

334. (1) The commissioner may, whenever for any of the purposes of this Act it shall appear to him necessary, by written notice, require the owner of any gas-pipe or of any other gas-work laid in any street, to raise, sink or otherwise alter the situation of such pipe or work.

(2) Every alteration required to be made under sub-section (1), shall be made at the charge of the municipal fund and compensation shall be paid to the owner by the commissioner for the damage, if any, which he sustains by reason of such alteration:

(3) Provided that no such alteration shall be made which will prevent gas passing through any pipe or work as freely and conveniently as, having regard to all the requirements of this Act, is practicable.

335. (1) Without the written permission of the commissioner, no building, wall or other structure shall be newly erected, and no street or railway shall be constructed over any gas-pipe belonging to the corporation.

(2) If any building, wall or other structure be so erected, or any street or railway be so constructed, the commissioner may, with the approval of the standing committee, cause the same to be removed or otherwise dealt with as to the commissioner shall appear fit, and the expenses thereby incurred shall be paid by the person offending.

*Watering of streets.*

Measures for watering. 336. The commissioner may:

(a) take measures for having the public streets watered at such times and seasons and in such manner as he shall think fit;

(b) procure and maintain such water-carts, animals and apparatus as he shall think fit for the said purpose.

## CHAPTER XII.

## BUILDING REGULATIONS.

*Notices regarding erection of buildings.*

337. (1) Every person who shall intend to erect a building shall give to the commissioner notice of his said intention, in a form, obtained for this purpose under section 344, specifying the position of the building intended to be erected, the description of building, the purpose for which it is intended and its dimensions.

(2) In this chapter "to erect a building" means to newly erect a building, or to re-erect any building pulled down to the plinth, or any frame-building of which only the framework is left down to the plinth, or to convert into a dwelling-house any building not originally constructed for human habitation, or to convert into more than one dwelling-house a building originally constructed as one dwelling-house only; and a building so erected, re-erected or converted is called in this chapter "a new building."

338. At any time within thirty days after receipt of any notice under section 337, the commissioner may, by written notice, require the person who has given the notice first hereinbefore in this section mentioned, to furnish to the commissioner all or any of the following documents, (namely):

Situation of gas-pipes, &c., may be altered by commissioner.

Notice to be given to commissioner of intention to erect a building.

Buildings, &c., not to be erected without permission over municipal gas-pipes.

Commissioner may require plans and other documents to be furnished.

*The City of Bombay Municipal Act, 1888.*

[Ch. XI.—Building Regulations, Sects. 338 (a)—343 (1).]

(a) plans and sections of every floor of the intended building, which shall be drawn to a scale of not less than one inch to every eight feet, and shall show the position, form and dimensions of the several parts of such building and of every wafer-closet, privy, urinal, cess-pool, well and other appurtenance and, in the case of a building intended as a dwelling-house for two or more families or for carrying on any trade or business in which a number of people exceeding twenty may be employed or as a place of public resort, the means of ingress and egress;

(b) a description in writing of the materials of which it is intended that the building shall be constructed, of the thickness of the walls and roof and of the intended mode of drainage, means of water-supply, and means of ventilation, and, if the building is to adjoin or abut on a street, the intended means of access from such street;

(c) a block plan of such building, which shall be drawn to a scale of not less than one inch to every forty feet and shall show the position and appurtenances of the properties, if any, immediately adjoining, the width and level of the street, if any, in front and of the street, if any, at the rear of such building, the levels of the foundations and lowest floor of such building and of any yard or ground belonging thereto;

(d) a plan showing the intended line of drainage of such building and the intended size, depth and inclination of each drain and the details of the arrangement proposed for the ventilation of the drains.

339. The commissioner may decline to accept any plan, section or description as sufficient for the purposes of the last preceding section which does not bear the signature of a licensed surveyor, in token of its having been prepared by such surveyor or under his supervision.

340. If the notice given under section 337 and the documents, if any, furnished under section 338 do not supply all the information which the commissioner deems necessary to

enable him to deal satisfactorily with the case, the commissioner may, at any time within thirty days after receipt of the said documents, by written notice, require the production of such further particulars and details as he deems necessary.

341. If any requisition made under section 338 or 340 is not complied with, the notice given under section 337 shall be deemed not to have been given.

*Notices regarding execution of works not amounting to the erection of a building.*

342. Every person who shall intend:

(a) to make any addition to a building; or

(b) to make any alteration or repairs to a building, not being a frame-building, involving the removal or re-erection of any external or party-wall thereof or of any wall which supports the roof thereof, to an extent exceeding one-half of such wall above the ground-level, such half to be measured in superficial feet; or

(c) to make any alteration or repairs to a frame-building, involving the removal or re-erection of more than one-half of the posts in any such wall thereof as aforesaid, such half to be measured in superficial feet; or

(d) to remove or reconstruct any portion of a building abutting on a street which stands within the regular line of such street;

shall give to the commissioner, in a form obtained for this purpose under section 344, notice of his said intention, specifying the position of the building in which such work is to be executed and the nature and extent of the intended work.

343. (1) If any notice given under the last preceding section does not supply all the information which the commissioner deems necessary to enable him to deal satisfactorily with the case, he may, at any time within thirty days after receipt of the said notice, by written notice, require the person who gave the notice first hereinbefore in this section mentioned to furnish plans and sections of the intended new work or of any specified portion of the

Commissioner may require plans, &c., submitted under last preceding section, to be prepared by a licensed surveyor.

Additional information and the attendance of the person who gave the notice may be required.

the commissioner

*The City of Bombay Municipal Act, 1888.*

[*Ch. XI.—Building Regulations, Sects. 343 (2)–347.*]

intended new work and a description in writing of the materials of which it is intended that the new work or any specified portion thereof shall be constructed, of the thickness of any new wall or roof which it is intended to construct and of such other particulars and details as he deems necessary.

(2) The commissioner may decline to accept as sufficient for the purposes of this section any plan, section, or description which does not bear the signature of a licensed surveyor, in token of its having been prepared by such surveyor or under his supervision.

*Forms of Notices.*

344. (1) The commissioner shall cause printed forms of notices for the purposes of section 337 or 342 to be delivered to any person requiring the same, on payment of such fee not exceeding eight annas for each form as shall from time to time be prescribed in this behalf by the commissioner, with the approval of the standing committee.

(2) There shall be printed on the reverse of every such notice, or on a separate paper supplied, without extra charge, therewith, a copy of sections 337, 338, 339, 340, 341, 342, 343, 345, 346, 347, 348 and 349 and of all by-laws made under clauses (c), (d) and (e) of section 461 at the time in force.

*Commencement of work.*

345. If within thirty days after receipt of any notice under section 337 or 342, or of the plan, section, description or further information, if any, called for under section 338, 340 or 343, as the case may be, the commissioner fails to intimate in writing to the person who has given the said notice, his disapproval of the building which the said person proposes to erect, or of the work which he proposes to execute;

or if, within the said period, the commissioner signifies in writing to the said person, his approval of the said building or work;

the said person may at any time within one year from the date of the delivery of the notice to the commissioner, proceed with the said building or work in accordance

with his intention as described in the notice or in any of the documents aforesaid, but not so as to contravene any of the provisions of this Act or any by-law made under this Act at the time in force.

346. (1) If the commissioner disapproves of any building or work of which notice has been given as aforesaid or of any portion or detail thereof, by reason that the same will contravene some provision of this Act or some by-law made hereunder at the time in force or will be unsafe, he may, at any time within thirty days of the receipt of the notice or of the plan, section, description or further information, if any, called for under section 338, 340 or 343, as the case may be, by a written notice, intimate to the person who gave the notice first hereinbefore in this section mentioned his said disapproval and the reason for the same and prescribe terms subject to which the building or work may be deemed to be approved by him.

(2) The person who gave the notice concerning any such building or work may proceed with the same, subject to the terms prescribed as aforesaid but not otherwise, at any time within one year from the date of receipt by him under sub-section (1) of the written notice in this behalf, but not so as to contravene any of the provisions of this Act or any by-law made hereunder at the time in force.

347. (1) No person shall commence to erect any building or to execute any such work as is described in section 342 :

(a) until he has given notice of his intention, as hereinbefore required, to erect such building or execute such work and the commissioner has either intimated his approval of such building or work or failed to intimate his disapproval thereof within the period prescribed in this behalf in section 345 or 346;

(b) after the expiry of the period of one year prescribed in sections 345 and 346, respectively, for proceeding with the same.

(2) If a person who is entitled under section 345 or 346 to proceed with any building or work, fails so to do within the period of one year prescribed

*The City of Bombay Municipal Act, 1888.*

[Ch. XII.—Building Regulations, Sec. 348 (1) (a)→(k).]

in the said sections, respectively, for proceeding with the same, he may at any subsequent time give a fresh notice of his intention to erect such building or execute such work and thereupon the provisions hereinbefore contained shall apply as if such fresh notice were a first notice of such person's intention.

*Provisions as to structure, materials, &c.*

348. (1) With respect to buildings which are to be newly erected on any site previously unbuilt upon, the following provisions shall have effect, namely:

Provisions as to buildings which are to be newly erected.

(a) The erection of any such building on either side of a new street may be disapproved by the commissioner, unless and until such new street has been levelled, metalled or paved, sewered and drained to the satisfaction of the commissioner.

(b) The erection of any such building in any part of the city in which the position and direction of the streets likely to be required in the future have not yet been laid down or determined, shall, with the assent of the standing committee, be disapproved by the commissioner, unless the site proposed for such building is, in the opinion of the commissioner, such as, with reference to the positions occupied by the buildings, if any, already existing in the neighbourhood, will admit of the construction in the future of one or more new streets convenient for the occupiers of all the buildings in the neighbourhood and for the purposes of drainage, water-supply and ventilation: provided that any person whose building is so disapproved, may by written notice to the commissioner, require that the position and direction of the future streets in the vicinity of his intended building be forthwith laid down and determined, and if such requisition be not complied with within six months from the date thereof, may, subject to all other provisions of this Act applicable thereto, proceed with the erection of his building.

(c) The foundation of any such building shall not be constructed on any site which has been filled up with, or has been used as a place for depositing, excrementitious matter or the carcasses of dead animals or other filthy or offensive matter, until such matter shall have been properly removed to the satisfaction of the commissioner.

(d) Every such building intended to be used as a dwelling shall be built with a plinth at least two feet above the centre of the nearest street and not below such standard level as may be fixed by the commissioner in this behalf.

(e) No such building which abuts on a street of a less width than fifty feet, shall, without the written permission of the commissioner, be erected to a greater height than one-and-a-half times the width of the street it abuts on.

(f) In addition to any means of ventilation required by any by-law made under this Act at the time in force, every such building intended to be used as a dwelling shall be so constructed that the whole of at least one side of every room thereof shall either be an external wall or abut on an interior open space. Such external wall, except where it faces a street of not less than fifteen feet in width, shall have between it and the boundary-line of the owner's premises, an open space, extending throughout the entire length of such wall, at least two feet wide or, in the case of a chawl or building intended to form a range of separate rooms for lodgers, at least five feet wide. Such interior open space shall have an area equal to not less than one-tenth of the aggregate floor-area of all the rooms abutting thereon and shall not be in any direction less than six feet across. And every open space, whether exterior or interior, required by this clause shall be and be kept free from any erection thereon and open to the sky and shall be and be kept open to access from each end thereof.

(g) Every room intended to be inhabited in any such building, except a room in the roof thereof, shall be in every part at least eight feet in height from the floor to the ceiling.

(h) Every such room in the roof of any such building shall have an average height of at least seven feet from the floor to the ceiling.

(i) Every such room shall have a clear superficial area of not less than eighty square feet.

(k) In addition to any means of ventilation required by any by-law made under this Act at the time in force, every such room shall be ventilated by means of doors or windows which open directly into the external air and have an aggregate opening equal to not less than one-fourth of the

*The City of Bombay Municipal Act, 1888.**[Ch. XII.—Building Regulations, Sects. 348 (1) (i)—352 (1).]*

superficial area of the side of the room which faces an open space.

(l) Huts or sheds or ranges or blocks of huts or sheds, whether the same are to be used as dwellings or stables or for any other purpose, shall be built, if the commissioner thinks fit so to require :

(i) so that they may stand in regular lines, with a free passage or way in front of and between every two lines of such width as the commissioner thinks proper for ventilation and for facilitating scavenging ; and

(ii) with such and so many privies, latrines or urinals and such means of drainage as the commissioner deems necessary ; and

(iii) at such a level as will suffice for the means of drainage required by the commissioner.

(2) Nothing in clause (a) shall be deemed to affect the power of Government to determine, under section 38 of the Bombay Port Trust Act, 1879, any dispute which arises between the Trustees of the Port of Bombay and the commissioner as to whether any road within the limits of the property of the said trustees has been duly levelled, metalled or paved, sewered and drained.

349. (1) No external wall and no covering of a roof built or renewed since the Bombay Municipal Act, 1872, came into force shall, except with the written permission of the commissioner, consist of wood, cloth, canvas, grass, leaves, mats or any other inflammable material.

(2) If any external wall or covering of a roof is or has been, since the said Act came into force, constructed of any such material, the commissioner may, by written notice, require the owner or occupier of the building to which such wall or roof appertains to remove such wall or covering.

*Inspection.*

350. The commissioner may at any time during the erection of a building or the execution of any such work as is described in section 342 make an inspection thereof, without giving previous notice of his intention so to do.

351. (1) If the erection of any building or the execution of any such work as is described in section 342 is commenced contrary to the provisions of section 347, the commissioner, unless he deems it necessary to take proceedings in respect of such building or work under section 354, shall :

(a) by written notice, require the person who is erecting such building or executing such work, or has erected such building or executed such work, on or before such day as shall be specified in such notice, by a statement in writing subscribed by him or by an agent duly authorized by him in that behalf and addressed to the commissioner, to show sufficient cause why such building or work shall not be removed, altered or pulled down ; or

(b) shall require the said person on such day and at such time and place as shall be specified in such notice to attend personally, or by an agent duly authorized by him in that behalf, and show sufficient cause why such building or work shall not be removed, altered or pulled down.

(2) If such person shall fail to show sufficient cause, to the satisfaction of the commissioner, why such building or work shall not be removed, altered or pulled down, the commissioner, with the approval of the standing committee, may remove, alter or pull down the building or work and the expenses thereof shall be paid by the said person.

352. (1) If there shall be reasonable ground for suspecting that in the erection of any such building or in the execution of any such work as is referred to in the last preceding section, anything has been done contrary to any provision of this Act or of any by-law made under this Act at the time in force, or that any thing required by any such provision or by-law to be done has been omitted to be done ;

and if, on inspecting such building or work it is found that the same has been completed or is too far advanced to permit of any such fact being ascertained ;

the commissioner may, with the approval of the standing committee, by written



*The City of Bombay Municipal Act, 1888.*[Ch. XII.—*Building Regulations, Sects. 352 (2)—354.*][Ch. XIII.—*Licensing of Surveyors and Plumbers, Sects. 355—356.*]

notice, require the person who has erected such building or executed such work or is erecting such building or executing such work, to cause so much of the building or work as prevents any such fact being ascertained to be cut into, laid open or pulled down to a sufficient extent to permit of the same being ascertained.

(2) If it shall thereupon be found that in the erection of such building or the execution of such work, nothing has been done contrary to any provision of this Act or of any by-law made under this Act at the time in force and that nothing required by any such provision or by-law to be done has been omitted to be done, compensation shall be paid by the commissioner to the person aforesaid for the damage and loss incurred by cutting into, laying open or pulling down the building or work.

353. The commissioner may, at any time during the erection of a building or the execution of any such work as aforesaid, or at any time within three months after the completion thereof, by written notice, specify any matter in respect of which the erection of such building or the execution of such work may be in contravention of any provision of this Act or of any by-law made under this Act at the time in force, and require the person erecting or executing or who has erected or executed such building or work, or, if the person who has erected or executed such building or work is not at the time of the notice the owner thereof, then the owner of such building or work, to cause any thing done contrary to any such provision or by-law to be amended or to do anything which by any such provision or by-law may be required to be done but which has been omitted to be done.

*Dangerous Structures.*

354. (1) If it shall at any time appear to the commissioner that any structure (including under this expression any building, wall or other structure and anything affixed to or projecting from any building, wall or other structure) is in a ruinous condition, or likely to fall, or in any way dangerous to any person occupying, resorting to, or passing by such structure or any other structure or place in the neighbourhood

Removal of structures, &c., which are in ruins or likely to fall.

thereof, the commissioner may, by written notice, require the owner or occupier of such structure, to pull down, secure or repair such structure, and to prevent all cause of danger therefrom.

(2) The commissioner may also, if he thinks fit, require the said owner or occupier, by the said notice, either forthwith or before proceeding to pull down, secure or repair the said structure, to set up a proper and sufficient hoard or fence for the protection of passers-by and other persons, with a convenient platform and handrail, if there be room enough for the same and the commissioner shall think the same desirable, to serve as a footway for passengers outside of such hoard or fence.

## CHAPTER XIII.

## LICENSING OF SURVEYORS AND PLUMBERS.

355. (1) The commissioner may grant to any person he thinks fit a license to act as a surveyor or as a plumber for the purposes of this Act. Each such license shall be for a renewable period of one year.

(2) If any applicant for a license to act as a surveyor is a licentiate of civil engineering or a person who has passed some test of professional qualification equivalent to that for a licentiate of civil engineering, his application shall not be refused by the commissioner, except with the approval of the standing committee and upon the ground that the applicant is unfit, through incompetency, misconduct or other grave reason, to hold such license.

(3) If the commissioner refuses any application for a license under this section, he shall, at the request of the applicant, furnish such applicant with his reasons for such refusal in writing under his signature, without charge.

356. The commissioner may, with the approval of the standing committee, from time to time prescribe regulations for the guidance of licensed surveyors and plumbers, respectively, and a copy of all regulations so prescribed at the time in force shall be written on the back of every license granted to a surveyor or plumber, respectively.

Regulations may be prescribed for guidance of licensed surveyors and plumbers.

*The City of Bombay Municipal Act, 1888.*

[Ch. XIII.—*Licensing of Surveyors and Plumbers, Sects. 357—358.*]

[Ch. XIV.—*Municipal Fire-brigade, Sects. 359—364.*]

357. The standing committee may from time to time pre-  
Fees and charges of licensed plumbers to be prescribed by the standing committee. scribe the fees or charges to be paid to licensed plumbers for any work done by them under or for any purpose of this Act; and no licensed plumber shall demand or receive more than the fee or charge so prescribed for any such work.

358. No licensed plumber shall execute any work under this Act carelessly or negligently or make use of any bad material, appliance or fitting for the purpose of such work.  
Licensed plumber to be bound to execute work properly.

CHAPTER XIV.

MUNICIPAL FIRE-BRIGADE.

359. (1) With a view to the discharge by the corporation of the duty of extinguishing fire and protecting life and property in case of fire, the commissioner shall provide, in the schedule of municipal officers and servants from time to time prepared by him under section 79, for a force of firemen, with a proper number of officers over them, to be called "the municipal fire-brigade," and shall furnish the said brigade with all such fire-engines, fire-escapes, horses, accoutrements, tools, implements and means of inter-communication as may be necessary for the efficient discharge of their duties.  
Maintenance of firemen and of necessary fire-engines, &c.

(2) A person may be appointed to be a member of the fire-brigade in addition to any other office or employment of such person.

360. The commissioner shall from time to time make regulations for:  
Power to make regulations for fire-brigade.

(a) the training, discipline and good conduct of the men belonging to the fire-brigade;

(b) their speedy attendance with engines, fire-escapes and all necessary implements on the occasion of any alarm of fire;

(c) the maintenance of the said brigade generally in a due state of efficiency.

361. On the occasion of a fire, the chief or other officer in charge of the fire-brigade may, subject to such orders as the commissioner may from time to time issue in this behalf, take the command of all municipal officers and servants present and of any other persons who voluntarily place their services at his disposal; and may

(a) remove, or order any fire-man, or other officer or person under his command to remove any persons who interfere by their presence with the operations of the fire-brigade;

(b) take generally any measures that appear expedient for the protection of life and property, with power by himself or by the persons under his command, to break into or through or take possession of, or pull down any premises for the purpose of putting an end to such fire, doing as little damage as possible;

(c) cause the water to be shut off from the mains and pipes of any district in order to give a greater supply and pressure of water in the district in which the fire has occurred and utilize the water of any well or tank available for the purpose of extinguishing such fire.

362. It shall be the duty of all police officers and of all municipal officers and servants to aid the fire-brigade in the execution of their duties. They may close any street in or near which a fire is burning and remove any persons who interfere by their presence with the operations of the fire-brigade.  
Police and municipal officers and servants to aid the fire brigade.

363. Any damage occasioned by the fire-brigade in the due execution of their duties, or by any police or municipal officer or servant who aids the fire-brigade, shall be deemed to be damage by fire within the meaning of any policy of insurance against fire.  
Damages done by fire-brigade to be deemed damage by fire.

364. A report of every fire which occurs in the city, shall be submitted by the chief or other officer in charge of the fire-brigade, not later than the day following the fire, to the commissioner, who shall make such further inquiry,  
Reports of fires to be submitted.

*The City of Bombay Municipal Act, 1888.*

[Ch. XV.—Sanitary Provisions, Sects. 365—370.]

if any, as he may deem necessary and shall furnish a weekly return of all fires which occur in the city to the standing committee.

## CHAPTER XV.

## SANITARY PROVISIONS.

*Scavenging and Cleansing.*

365. For the purpose of securing the efficient scavenging and cleansing of all streets and premises, the commissioner shall take measures for securing :

Commissioner to provide for cleansing of streets and removal of refuse.

(a) the daily surface-cleansing of all streets in the city and the removal of the sweepings therefrom ;

(b) the removal of the contents of all receptacles and depôts and of the accumulations at all places provided or appointed by him under section 367 or 368 for the temporary deposit of any of the matters specified in the said sections.

366. All matters collected by municipal servants or contractors in pursuance of the last preceding section and of section 369 shall be the property of the corporation.

Refuse, &c., to be the property of the corporation.

369 shall be the property of the corporation.

367. (1) The commissioner shall provide or appoint proper and convenient situations, public receptacles, depôts and places for the temporary deposit or final disposal of :

Provision and appointment of receptacles, depôts and places for refuse, &c.

- (a) dust, ashes, refuse and rubbish ;  
(b) carcasses of dead animals, and excrementitious and polluted matter :

(2) Provided that :

(c) the said matters shall not be finally disposed of in any place or manner in which the same have not heretofore been so disposed of, without the sanction of the corporation or in any place or manner which Government think fit to disallow ;

(d) any power conferred by this section shall be exercised in such manner as to create the least practicable nuisance.

368. (1) It shall be incumbent on the occupiers of all premises to cause all dust, ashes, refuse and rubbish to be collected from their respective premises and to be deposited at such times as the commissioner, by public notice, from time to time prescribes, in the public receptacle, depôt or place provided or appointed under clause (a) of the last preceding section for the temporary deposit thereof :

Duty of occupiers to collect and deposit dust, &c.

(2) Provided that the commissioner may, if he thinks fit, by written notice, require the occupier or owner of any land to cause all dust, ashes, refuse and rubbish to be collected daily, or otherwise periodically, from the said land and from any building standing thereon and deposited temporarily upon any place forming a part of the said land which the commissioner appoints in this behalf, and it shall be incumbent on the said occupier to cause the said matters to be collected and deposited accordingly.

369. When the commissioner has given public notice, under clause (a) of section 142, of his intention to provide, in a certain portion of the city, for the collection, removal and disposal, by municipal agency, of all excrementitious and polluted matter from privies, urinals and cesspools, it shall be lawful for the commissioner to take measures for the daily collection, removal and disposal of such matter from all premises situate in the said portion of the city.

Provision may be made by commissioner for collection, &c., of excrementitious and polluted matter

370. It shall be incumbent on the occupier of any premises situate in any portion of the city for which the commissioner has not given a public notice under clause (a) of section 142 and in which there is not a water-closet or privy connected with a municipal drain, to cause all excrementitious and polluted matter accumulating upon his premises to be collected and to be conveyed to the nearest receptacle or depôt provided for this purpose under clause (b) of section 367, at such times, in such vehicle or vessel, by such route and with such precautions, as the commissioner by public notice from time to time prescribes.

Collection and removal of excrementitious and polluted matter when to be provided for by occupiers.

*The City of Bombay Municipal Act, 1888.*

[Ch. XV.—Sanitary Provisions, Sects. 371—375.]

371. In any portion of the city in which the commissioner has given a public notice under clause (a) of section 142 and in any premises, wherever situate, in which there is a water-closet or privy connected with a municipal drain, it shall not be lawful, except with the written permission of the commissioner, for any person, who is not employed by or on behalf of the commissioner, to discharge any of the duties of halalkhors.

372. No person :

Prohibition of : (a) who is bound, under section 368 or section 370, to cause the removal of dust, ashes, refuse and rubbish, or of excrementitious or polluted matter, shall allow the same to accumulate on his premises for more than twenty-four hours or neglect to cause the same to be removed to the depôt, receptacle or place provided or appointed for the purpose ;

failure to remove refuse, &c., when bound to do so ;

shall allow the same to accumulate on his premises for more than twenty-four hours or neglect to cause the same to be removed to the depôt, receptacle or place provided or appointed for the purpose ;

(b) shall remove any dust, ashes, refuse or rubbish, or any excrementitious or polluted matter, otherwise than in conformity with the requirements of any public or written notice at the time being in force under section 368, or use for the removal of any excrementitious or polluted matter any vehicle or vessel not having a covering proper for preventing the escape of any portion of the contents thereof or of the stench therefrom ;

(c) shall, whilst engaged in the removal of any dust, ashes, refuse or rubbish, or of any excrementitious or polluted matter, fail forthwith thoroughly to sweep and cleanse the spot in any street upon which, during removal, any portion thereof may fall, and entirely to remove the sweepings ;

(d) shall place or set down in any street any vehicle or vessel for the removal of excrementitious or pol-

leaving filth-carts, &c., unnecessarily in the streets ;

luted matter, or suffer the same to remain in any street for any greater length of time than is reasonably necessary ;

(e) shall throw or place any dust, throwing or placing ashes, refuse, or refuse, &c., in any place not assigned for the purpose ; rubbish, or any excrementitious or polluted matter, on any street, or in any place not provided or appointed for this purpose under section 367 or 368 ;

(f) who is the owner or occupier of any building or land, shall allow any filthy matter to flow, soak, or be thrown therefrom or keep or suffer to be kept therein or thereupon, anything so as to be a nuisance to any person, or negligently suffer any privy-receptacle or other receptacle or place for the deposit of filthy matter or rubbish on his premises to be in such a state as to be offensive or injurious to health.

373. If it shall in any case be shown that dust, ashes, refuse or rubbish, or any excrementitious or polluted matter has or have been thrown or placed on any street or place, in contravention of clause (e) of the last preceding section, from some building or land, it shall be presumed, until the contrary is proved, that the said offence has been committed by the occupier of the said building or land.

Presumption as to offender under clause (e) of section 372.

*Inspection and Sanitary regulation of premises.*

374. The commissioner may inspect any building or other premises for the purpose of ascertaining the sanitary condition thereof.

Power to inspect premises for sanitary purposes.

375. If it shall appear to the commissioner necessary for sanitary reasons so to do, he may, by written notice, require the owner or occupier of any building so inspected, to cause the same or some portion thereof to be limewashed or otherwise cleansed, either externally or internally, or both externally and internally.

Cleansing and lime-washing of any building may be required.

*The City of Bombay Municipal Act, 1888.*

[Ch. XV.—Sanitary Provisions, Sects. 376—380.]

376. If any premises, by reason of their being abandoned or unoccupied, become a resort of disorderly persons or, in the opinion of the commissioner, a nuisance, the commissioner, after such inquiry as he deems necessary, may give written notice to the owner of such premises, if he be known and resident within the city, or to any person who is known or believed to claim to be the owner, if such person is resident within the city, and shall also affix a copy of the said notice on some conspicuous part of the said premises, requiring all persons having any right of property or interest therein to take such order with the said premises as shall, in the opinion of the commissioner, be necessary to prevent the same from being resorted to as aforesaid or from continuing to be a nuisance.

377. (1) If it shall appear to the commissioner that any premises are overgrown with rank and noisome vegetation or are otherwise in an unwholesome or filthy condition or, by reason of their not being properly enclosed, are resorted to by the public for purposes of nature, or are otherwise a nuisance to the neighbouring inhabitants, the commissioner may, by written notice, require the owner or occupier of such premises to cleanse, clear, or enclose the same or, with the approval of the standing committee, may require him to take such other order with the same as the commissioner thinks necessary.

(2) Provided that, in so far as the unwholesome or filthy condition of such premises or such nuisance as above mentioned is caused by the discharge from, or by any defect in the municipal drains or appliances connected therewith, it shall be incumbent on the commissioner to cleanse such premises.

378. (1) If, for any reason, any building intended for or used as a dwelling shall appear to the commissioner to be unfit for human habitation, he may apply to the Chief Presidency Magistrate to prohibit the further use of such building for such purpose; and the said magistrate, after such inquiry as he thinks fit to make, may, by written order, make a prohibition as aforesaid or may

pass such other order as he shall deem just and proper.

(2) When any such prohibition has been made, no owner or occupier of such building shall use or suffer the same to be used for human habitation until the commissioner certifies in writing that the causes rendering it unfit for human habitation have been removed to his satisfaction or the Chief Presidency Magistrate, by a written order, withdraws the prohibition aforesaid.

379. (1) If it shall appear to the commissioner that any overcrowded dwellings are so overcrowded as to endanger the health of the inmates thereof, he may apply to the Chief Presidency Magistrate to prevent such overcrowding; and the said magistrate, after such inquiry as he thinks fit to make, may, by written order, require the owner of the building, within a reasonable time not exceeding six weeks, to be prescribed in the said order, to abate the overcrowding thereof, by reducing the number of lodgers, tenants, or other inmates of the said building, or may pass such other order as he shall deem just and proper.

(2) If the owner of the said building shall have sub-let the same, the landlord of the lodgers, tenants or other actual inmates of the same shall, for the purposes of this section, be deemed to be the owner of the building.

(3) It shall be incumbent on every tenant, lodger or other inmate of the building to vacate on being required by the owner so to do in pursuance of any such requisition.

380. If the commissioner is of opinion that any hut or shed, used either as a dwelling or as a stable or for any other purpose, is likely, by reason of its being built without a plinth or upon a plinth of insufficient height or without proper means of drainage, or on account of the impracticability of scavenging, or owing to the manner in which it and other huts or sheds are crowded together, to cause risk of disease to the inmates thereof or to the inhabitants of the neighbourhood, or is for any reason likely to endanger the public health or safety;

he may, by written notice, which shall be affixed to some conspicuous part of such

*The City of Bombay Municipal Act, 1888.*

[Ch. XV.—Sanitary Provisions, Sects. 381—385 (1) (b).]

hut or shed, require the owner or occupier thereof or the owner of the land on which such hut or shed stands to remove or alter such hut or shed or to take such order for the improvement thereof as the commissioner shall deem necessary.

381. If, in the opinion of the commissioner, any pool, ditch, tank, pond, well, quarry-hole, low ground, or stagnant water is or is likely to become a nuisance, the commissioner may, with the approval of the standing committee, by notice in writing, require the owner thereof to cleanse, fill up, drain off, or remove the same or to take such other order therewith as the commissioner shall deem necessary.

382. If, in the opinion of the commissioner, the working of any quarry or the removal of stone, earth or other material from any place, is dangerous to persons residing in or having legal access to the neighbourhood thereof or creates or is likely to create a nuisance, the commissioner may, with the approval of the standing committee, by written notice, require the owner of the said quarry or place to discontinue working the same or to discontinue removing stone, earth or other material from such place, or to take such order with such quarry or place, as he shall deem necessary for the purpose of preventing danger or of abating the nuisance arising or likely to arise therefrom.

383. (1) If, in the opinion of the commissioner:

(a) any hedge is at any time insufficiently cut or trimmed, or overgrown with prickly-pear or other rank vegetation; or

(b) any tree or shrub has fallen or is likely to fall, to the danger of public safety, or overhangs or obstructs any street to the inconvenience or danger of passengers therein;

the commissioner may, by written notice, require the owner or occupier of the land on which such hedge, tree or shrub is or has been growing:

(c) to cut down such hedge to a height not exceeding four feet and to a width not

exceeding three feet and to remove any such prickly-pear or other rank vegetation therefrom; or

(d) to remove, cut, lop, or trim such tree or shrub, as the case may be.

(2) In any case falling under clause (b), the commissioner may, if for the public safety it shall appear to him necessary so to do, cause any tree or shrub to be removed, cut, lopped or trimmed, without previously giving the said owner or occupier notice as aforesaid, and the expenses thereof shall, nevertheless, be paid by the owner or occupier.

*Keeping and destruction of animals and disposal of carcasses.*

384. (1) No person shall:

(a) without the written permission of the commissioner, or otherwise than in conformity with the terms of such permission, keep any swine in any part of the city;

(b) keep any animal on his premises so as to be a nuisance or dangerous to any person;

(c) feed any animal, or suffer or permit any animal to be fed, or to feed with or upon excrementitious matter, dung, stable-refuse or other filthy matter.

(2) Any swine found straying may be forthwith destroyed and the carcass thereof disposed of as the commissioner shall direct. No claim shall lie for compensation for any swine so destroyed.

385. (1) The occupier of any premises in or upon which any animal shall die or upon which the carcass of any animal shall be found and the person having the charge of any animal which dies in a street or in any open place, shall, within three hours after the death of such animal, or if the death occurs at night, within three hours after sunrise, either:

(a) remove the carcass of such animal to some receptacle, dépôt or place appointed by the commissioner, under clause (b) of section 367 for the temporary deposit or final disposal of such carcasses, or

(b) report the death of the animal to an officer of the health department of the division of the city in which the death

*The City of Bombay Municipal Act, 1888,*

[Ch. XV.—Sanitary Provisions, Sects. 385 (2)—390 (2)]

occurred, with a view to his causing the same to be removed.

(2) When any carcass is so removed by the health department, a fee for the removal of such amount as shall be fixed by the commissioner shall be paid by the owner of the animal or, if the owner is not known, by the occupier of the premises in or upon which, or by the person in whose charge, the same died.

*Regulation of public bathing, washing, &c.*

386. The commissioner may from time to time set apart portions of the seashore or other suitable places vesting in the corporation for use by the public for bathing, for the washing of animals or for drying clothes, and may from time to time, by public notice, prohibit the use by the public of any portion of the seashore or place not vesting in the corporation for any of the said purposes.

387. (1) The commissioner may, by public notice, regulate the use by the public:

(a) of any portion of the seashore or other place vesting in the corporation set apart by him for any purpose under the last preceding section;

(b) of any portion of the seashore or other place not vesting in the corporation used with his acquiescence, for any purpose mentioned in the last preceding section;

(c) of any work and of the water in any work assigned and set apart under section 270 for any particular purpose;

(2) In the case of any portion of the seashore or of any place or work set apart, assigned or used as aforesaid for bathing, the commissioner may, in such notice, prescribe the times and places of bathing for persons of each sex.

388. Except as permitted by any order or regulation made under section 270, 386 or 387, no person shall:

(a) bathe in or near any lake, tank, reservoir, fountain, cistern, duct, standpipe, stream or well or on any part of the seashore or other place vesting in the corporation;

(b) wash or cause to be washed in or near any such place or work, any animal, clothes or other article;

(c) throw, put or cause to enter into the water in any such place or work, any animal or other thing;

(d) cause or suffer to drain into or upon any such place or work or to be brought thereinto or thereupon, anything, or do anything, whereby the water shall be in any degree fouled or corrupted;

(e) dry clothes in or upon any such place.

And no person shall:

(f) in contravention of any prohibition made by the commissioner under section 386, use any portion of the seashore or any place not vesting in the corporation for any purpose mentioned in the said section;

(g) contravene any regulation made by the commissioner under section 387 for the use of any such portion of the seashore or place for any such purpose.

389. No person shall:

(a) steep in any tank, reservoir, stream, well or ditch, any animal, vegetable or mineral matter likely to render the water thereof offensive or dangerous to health;

(b) whilst suffering from any contagious or loathsome disease, bathe in or near any lake, tank, reservoir, fountain, cistern, duct, standpipe, stream or well or on any part of the seashore.

*Regulation of factories, trades, &c.*

390. (1) No person shall newly establish in any place in which it is intended that steam, water or other mechanical power shall be employed, without the previous written permission of the commissioner.

(2) The commissioner may refuse to give such permission, if he shall be of opinion that the establishment of such factory, workshop or workplace in the proposed position is objectionable by reason of the density of the population in the neighbourhood thereof or will be a nuisance to the inhabitants of the neighbourhood.

*The City of Bombay Municipal Act, 1838.*

[Ch. XV.—Sanitary Provisions, Sects. 391 (1)—394 (2) (f).]

391. (1) No person shall:

Furnaces used in trade or manufacture to consume their own smoke.

(a) use or permit to be used any furnace employed for the purpose of any trade or manufacture, which does not, so far as practicable, consume its own smoke; or

(b) so negligently use or permit to be used any such furnace as that it shall not, as far as practicable, consume its own smoke.

(2) Nothing in this section shall be deemed to apply to a locomotive engine used for the purpose of traffic upon any railway or for the repair of streets.

392. (1) Whenever it shall appear to the commissioner that any factory, bakehouse, workshop or workplace or any building or place, in which steam, water or other mechanical power is employed, is not kept in a cleanly state or is not ventilated in such a manner as to render harmless, as far as practicable, any gas, vapour, dust or other impurity generated in the course of the work carried on therein, which is a nuisance,

or is so overcrowded while work is carried on as to be dangerous or injurious to the health of the persons employed therein,

or that any engine, mill-gearing, hoist or other machinery therein is so fixed or so insecurely fenced as to be dangerous to life or limb;

the commissioner may, by written notice, require the owner of such factory, bakehouse, workshop, workplace or other building or place to take such order for putting and maintaining the same in a cleanly state or for ventilating the same, or for preventing the same from being overcrowded, or for preventing danger to life or limb from any engine, mill-gearing, hoist or other machinery therein, as he shall think fit.

(2) Nothing in this section shall be deemed to affect any provision of the Bombay Boiler Inspection Act, 1887, and nothing in this section which relates to the fixing or fencing of any engine, mill-gearing, hoist or other machinery shall apply in any factory to which the provisions of the Indian Factory Act, 1881, are applicable.

Bo. III of 1887.

XV of 1881.

393. (1) No person shall, without the written permission of the commissioner, use or employ in any factory or any other place, any steam-whistle or steam-trumpet for the purpose of summoning or dismissing workmen or persons employed.

(2) The commissioner may at any time revoke any permission which he has given for the use of any such instrument as aforesaid, on giving one month's notice to the person using the same:

(3) Provided that nothing in sub-section (2) shall be deemed to require one month's notice to be given by the commissioner, if he suspends or revokes any such permission for any reason specified in sub-section (3) of section 479.

394. (1) No person shall use any premises for any of the purposes hereinafter mentioned, without or otherwise than in conformity with the terms of a license granted by the commissioner in this behalf, namely:

(a) any of the purposes specified in schedule M;

(b) any purpose which is, in the opinion of the commissioner, dangerous to life, health or property, or likely to create a nuisance;

(c) keeping horses, cattle or other fourfooted animals for sale or hire or for sale of the produce thereof;

(d) storing for other than domestic use, or selling, timber, firewood, charcoal, coal, coke, ashes, hay, grass, straw or any other combustible thing.

(2) Every person to whom a license is granted by the commissioner to use any premises for any of the purposes mentioned in sub-section (1) shall keep affixed in a conspicuous part of the said premises a board upon which shall be legibly written in English, and also in either Maráthi, Gujaráthi or Urdu, the following particulars (namely):

(e) the licensee's name;

(f) the purpose for which and the limitations and conditions subject to which the license is granted;



*The City of Bombay Municipal Act, 1888.*

[Ch. XV.—Sanitary Provisions, Sects. 394 (2) (g)—398.]

(g) any other details relating to the license or the terms thereof, which the commissioner from time to time thinks fit to require.

(3) Nothing in this section shall be deemed to apply to mills for spinning or weaving cotton, wool, silk or jute.

395. (1) No person engaged in any trade or manufacture of water by specified in schedule chemicals, &c. M, shall :

(a) wilfully cause or suffer to be brought, or to flow into any lake, tank, reservoir, cistern, well, duct or other place for water belonging to the corporation or into any drain or pipe communicating therewith, any washing or other substance produced in the course of any such trade or manufacture as aforesaid ;

(b) wilfully do any act connected with any such trade or manufacture as aforesaid, whereby the water in any such lake, tank, reservoir, cistern, well, duct or other place for water is fouled or corrupted.

(2) The commissioner may, after giving not less than twenty-four hours' previous notice in writing to the owner or to the person who has the management or control of any works, pipes or conduits connected with any such manufacture or trade as aforesaid, lay open and examine the said works, pipes or conduits ;

and if, upon such examination, it appears that sub-section (1) has been contravened by reason of anything contained in or proceeding from the said works, pipes or conduits, the expenses of such laying open and examination and of any measure which the commissioner shall, in his discretion, require to be adopted for the discontinuance of the cause of such contravention, shall be paid by the owner of the said works, pipes or conduits or by the person who has the management or control thereof or through whose neglect or fault the said sub-section has been contravened ;

but if it appear that there has been no contravention of the said sub-section, the said expenses and compensation for any damage occasioned by the said laying open and examination shall be paid by the commissioner.

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396. (1) The commissioner may at any time, by day or by night, without notice, enter into or upon any premises used for any

Inspection of premises used for manufactures, &c.

of the purposes mentioned in section 394 and upon any premises in which a furnace is employed for the purpose of any trade or manufacture and into any bake-house, in order to satisfy himself as to whether any provision of this Act or any by-law made under this Act at the time in force or any condition of any license granted under this Act is being contravened, and as to whether any nuisance is created upon such premises.

(2) No claim shall lie against any person for compensation for any damage necessarily caused by any such entry or by the use of any force necessary for effecting such entry : provided that force shall not be used for effecting an entry, unless when there is reason to believe that an offence is being committed against some provision of this Act or some by-law made under this Act.

397. (1) The commissioner may, by public notice, prohibit the washing of clothes by washermen in the exercise of their calling, except at such places as he shall appoint for this purpose ; and when any such prohibition has been made, no person who is, by calling, a washerman shall wash clothes at any place not appointed for this purpose by the commissioner, except for such person himself or for the owner or occupier of such place.

(2) The commissioner shall provide suitable places for the exercise by washermen of their calling and may require payment of such fees for the use of any such place as shall from time to time be determined by the commissioner, with the approval of the standing committee.

*Maintenance and regulation of markets and slaughter-houses.*

398. All markets and slaughter-houses which belong to or are maintained by the municipal markets and slaughter-houses corporation shall be called "municipal markets" or "municipal slaughter-houses." All other

*The City of Bombay Municipal Act, 1888.*

[Ch. XV.—Sanitary Provisions, Sects. 399 (1)—403 (3).]

markets and slaughter-houses shall be deemed to be private.

399. (1) The commissioner, when authorized by the corporation in this behalf, may construct, purchase or take on lease any building or land for the purpose of establishing a new municipal market or a new municipal slaughter-house or of extending or improving any existing municipal market or slaughter-house, and may from time to time build and maintain such municipal markets and slaughter-houses and such stalls, shops, sheds, pens and other buildings or conveniences for the use of the persons carrying on trade or business in, or frequenting such municipal markets or slaughter-houses, and provide and maintain in such municipal markets, such buildings, places, machines, weights, scales and measures for weighing and measuring goods sold therein, as he shall think fit.

(2) Municipal slaughter-houses may be situate within or, with the sanction of Government, without the city.

400. The commissioner may, with the sanction of the corporation and of Government, at any time close any municipal market or slaughter-house; and the premises occupied for any market or slaughter-house so closed may be disposed of as the property of the corporation.

401. (1) No person shall, without a license from the commissioner, sell or expose for sale any animal or article in any municipal market.

(2) Any person contravening this section may be summarily removed by the commissioner or by any municipal officer or servant.

402. (1) The corporation shall from time to time determine whether the establishment of new private markets shall be permitted in the city or in any specified portion of the city.

(2) No person shall establish a new private market for the sale of, or for the purpose of exposing for sale, animals intended for human food or any other article

of human food, except with the sanction of the commissioner, who shall be guided in giving such sanction by the decisions of the corporation at the time in force under sub-section (1).

(3) When the establishment of a new private market has been so sanctioned, the commissioner shall cause a notice of such sanction to be affixed in the English, Maráthi, Gujaráti and Urdu languages on some conspicuous spot on, or near the building or place where such market is to be held.

403. (1) No person shall, without or otherwise than in conformity with the terms of a license granted by the commissioner in this behalf :

(a) keep open a private market;

(b) use any place in the city as a slaughter-house or for the slaughtering of any animal intended for human food;

(c) use any place without the city, whether as a slaughter-house or otherwise, for the slaughtering of any animal intended for human food to be consumed in the city;

(2) Provided that :

(d) the commissioner shall not refuse, cancel or suspend any license for keeping open a private market for any cause other than the failure of the owner thereof to comply with some provision of this Act, or with some regulation framed under section 406, or with some by-law made under this Act at the time in force; and shall not cancel or suspend any such license without the approval of the standing committee;

(e) nothing in this section shall be deemed to prevent the commissioner from granting written permission for the slaughter of an animal in any place that he thinks fit, on the occasion of any festival or ceremony or under special circumstances.

(3) When the commissioner has refused, cancelled or suspended any license to keep open a private market, he shall cause a notice of his having so done to be affixed in the English, Maráthi, Gujaráti and Urdu languages on some conspicuous spot on or near the building or place where such market has been held.

*The City of Bombay Municipal Act, 1888.*

[Ch. XV.—Sanitary Provisions, Sects. 404—409.]

404. No person who knows that any private market has been established without the sanction of the commissioner or is kept open after a license for keeping the same open has been refused, cancelled or suspended by the commissioner, shall sell or expose for sale therein any animal or article of food.

405. The commissioner may, by written notice, require the owner, farmer or occupier of any private market or slaughter-house, to cause :

(a) the whole or any portion of the floor of the market-building, market-place or slaughter-house to be paved with dressed stone or other suitable material ;

(b) such drains to be made in or from the market-building, market-place or slaughter-house, of such material, size and description, at such level and with such outfall as to the commissioner may appear necessary.

406. The commissioner may, with the approval of the standing committee, from time to time make regulations, not inconsistent with any provision of this Act or of any by-law made under this Act at the time in force :

(a) for preventing nuisances or obstruction in any market-building, market-place or slaughter-house or in the approaches thereto ;

(b) fixing the days and the hours on and during which any market or slaughter-house may be held or kept open for use ;

(c) for keeping every market-building, market-place and slaughter-house in a cleanly and proper state and for removing filth and refuse therefrom ;

(d) requiring that any market-building, market-place or slaughter-house be properly ventilated and be provided with a sufficient supply of water ;

(e) requiring that in market-buildings and market-places passages be provided between the stalls of sufficient width for the convenient use of the public.

407. The commissioner may :

Levy of stallages, rents and fees in municipal markets and slaughter-houses. (a) charge for the occupation or use of any stall, shop, standing, shed or pen in a municipal market or slaughter-house, and for the right to expose goods for sale in a municipal market and for weighing and measuring goods sold in any such market and for the right to slaughter animals in any municipal slaughter-house, such stallages, rents and fees as shall from time to time be fixed by him, with the approval of the standing committee, in this behalf ; or

(b) with the approval of the standing committee, farm the stallages, rents and fees leviable as aforesaid or any portion thereof, for any period not exceeding one year at a time ; or

(c) put up to public auction, or, with the approval of the standing committee, dispose of, by private sale, the privilege of occupying or using any stall, shop, standing, shed or pen in a municipal market or slaughter-house for such term and on such conditions as he shall think fit.

408. (1) A printed copy of the regulations and of the table of stallages, rents and fees, if any, in force in any market or slaughter-house under the two last preceding sections, in the English, Maráthi, Gujaráti and Urdu languages, shall be affixed in some conspicuous spot in the market-building, market-place or slaughter-house.

(2) No person shall, without authority, destroy, pull down, injure or deface any copy of any regulation or table so affixed.

409. The commissioner may expel from any municipal market or slaughter-house any person, who or whose servant has been convicted of contravening any by-law made under this Act or any regulation made under section 406 at the time in force in such market or slaughter-house and may prevent such person, by himself or his servants, further carrying on any trade or business in such market or slaughter-house or occupying any stall, shop, standing, shed, pen or other place therein and may determine any lease or tenure which such person may have in any such stall, shop, standing, shed, pen or place.

*The City of Bombay Municipal Act, 1888.*

[Ch. XV.—Sanitary Provisions, Sects. 410 (1)—415 (2).]

*Sale of articles of food outside of markets.*

410. (1) Except as hereinafter provided, no person shall, without a license from the commissioner, sell or expose for sale any fourfooted animal or any meat or fish intended for human food, in any place other than a municipal or private market:

(2) Provided that nothing in sub-section (1) shall apply to fresh fish sold from, or exposed for sale in a vessel in which it has been brought direct to the seashore after being caught at sea.

*Licensing of butchers, &c.*

411. No person shall, without or otherwise than in conformity with the terms of a license granted by the commissioner in this behalf:

(a) carry on within the city, or at any municipal slaughter-house, the trade of a butcher;

(b) use any place in the city for the sale of the flesh of any animal intended for human food, or any place without the city for the sale of such flesh for consumption in the city.

412. (1) No person shall, without the written permission of the commissioner, bring into the city any cattle, sheep, goat or swine intended for human food or the flesh of any such animal, which has been slaughtered at any slaughter-house or place not maintained or licensed under this Act.

(2) Any animal or flesh brought into the city in contravention of this section may be seized by the commissioner or by any municipal officer or servant and be sold or otherwise disposed of as the commissioner shall direct. The proceeds, if any, shall belong to the corporation.

(3) Nothing in this section shall be deemed to apply to cured or preserved meat.

*Inspection of places of sale, &c.*

413. (1) If the commissioner shall have reason to believe that any animal intended for human food is

being slaughtered, or that the flesh of any such animal is being sold or exposed for sale, in any place or manner not duly authorized under the provisions of this Act, the commissioner may at any time by day or by night, without notice, enter such place for the purpose of satisfying himself as to whether any provision of this Act or of any by-law made under this Act at the time in force is being contravened thereat.

(2) No claim shall lie against any person for compensation for any damage necessarily caused by any such entry or by the use of any force necessary for effecting such entry.

414. It shall be the duty of the commissioner to make provision for the constant and vigilant inspection of animals, carcasses, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, flour, milk, ghee, butter and any other article exposed or hawked about for sale or deposited in or brought to any place for the purpose of sale or of preparation for sale and intended for human food or for medicine, the proof that the same was not exposed or hawked about or deposited or brought for any such purpose or was not intended for human food or for medicine resting with the party charged.

415. (1) The commissioner may at all reasonable times inspect and examine any such animal or article as aforesaid and any utensil or vessel used for preparing, manufacturing or containing the same.

(2) If any such animal or article appears to the commissioner to be diseased or unsound or unwholesome or unfit for human food or for medicine, as the case may be, or is not what it is represented to be, or if any such utensil or vessel is of such kind or in such state as to render any article prepared, manufactured or contained therein unwholesome or unfit for human food or for medicine, as the case may be,

he may seize and carry away such animal, article, utensil or vessel, in order that the same may be dealt with as hereinafter provided.

*The City of Bombay Municipal Act, 1888.*

[Ch. XV.—Sanitary Provisions, Sects. 416—422.]

416. If any meat, fish, vegetable or other article of a perishable nature be seized under the last preceding section and the same is, in the opinion of the commissioner, diseased, unsound, unwholesome or unfit for human food or for medicine, as the case may be,

the commissioner shall cause the same to be forthwith destroyed in such manner as to prevent its being again exposed for sale or used for human food or for medicine, and the expenses thereof shall be paid by the person in whose possession such article was at the time of its seizure.

417. (1) Any animal and any article not of a perishable nature and any utensil or vessel seized under section 415 shall be forthwith taken before a presidency magistrate.

(2) If it shall appear to such magistrate that any such animal or article is diseased, unsound or unwholesome or unfit for human food, or for medicine, as the case may be, or is not what it was represented to be or that such utensil or vessel is of such kind or in such state as aforesaid,

he shall cause the same to be destroyed, at the charge of the person in whose possession it was at the time of its seizure, in such manner as to prevent the same being again exposed or hawked about for sale or used for human food or for medicine, or for the preparation or manufacture of, or for containing any such article as aforesaid.

*Weights and Measures.*

418. (1) The commissioner shall from time to time provide such local standards of measure and weight as he deems requisite for the purpose of verification of weights and measures in use in the city and shall make such arrangement as he shall think fit for the safe keeping of the said standards.

(2) The commissioner shall also provide from time to time proper means for verifying weights and measures by comparison with the said standards and for stamping the weights and measures so verified.

419. (1) The commissioner shall from time to time fix the times and places at which some municipal officer appointed by him in this behalf shall attend for the purpose of the verification of weights and measures.

(2) The municipal officer so appointed shall attend, with the local standards in his custody, at each time and place fixed and shall examine every measure or weight which is of the same denomination as one of such standards and is brought to him for the purpose of verification and compare the same with that standard and, if he find the same correct, shall stamp it with a stamp of verification in such manner as best to prevent fraud.

(3) The said municipal officer shall enter in a book kept by him minutes of every such verification and give, if required, a certificate under his hand of every such stamping.

420. There shall be payable to the corporation in respect of the verification and stamping of weights and measures by a municipal officer as aforesaid such fees as the commissioner, with the approval of the corporation, from time to time fixes in this behalf.

*Prevention of spread of dangerous diseases.*

421. Every medical practitioner who treats or becomes cognizant of the existence of any dangerous disease in any private or public dwelling, other than a public hospital, shall give information of the same with the least practicable delay to the executive health officer. The said information shall be communicated in such form and with such details as the executive health officer, with the consent of the commissioner, may from time to time require.

422. The commissioner may at any time, by day or by night, without notice, or after giving such notice of his intention as shall, in the circumstances, appear to him to be reasonable, inspect any place in which any dangerous disease is reputed or suspected to exist, and take such measures as he shall think fit to

*The City of Bombay Municipal Act, 1888.*

[Ch. XV.—Sanitary Provisions, Sects. 423—427.]

prevent the spread of the said disease beyond such place.

423. (1) If it shall appear to the commissioner that the water in any well, tank or other place is likely, if used for drinking, to engender or cause the spread of any dangerous disease, he may, by public notice, prohibit the removal or use of the said water for the purpose of drinking.

(2) No person shall remove or use for the purpose of drinking any water in respect of which any such public notice has been issued.

424. (1) The commissioner or any police officer empowered by him in this behalf may, on a certificate signed by the executive health officer or by any duly qualified medical practitioner, direct or cause the removal of any person who is, in the opinion of such executive health officer or other medical practitioner, without proper lodging or accommodation or who is lodged in a building occupied by more than one family and who is suffering from a dangerous disease, to any hospital or place at which patients suffering from the said disease are received for medical treatment.

(2) The person, if any, who has charge of a person in respect of whom an order is made under sub-section (1) shall obey such order.

425. (1) If the commissioner is of opinion that the cleansing or disinfecting of a building or of a part of a building or of any article therein likely to retain infection, would tend to prevent or check the spread of any dangerous disease, he may, by written notice, require the owner or occupier of such building to cleanse or disinfect such building or part thereof or article therein and, if it shall appear to the commissioner necessary, to vacate the said building for such time as shall be prescribed in the said notice:

(2) Provided that if, in the opinion of the commissioner, the owner or occupier is from poverty or other cause unable effectually to comply with such requisition, the commissioner may cause

the building or part of the building or article likely to retain infection to be cleansed or disinfected and defray the cost of so doing.

426. (1) If the commissioner is of opinion that the destruction of any hut or shed is necessary to prevent the spread of any dangerous disease, he may, after giving, to the owner or occupier of such hut or shed, such previous notice of his intention as may in the circumstances of the case appear to him reasonable, take measures for having such hut or shed and all the materials thereof destroyed.

(2) Compensation may be paid by the commissioner, in any case which he thinks fit, to any person who sustains substantial loss by the destruction of any such hut or shed; but except as so allowed by the commissioner, no claim for compensation shall lie for any loss or damage caused by any exercise of the power conferred by this section.

427. (1) The commissioner may provide a place, with all necessary apparatus and attendance, for the disinfection of clothing, bedding or other articles which have become infected and, in his discretion, may have articles brought to such place for disinfection, disinfected on payment of such fees as he shall from time to time fix, with the approval of the standing committee, in this behalf, or, in any case in which he thinks fit, free of charge.

(2) The commissioner may, from time to time, by public notice, appoint a place at which clothing, bedding, or other articles which have been exposed to infection from any dangerous disease may be washed; and no person shall wash any such article at any place not so appointed, without having previously disinfected the same.

(3) The commissioner may direct the disinfection or destruction of bedding, clothing, or other articles likely to retain infection.

(4) The commissioner may, in his discretion, give compensation for any article destroyed under sub-section (3).

*The City of Bombay Municipal Act, 1888.*

[Ch. XV.—Sanitary Provisions, Sects. 428—434 (1).]

428. (1) No person who is suffering from a dangerous disease shall enter a public conveyance without previously notifying to the owner, driver or person in charge of such conveyance that he is so suffering.

(2) Notwithstanding anything contained in any Act relating to public conveyances for the time being in force, no owner or driver or person in charge of a public conveyance shall be bound to carry any person suffering as aforesaid in such conveyance, unless payment or tender of sufficient compensation for the loss and expenses he must incur in disinfecting such conveyance is first of all made to him.

429. The commissioner, with the sanction of the corporation, may provide and maintain suitable conveyances for the free carriage of persons suffering from any dangerous disease; and when such conveyances have been provided, it shall not be lawful to convey any such person by any other public conveyance.

430. (1) No person who is suffering from a dangerous disease shall:

(a) without proper precautions against spreading such disease, cause or suffer himself to be carried in a public conveyance;

(b) cause or suffer himself to be carried in a public conveyance contrary to the provision of the last preceding section.

(2) No person shall go in company with, or take charge of, any person suffering as aforesaid, who causes or permits himself to be carried in a public conveyance in contravention of sub-section (1).

(3) No owner, or driver, or person in charge of a public conveyance shall knowingly carry or permit to be carried in such conveyance any person suffering as aforesaid, in contravention of the said sub-section.

431. The owner, driver or person in charge of a public conveyance in which any person suffering as aforesaid has been carried shall immediately provide for the disinfection of the same.

432. (1) No person shall, without previous disinfection of the same, give, lend, sell, transmit or otherwise dispose of any article which he knows or has reason to know has been exposed to infection from any dangerous disease.

(2) Nothing in this section shall be deemed to apply to a person who transmits, with proper precautions, any such article for the purpose of having the same disinfected.

433. (1) No person shall let a building or any part of a building, in which he knows or has reason to know that a person has been suffering from a dangerous disease, without first having such building or part thereof and every article therein likely to retain infection disinfected, to the satisfaction of the executive health officer or of some duly qualified medical practitioner, as testified by such officer's or medical practitioner's certificate.

(2) For the purpose of this section, the keeper of a hotel or inn shall be deemed to let part of his building to any person accommodated in such hotel or inn.

*Special sanitary measures.*

434. (1) In the event of the city being at any time visited or threatened with an outbreak of any dangerous disease, or in the event of any infectious disease breaking out or being likely to be introduced into the city amongst cattle—including under this expression sheep and goats,—

the commissioner, if he thinks the ordinary provisions of this Act or of any other law at the time in force are insufficient for the purpose, may, with the sanction of Government:

(a) take such special measures, and

(b) by public notice, prescribe such temporary regulations to be observed by the public or by any person or class of persons, as he shall deem necessary to prevent the outbreak of such disease or the spread thereof.

*The City of Bombay Municipal Act, 1888.*

[Ch. XV.—Sanitary Provisions, Sects. 434 (2)—439.]

(2) The commissioner shall forthwith report to the corporation any measures taken and any regulations prescribed by him under sub-section (1).

*Disposal of the dead.*

435. Every owner or person having the control of a place used for burying, burning or otherwise disposing of the dead shall cause the same to be registered in a register which shall be kept by some municipal officer charged by the commissioner with this duty, and shall deposit in the municipal office at the time of registration a plan of the said place, showing the extent and boundaries thereof, bearing the signature of a licensed surveyor in token of its having been prepared by or under the supervision of such surveyor.

436. If the existing places for the disposal of the dead shall at any time appear to be insufficient, or if any such place is closed under the provisions of section 438, the commissioner shall, with the sanction of the corporation, provide other fit and convenient places for the said purpose, either within or without the city, and shall cause the same to be registered in the register kept under section 435 and shall deposit in the municipal office, at the time of registration of each place so provided, a plan thereof showing the extent and boundaries of the same and bearing the signature of the municipal executive engineer.

437. No place which has never previously been lawfully used as a place for the disposal of the dead and registered as such, shall be opened by any person for the said purpose without the written permission of the commissioner, who, with the approval of the corporation, may grant or withhold such permission.

438. (1) If, from information furnished by competent persons and after personal inspection, the commissioner shall at any time be of opinion:

(a) that any place of public worship is or is likely to become injurious to

health by reason of the state of the vaults or graves within the walls of, or underneath the same, or in any churchyard or burial-ground adjacent thereto, or

(b) that any other place used for the disposal of the dead is in such a state as to be or to be likely to become injurious to health,

he may submit his said opinion, with the reasons therefor, to the corporation, who shall forward the same, with their opinion, for the consideration of the Governor in Council.

(2) Upon receipt of such opinions, the Governor in Council, after such further inquiry, if any, as he shall deem fit to cause to be made, may, by notification published in the *Bombay Government Gazette* and in the local newspapers, direct that such place of public worship or other place for the disposal of the dead be no longer used for the disposal of the dead. Every order so made shall be noted in the register kept under section 435.

(3) On the expiration of two months from the date of any such order of the Governor in Council, the place to which the same relates shall be closed for the disposal of the dead.

(4) A copy of the said notification, with a translation thereof in the Maráthi, Gujaráti and Urdu languages, shall be affixed on a conspicuous spot on or near the place to which the same relates, unless such place be a place of public worship.

439. (1) If, after personal inspection, the commissioner shall at any time be of opinion that any place formerly used for the disposal of the dead which has been closed under the provisions of the last preceding section or under any other law or authority, has, by lapse of time, become no longer injurious to health and may, without risk of danger, be again used for the said purpose, he may submit his said opinion, with the reasons therefor, to the corporation, who shall forward the same, with their opinion, for the consideration of the Governor in Council.

(2) Upon receipt of such opinions, the Governor in Council, after such further inquiry, if any, as he shall deem fit to



*The City of Bombay Municipal Act, 1888.*

[Ch. XV.—Sanitary Provisions, Sects. 440—441.]

cause to be made, may by notification published as aforesaid direct that such place be re-opened for the disposal of the dead. Every order so made shall be noted in the register kept under section 435.

440. (1) No person shall, without the written permission of the commissioner under sub-section (2):

Burials within places of worship and exhumations not to be made without the permission of the commissioner. (a) make any vault or grave or interment within any wall, or underneath any passage, porch, portico, plinth or verandah of any place of worship;

(b) make any interment or otherwise dispose of any corpse in any place which is closed for the disposal of the dead under section 438;

(c) build, dig or cause to be built or dug, any grave or vault, or in any way dispose of, or suffer or permit to be disposed of, any corpse at any place which is not registered in the register kept under section 435;

Act X of 1882 (d) exhume any body, except under the provisions of section 176 of the Code of Criminal Procedure, 1882, or of any other law for the time being in force, from any place for the disposal of the dead.

(2) The commissioner may in special cases grant permission for any of the purposes aforesaid, subject to such general or special orders as the Governor in Council may from time to time make in this behalf.

Act X of 1882 (3) An offence against this section shall be deemed to be a cognizable offence within the meaning of sections 149, 150 and 151 of the Code of Criminal Procedure, 1882.

441. No person shall:

Acts prohibited in connection with the disposal of the dead. (a) retain a corpse on any premises, without burning, burying or otherwise lawfully disposing of the same, for so long a time after death as to create a nuisance;

(b) carry a corpse or part of a corpse along any street without having and keeping the same decently covered, or without taking such precautions to prevent risk of infection or injury to the public health as the commissioner may,

by public notice, from time to time think fit to require;

(c) except when no other route is available, carry a corpse or part of a corpse along any street, along which the carrying of corpses is prohibited by a public notice issued by the commissioner in this behalf;

(d) remove a corpse or part of a corpse which has been kept or used for purposes of dissection, otherwise than in a closed receptacle or vehicle;

(e) whilst conveying a corpse or part of a corpse, place or leave the same on or near any street, without urgent necessity;

(f) bury or cause to be buried any corpse or part of a corpse, in a grave or vault or otherwise, in such manner as that the surface of the coffin or, when no coffin is used, of the corpse or part of a corpse, shall be at a less depth than six feet from the surface of the ground;

(g) build or dig or cause to be built or dug, any grave or vault in any burial-ground at a less distance than two feet from the margin of any other grave or vault;

(h) build or dig or cause to be built or dug, a grave or vault in any burial-ground in any line not marked out for this purpose by or under the order of the commissioner;

(j) without the written permission of the commissioner, re-open for the interment of a corpse or of any part of a corpse, a grave or vault already occupied;

(k) after bringing or causing to be brought to a burning-ground any corpse or part of a corpse, fail to burn or cause the same to be burnt within six hours from the time of the arrival thereof at such ground;

(l) when burning or causing to be burnt any corpse or part of a corpse, permit the same or any portion thereof to remain without being completely reduced to ashes, or permit any cloth or other article used for the conveyance or burning of such corpse or part of a corpse, to be removed or to remain on or near the place of burning, without its being completely reduced to ashes.

*The City of Bombay Municipal Act, 1888.*

[Ch. XVI.—Vital Statistics, Sects. 442—448 (1).]

## CHAPTER XVI.

## VITAL STATISTICS.

*Registration of births and deaths.*

442. For the purpose of registering births and deaths, the commissioner shall divide the city into such and so many districts and sub-districts as he shall from time to time think fit; and a municipal officer shall be registrar of births and deaths of each such district.

443. (1) Every registrar shall reside within the district of which he is registrar and shall cause his name, together with the words "Registrar of Births and Deaths for the district of \_\_\_\_\_" to be affixed in some conspicuous place at or near the outer door of his place of abode.

(2) A list showing the name and place of abode of every registrar in the city shall be kept at the municipal office and shall be open at all reasonable times to public inspection free of charge.

444. The commissioner shall provide and supply to the registrars a sufficient number of register-books of births and of register-books of deaths for the registration of the particulars specified in schedules N and O, respectively; and the pages of each of the said books shall be numbered progressively from the beginning to the end thereof.

445. (1) Each registrar shall inform himself carefully of every birth and death which shall happen in his district and of the particulars concerning the same required to be registered according to the forms in the said schedules and shall, as soon after each such birth or death as conveniently may be, register the same in the book supplied for this purpose by the commissioner, without making any charge or demanding or receiving any fee or reward for so doing other than his remuneration as a municipal officer.

(2) Other municipal officers, besides the registrars, may be appointed with the duty of informing themselves of every birth or of every death or of every birth and

every death in the district to which they are respectively appointed and of the particulars concerning the same required to be registered, and of submitting such information to the registrar of the said district or to such other person as the commissioner directs.

446. (1) It shall be the duty of the father and mother of every child born in the city and, in default of the father and mother, of the occupier of the premises in which to his knowledge the child is born and of each person present at the birth and of the person having charge of the child, to give, to the best of his knowledge and belief, to the registrar or other municipal officer appointed under section 445, within seven days after such birth, information of the particulars required to be registered concerning such birth:

(2) Provided that, in the case of an illegitimate child, 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 any 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 such person shall in such case sign the register together with the mother.

447. 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 or other municipal officer aforesaid, 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.

448. (1) For every place for the disposal of the dead registered in the register kept under section 435, a municipal officer shall be appointed, whose duty it shall be to receive information of the particulars required

*The City of Bombay Municipal Act, 1888.*

[Ch. XVI.—Vital Statistics, Sects. 448 (2)—453 (1).]

to be registered concerning the death of every person whose corpse is disposed of at such place.

(2) If the commissioner shall not think fit to require the municipal officer so appointed to be in constant attendance at any place for the disposal of the dead for which he is so appointed, there shall be affixed to a conspicuous part of the entrance to such place a notice specifying the name of the officer so appointed for the said place and the place where he may be found.

449. (1) It shall be the duty of the nearest relatives of any person dying in the city present at the death or in attendance during the last illness of the deceased and, in default of such relatives, of each person present at the death and of the occupier of the premises in which, to his knowledge, the death took place and, in default of the persons hereinbefore in this section mentioned, of each inmate of such premises and of the undertaker or other person causing the corpse of the deceased person to be disposed of, to give, to the best of his knowledge and belief, to the officer appointed under the last preceding section, information of the particulars required to be registered concerning such death.

(2) The said information shall be given at or about the time that the corpse of the deceased person is disposed of and it shall be given in writing, if the informant can write and, otherwise, orally, and the informant shall make known to the officer aforesaid his name, designation and place of abode and shall attest the correctness of the information which he gives, to the best of his knowledge and belief, by his signature or mark.

450. (1) In the case of a person who has been attended in his last illness by a duly qualified medical practitioner, that practitioner shall sign and forward to the commissioner a certificate of the cause of such person's death, in the form of schedule P, or in such other form as shall from time to time be prescribed by the commissioner in this behalf, and the cause of death as stated in such certificate shall be entered in the register, together with the name of the certifying medical practitioner.

(2) The commissioner shall provide printed forms of the said certificates and any duly qualified medical practitioner resident in the city shall be supplied, on application, with such forms, free of charge.

451. (1) The information concerning deaths received by every officer appointed under section 448 shall be entered by him in a register-sheet, which shall contain the particulars specified in schedule O, and shall be forwarded, at such intervals as shall be prescribed by the commissioner, through the registrar of the district, to the municipal office.

(2) From the said register-sheets and from the certificates furnished to him under section 450, the commissioner shall cause the register-books of deaths to be prepared and shall have prepared and published such tabular returns and statements as shall appear to him to be useful for sanitary or other purposes.

452. (1) Any clerical error which may at any time be discovered in a register of births or in a register of deaths may be corrected by any person authorized in that behalf by the commissioner.

(2) An error of fact or substance in any such register may be corrected by any person authorized as aforesaid by entry in the margin, without any alteration of the original entry, upon production to the commissioner by the person requiring such error to be corrected, of a declaration on oath setting forth the nature of the error and the true facts of the case, made before a magistrate by two persons required by this Act to give information concerning the birth or death with reference to which the error has been made or, in default of such persons, by two credible persons having knowledge of the case, and certified by such magistrate to have been made in his presence.

(3) Except as aforesaid, no alteration shall be made in any such register.

453. (1) When the birth of any child has been registered and the name, if any, by which it was registered is altered or, if it was registered without a name, when a

*The City of Bombay Municipal Act, 1888.*

[Ch. XVI.—Vital Statistics, Sects. 453 (2)—459 (1).]

name is given to, the parent or guardian of such child or other person procuring such name to be altered or given may, within twelve months next after the registration of the birth, deliver to the registrar such certificate as hereinafter mentioned, and the registrar, upon the receipt of that certificate, shall, without any erasure of the original entry, forthwith enter in the register-book the name mentioned in the certificate as having been given to the child.

(2) The certificate shall be in the form of schedule Q. or as near thereto as circumstances admit, and, in the case of a christian, shall be signed by the minister or person who performed the rite of baptism upon which the name was given or altered, or, if the child is not baptized or is not a christian, shall be signed by the father, mother or guardian of the child or other person procuring the name of the child to be given or altered.

(3) Every minister or person who performs the rite of baptism shall deliver the certificate required by this section on demand, on payment of a fee not exceeding one rupee.

*Taking of a census.*

454. At such time and in such manner as shall be directed from time to time by the commissioner, with the sanction of the corporation and of Government, an enumeration shall be made of the persons who at the time of making such enumeration shall be within the city: Provided always that, one clear month previous to such enumeration being commenced, notice of the intention to make the same, with the date or dates upon or within which it is intended to be made, and all other necessary particulars, shall be given by advertisement in the *Bombay Government Gazette* and in the local newspapers.

455. The commissioner shall superintend the taking of such enumeration, and shall appoint such enumerators or other subordinate officers and make such arrangements generally as may seem to him necessary for the purpose of such enumeration.

456. Each enumerator or other subordinate officer appointed under the last preceding section shall, agreeably to his instructions, leave at each building or place of residence within his district, four days at least before the time appointed for the collection of the completed returns or census, a blank schedule or return, of such form and containing such particulars as Government may approve, to be duly filled up and signed by the owner, tenant, or principal occupant of the said building or place of residence.

457. (1) Every person at whose building or place of residence any such blank schedule or return is left shall correctly fill up the same and affix his signature thereto and return it, when called upon so to do, to the enumerator or other subordinate officer aforesaid;

or, if such person is unable to write, he shall furnish to an enumerator, when called upon so to do, the information required for correctly filling up such schedule or return.

(2) Any person who fails to comply with any provision of sub-section (1) may be detained in custody until he complies therewith or the requisite information is otherwise obtained.

(3) It shall be the duty of an enumerator, if so required by any person who is unable to write, to fill up any such schedule or return as aforesaid from information supplied by such person.

458. If any enumerator or other subordinate officer employed in the collection of such schedules or returns shall find any of the same defective or in any respect improperly filled in, he may return the same to the occupant of the building or residence to which the same relates, together with a written notice requiring that the same be duly filled in or amended within a period of forty-eight hours.

459. (1) Any military or naval officer or any officer of the Bombay city police, or any master or person in charge of a merchant vessel, or nacoda, or tindal of a

*The City of Bombay Municipal Act, 1888.*

[Ch. XVI.—Vital Statistics, Sects. 459 (2)—460.] [Ch. XVII.—By-Laws, Sect. 461—461 (q.)]

vessel or boat, or any person in charge of a lunatic asylum, hospital, or prison, or of any public or private charitable or scholastic institution, or any keeper of a hotel or lodging-house, shall, if required, act as an enumerator for the purpose of taking account of persons under his command or charge, or abiding in any building in his possession, charge or control, on the night immediately preceding the day to be appointed for the making of such enumeration.

(2) Every person so required to act as an enumerator shall receive and conform to all instructions in writing which may be issued to him by the commissioner in that behalf.

460. The commissioner shall obtain, by such means as shall appear to him best adapted for the purpose and as shall be sanctioned by Government, returns of the particulars required for the purpose of the census with respect to all houseless persons, and all persons who during the said night preceding the day to be appointed for the making of such enumeration were on out-door night-duty, or for any other reasons were not abiding in any building, of which account is to be taken by the enumerators.

## CHAPTER XVII.

## BY-LAWS.

461. The corporation may from time to time make by-laws, not inconsistent with this Act, with respect to the following matters, (namely):

(a) regulating, in any particular not specifically provided for in this Act, the construction, maintenance and control of drains, ventilation-shafts or pipes, cesspools, water-closets, privies, latrines, urinals, drainage-works of every description, whether belonging to the corporation or to other persons, municipal water works, private communication-pipes and public streets;

(b) regulating all matters and things connected with the supply and use of water;

(c) the structure of walls, foundations, roofs and chimneys of new buildings, for securing stability and the prevention of fires and for purposes of health;

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(d) the provision and maintenance of sufficient open space, either external or internal, about buildings to secure a free circulation of air and of other means for the adequate ventilation of buildings;

(e) the provision and maintenance of house-gullies;

(f) the control and supervision of all premises used for any of the purposes mentioned in section 394 and of all trades and manufactures carried on therein;

(g) the inspection of milch-cattle and prescribing and regulating the construction, dimensions, ventilation, lighting, cleansing, drainage and water-supply of dairies and cattle-sheds in the occupation of persons following the trade of dairymen or milksellers;

(h) securing the cleanliness of milk-stores, milk-shops and milk-vessels used by such persons for containing milk;

(j) requiring notice to be given whenever any milch-animal is affected with any contagious disease and prescribing precautions to be taken for protecting milch-cattle and milk against infection or contamination;

(k) securing the efficient inspection of markets and slaughter-houses and of shops in which articles intended for human food are kept or sold;

(l) the control and supervision of butchers carrying on business within the city or at a municipal slaughter-house without the city;

(m) regulating the use of any municipal market-building, market-place or slaughter-house or any part thereof;

(n) controlling and regulating the sanitary condition of markets and slaughter-houses, and preventing the exercise of cruelty therein;

(o) preventing the use in any market of false or defective weights, scales or measures and publishing a price current

(p) regulating the disposal of the dead and the maintenance of all places for the disposal of the dead in good order and in a safe sanitary condition, due regard being had to the religious usages of the several classes of the community;

(q) facilitating and securing complete and accurate registration of births and deaths;

*The City of Bomba Municipl Act, 1888.*

[Ch. XVII.—By-Laws, Sects. 461 (r)—468 (3).]

(r) the registration of marriages;  
 (s) facilitating, when requisite, the taking of a census and securing accurate returns;

(t) regulating the delegation of the powers and duties of the standing committee to sub-committees;

(u) assigning the functions of the Joint Schools' Committee under sub-section (10) of section 39, regulating the exercise by the said committee of its functions so assigned and of the functions assigned to it under sub-section (9) of the said section, and regulating the administration by the said committee of the school-fund under sub-section (7) of the said section;

(v) determining the constitution, powers and duties of any committee which the corporation may appoint under section 40 or 41;

(w) carrying out generally the provisions and intentions of this Act.

462. In making a by-law under the last preceding section, the

Punishment may be imposed for breach of by-laws.

corporation may provide that a breach of it shall be punishable with fine which may extend to twenty rupees and, in the case of a continuing breach, with fine which may extend to ten rupees for every day after conviction for the first breach or after receipt of written notice from the commissioner to discontinue the breach, during which the breach continues.

463. No by-law, made under either of the two last preceding sections, shall have any validity, unless

By-laws to be confirmed by Government.

and until it is confirmed by Government.

464. It shall be the duty of the commissioner from time to time to lay before the corporation for their consideration a draft of any by-law which he shall think necessary or desirable for the furtherance of any purpose of this Act.

465. (1) No by-law shall be finally approved by the corporation, unless notice of the intention of the corporation to take the same into their consideration has been given by advertisement in the *Bombay Government Gazette* and in the local newspapers

six weeks at least before the day of the meeting at which the corporation finally consider such by-law.

(2) The corporation shall, before approving the by-law, receive and consider any objection or suggestion which may be made in writing by any person with respect thereto before the day of the said meeting; and any person desiring to object to a by-law, on giving written notice to the president of the corporation, not less than ten days before the day of the said meeting, of the nature of his said objection, may, by himself or his counsel, attorney or agent, be heard by the corporation thereon at the said meeting, but not so as that more than one person be heard on the same matter of objection.

466. (1) For one month at least before the day of the meeting

Proposed by-law to be open to public inspection.

at which the corporation finally consider a by-law, a printed copy of such by-law shall be kept at the chief municipal office for public inspection, and every person shall be permitted at any reasonable time to peruse the same, free of charge.

(2) Printed copies of the proposed by-law shall also be delivered to any person requiring the same on payment of such fee not exceeding one rupee for each copy as shall be prescribed by the commissioner.

467. When any by-law has been confirmed by Government, it shall be published in the *Bombay Government Gazette*, and thereupon shall have the force of law.

468. (1) The commissioner shall cause all by-laws from time to time in force to be printed

and shall cause printed copies thereof to be delivered to any person requiring the same, on payment of a fee of two annas for each copy.

(2) Notice of the fact of copies of the by-laws being obtainable at the said price and of the place where and the person from whom the same are obtainable shall be given by the commissioner from time to time by advertisement in the local newspapers.

(3) Boards, with the by-laws printed thereon or with printed copies of the by-laws affixed thereto, shall be hung or affixed in some conspicuous part of the municipal office and in such places of public resort,

*The City of Bombay Municipal Act, 1888.*

[Ch. XVII.—By-Law, Sects. 469 (1)—470 (4).] [Ch. XVIII.—Penalties, Sect. 471.]

markets, slaughter-houses and other works or places affected thereby, as the commissioner thinks fit, and the said boards shall from time to time be renewed by the commissioner.

469. (1) No municipal officer or servant shall at any reasonable time prevent the inspection of any board provided by the commissioner under the last preceding section by any person desiring to inspect the same.

Boards for exhibiting by-laws to be open to inspection and not to be injured.

(2) No person shall, without lawful authority, destroy, pull down, injure or deface any such board.

470. (1) If it shall at any time appear to the Governor in Council that any by-law should be repealed either wholly or in part, he shall cause his reasons for such opinion to be communicated to the corporation and prescribe a reasonable period within which the corporation may make any representation with regard thereto which they shall think fit.

Government may repeal by-laws.

(2) After receipt and consideration of any such representation or, if in the meantime no such representation is received, after the expiry of the prescribed period, the Governor in Council may at any time, by notification in the *Bombay Government Gazette*, repeal such by-law either wholly or in part: provided that no by-law shall be repealed by the Governor in Council in part only, if, within the period aforesaid, the corporation have objected to a partial repeal thereof.

(3) The repeal of a by-law under subsection (2) shall take effect from such date as the Governor in Council shall, in the said notification direct or, if no such date is specified, from the date of the publication of the said notification in the *Bombay Government Gazette*, except as to anything done or suffered or omitted to be done before such date.

(4) The said notification shall also be published in the local newspapers.

## CHAPTER XVIII.

## PENALTIES.

471. Whoever contravenes any provision of any of the sections, sub-sections and clauses of this

Certain offences punishable with fine.

Act hereinbelow in this section mentioned or of any regulation made thereunder, or fails to comply with any requisition lawfully made upon him under any of the said sections, sub-sections or clauses shall be punished, for each such offence, with fine which may extend to the amount hereinbelow in this section specified as the maximum amount of fine to be inflicted in respect of offences against the said sections, sub-sections and clauses, respectively, namely:—

Sections.	Maximum amount of fine that may be inflicted.
349, 368, 371, 385, sub-sec. (1), 388, cls. (e), (f) and (g), 408, sub-sec. (2), 469, sub-sec. (2)	Ten rupees.
270, sub-sec. (2), 280, 311, 316, sub-sec. (1), 327, sub-sec. (2), 328, 356, 357, 358, 370, 394, sub-sec. (2) 397, sub-sec. (1) ...	Twenty rupees.
149, 150, 152, 188, 226, sub-sec. (2), 231, 232, 233, cl. (b) 236, 243, sub-sec. (2), 248, sub-sec. (1), 250, sub-sec. (1), 251, 257, sub-sec. (1), 269, sub-sec. (3), 274, 278, sub-sec. (2), 319, sub-sec. (2), 321, sub-sec. (2), 322, sub-sec. (1), 323, 324, sub-sec. (1), 326, 329, sub-sec. (1), 334, sub-sec. (1), 372, 375, 377, 380, 381, 383, sub-sec. (1), 384, sub-sec. (1), 393, sub-sec. (1), 401, sub-sec. (1), 403, cl. (a), 404, 406, 410, sub-sec. (1), 418, sub-sec. (1), 457, sub-secs. (1) and (3), 469, sub-sec. (1), 479, sub-sec. (5) ...	Fifty rupees.
136, sub-sec. (2), 138, 223, sub-sec. (1), 229, 235, 258, 268, sub-sec. (1), 275, 281, 282, 283, sub-sec. (1), 284, 305, 312, sub-sec. (1), 313, sub-sec. (1), 315, 331, 335, sub-sec. (1), 411, 412, sub-sec. (1), 421, 424, sub-sec. (2), 425, sub-sec. (1), 427, sub-secs. (2) and (3), 435, 441, 446, sub-sec. (1), 447, 449, 450, sub-sec. (1), 459 ...	One hundred rupees.

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[Ch. XVIII.—Penalties, sects. 472—474.]

Sections.	Maximum amount of fine that may be inflicted.
240, 241, 247, 249, 273, 308, sub-secs. (1) and (2), 309, sub-sec. (1), 325, 379, sub-secs. (1) and (3), 392, sub-sec. (1), 403, sub-sec. (1), 405, 423, sub-sec. (2) 458, 507, sub-sec. (3)...	Two hundred rupees.
234, 304, sub-sec. (1), 354, 378, sub-sec. (2), 382, 394, sub-sec. (1), 430, 431, 432, sub-sec. (1), 433, sub-sec. (1), 437, 440, sub-sec. (1).	Five hundred rupees.
333, sub-secs. (1), (2) and (3), 347, sub-sec. (1), 353, 390, sub-sec. (1), 395, sub-sec (1), 402' sub-sec. (1) ...	One thousand rupees.

472. Whoever, after having been convicted of contravening any provision of any of the sections, sub-sections or clauses of this Act hereinbelow in this section mentioned, or of any regulation made thereunder, or of failing to comply with any requisition lawfully made upon him under any of the said sections, sub-sections, or clauses, continues to contravene the said provision or to neglect to comply with the said requisition, as the case may be, shall be punished, for each day that he continues so to offend, with fine which may extend to the amount hereinbelow in this section specified, as the maximum amount of daily fine to be inflicted in respect of offences against the said sections, sub-sections and clauses, respectively, namely:—

Sections.	Maximum amount of daily fine that may be inflicted.
226, sub-sec. (2), 231, 232, 233, cl. (b), 236, 243, sub-sec. (2), 248, sub-sec. (1), 250, sub-sec. (1), 251, 257, sub-sec. (1), 329, sub-sec. (1), 349, 375, 377, 380, 381, 383, sub-sec. (1), 384, sub-sec. (1), 394, sub-sec. (2), 397, sub-sec. (1) ...	Five rupees.

Sections.	Maximum amount of daily fine that may be inflicted.
223, sub-sec. (1), 229, 268, sub-sec. (1), 305, 312, sub-sec. (1), 313 sub-sec. (1), 315, 324, sub-sec. (1), 334, sub-sec. (1), 335, sub-sec. (1), 372, cl. (f), 411, 425, sub-sec. (1), 479, sub-sec. (5) ...	Ten rupees.
249, 326, 379, sub-secs. (1) and (3) ...	Twenty rupees.
322, sub-sec. (1), 323, 394, sub-sec. (2), 403, sub-sec. (1), 405, 507, sub-sec. (3) ...	Fifty rupees.
354, 382, 392, sub-sec. (1) ...	One hundred rupees.
395, sub-sec. (1) ...	Five hundred rupees.

473. Whoever contravenes any provision of any of the sections, sub-sections or clauses of this Act hereinbelow in this section mentioned, and who ever fails to comply with any requisition lawfully made upon him under any of the said sections, sub-sections or clauses shall be deemed to have committed an offence punishable under the section of the Indian Penal Code hereinbelow in this section respectively specified as the section of the said code under which such person shall be punishable, namely:—

Act XIV of 1888.

Sections of this Act.	Sections of the Indian Penal Code under which offenders are punishable.
28, clause (j) ...	177.
155, sub-sections (1) & (2) 187,	176 or 177, as the case may be.
388, cls. (a), (b), (c) and (d), 389.	277.
434, sub-sec. (1) ...	188.

474. Any councillor who knowingly acquires directly or indirectly any share or interest in any contract, &c., with interest in any contract or employment with, by or on behalf of the corporation, not being a share or interest such as, under section 16, it is permissible for a councillor to have, without being thereby disqualified for being a councillor, and any commissioner, deputy commissioner, municipal



*The City of Bombay Municipal Act, 1888.*[*Ch. XVIII.—Penalties, Sects. 475 (1)—478.*]

officer or servant who knowingly acquires directly or indirectly any share or interest in any contract or employment with, by or on behalf of the corporation, not being a share or interest such as, under clauses (h) and (k) of section 16, it is permissible for a councillor to have, without being thereby disqualified for being a councillor, shall be deemed to have committed the offence made punishable by section 168 of the Indian Penal Code.

Act XII of 1860.

475. (1) Whoever contravenes any provision of sub-section (1) of section 267 shall be punished with imprisonment which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

(2) When any person is convicted under sub-section (1), the magistrate who convicts him may order the immediate removal of any building or the immediate discontinuance of the operation or use of the land in respect of which such conviction has been held.

(3) If any order made under sub-section (2) is disobeyed or the execution thereof resisted, the offender shall be punished with imprisonment which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

476. Whoever contravenes any provision of section 391, whether the person so offending be the owner or occupier of the premises in which a furnace is situated or the agent or some person employed by the owner or occupier for managing the same, shall be punished with fine which may extend, on a first conviction, to one hundred rupees and, on a second or subsequent conviction, to a sum equal to double the amount to which it might have extended on the last preceding conviction.

477. No person, who receives the rent of any premises in any capacity described in sub-clauses (i), (ii) and (iii) of clause (m) of section 3, shall be liable to any penalty under this Act for omitting to do any act as the owner of such premises, if he shall prove that his default was caused by his not having funds of, or due to, the owner

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[*Ch. XIX.—Procedure, Sects. 479 (1)—479 (3).*]

sufficient to defray the cost of doing the act required.

478. The law for the time being in force for the punishment of offences relating to town-duties, the levy or payment of customs-duties and the grant of drawbacks in connection therewith and for the reward of informers shall, as far as may be, apply to similar offences committed in respect of the levy, payment and refund of town-duties, and any omission or misdescription in passing for export any goods in respect of which refund of town-duties may be claimable, shall be punishable as if such omission or misdescription had been made in passing the said goods for import.

## CHAPTER XIX.

## PROCEDURE.

*Licenses.*

479. (1) Whenever it is provided in this Act that a license or a written permission may be given for any purpose, such license or written permission shall specify the period for which and the restrictions and conditions subject to which the same is granted and shall be given under the signature of the commissioner or of a municipal officer empowered under section 68 to grant the same.

(2) For every such license or written permission a fee may be charged at such rate as shall from time to time be fixed by the commissioner, with the sanction of the corporation.

(3) Subject to the provisions of clause (d) of section 403, any license or written permission granted under this Act may at any time be suspended or revoked by the commissioner, 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 of any regulation or by-law made hereunder in any matter to which such license or permission relates.

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[Ch. XIX.—Procedure, Sects. 479 (4)—484 (d).]

(4) 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 to be without a license or written permission, until the commissioner's order for suspending or revoking the license or written permission is cancelled by him, or until the license or written permission is renewed, as the case may be.

(5) Every person to whom any such license or written permission has been granted shall at all reasonable times, while such written permission or license remains in force, if so required by the commissioner, produce such license or written permission.

*Public Notices and Advertisements.*

480. Whenever it is provided by this Act that public notice shall or may be given of anything, such public notice shall be in writing under the signature of the commissioner or of a municipal officer empowered under section 68 to give the same and shall be widely made known in the locality to be affected thereby, by affixing copies thereof in conspicuous public places within the said locality, or by publishing the same by beat of *batáki*, or by advertisement in the local newspapers, or by any two or more of these means and by any other means that he shall think fit.

481. Whenever it is provided by this Act that notice shall be given by advertisement in the local newspapers, or that a notification or any information shall be published in the local newspapers, such notice, notification or information shall be inserted, if practicable, in at least two English newspapers, one Maráthi newspaper and one Gujaráthi newspaper published in the city.

482. Whenever under this Act the doing or the omitting to do anything or the validity of anything depends upon the consent, approval, de-

claration, opinion or satisfaction of the commissioner or of a deputy commissioner or any municipal officer, a written document signed by the commissioner or by such deputy commissioner or municipal officer, purporting to convey or set forth his consent, approval, declaration, opinion or satisfaction shall be sufficient evidence of such consent, approval, declaration, opinion or satisfaction.

*Service of Notices, &c.*

483. Notices, bills, schedules, summonses and other such documents required by this Act or by any regulation or by-law made under this Act to be served upon, or issued, or presented or given to any person, shall be so served, issued, or presented or given by municipal officers or servants or by other persons authorized by the commissioner in this behalf.

484. When any notice, bill, schedule, summons or other such document is required by this Act or by any regulation or by-law made under this Act, to be served upon or issued or presented to any person, such service, issue or presentation shall, except in the cases otherwise expressly provided for in section 485, be effected :

(a) by giving or tendering to such person the said notice, bill, schedule, summons or other document ; or

(b) if such person is not found, by leaving the said notice, bill, schedule, summons or other document at his last known place of abode in the city, or by giving or tendering the same to some adult male member or servant of his family ; or

(c) if such person does not reside in the city and his address elsewhere is known to the commissioner, by forwarding the said notice, bill, schedule, summons or other document to him by post under cover bearing the said address ; or

(d) if none of the means aforesaid be available, by causing the said notice, bill, schedule, summons or other document, to be affixed on some conspicuous part of the building or land, if any, to which the same relates.

*The City of Bombay Municipal Act, 1888.*[Ch. XIX.—*Procedure, Sects. 485—489 (1).*]

485. When any notice, bill, schedule, summons or other such document is required by this Act, or by any regulation or by-law made under this Act, to be served upon or issued or presented to the owner or occupier of any building or land, it shall not be necessary to name the owner or occupier therein and the service, issue or presentation thereof shall be effected, not in accordance with the provisions of the last preceding section, but as follows, namely :

(a) by giving or tendering the said notice, bill, schedule, summons or other document to the owner or occupier, or if there be more than one owner or occupier, to any one of the owners or occupiers of such building or land ; or

(b) if the owner or occupier or no one of the owners or occupiers is found, by giving or tendering the said notice, bill, schedule, summons or other document to some adult male member or servant of the family of the owner or occupier or of any one of the owners or occupiers ; or

(c) if none of the means aforesaid be available, by causing the said notice, bill, schedule, summons or other document to be affixed on some conspicuous part of the building or land to which the same relates.

486. Nothing in the three last preceding sections applies to any summons issued under this Act by a magistrate.

The three last sections inapplicable to magistrates' summonses.

487. (1) Every license, written permission, notice, bill, schedule, summons, or other such document, required by this Act or by any regulation or by-law framed under this Act, to bear the signature of the commissioner or of any municipal officer, shall be deemed to be properly signed if it bears a facsimile of the signature of the commissioner or of such municipal officer, as the case may be, stamped thereupon.

Signature on notices, &c., may be stamped.

(2) Nothing in this section shall be deemed to apply to a cheque drawn upon the municipal fund under section 113.

*Power of entry.*

488. The commissioner may enter into or upon any building or land, with or without assistants or workmen, in order to make any inspection or survey or to execute any work which is authorized by this Act or by any regulation or by-law framed under this Act, to be made or executed, or which it is necessary for any of the purposes, or in pursuance of any of the provisions of this Act or of any such regulation or by-law, to make or execute :

Provided that :

(a) except when it is in this Act otherwise expressly provided, no such entry shall be made between sunset and sunrise ;

(b) except when it is in this Act otherwise expressly provided, no building which is used as a human dwelling shall be so entered, unless with the consent of the occupier thereof, without giving the said occupier not less than twenty-four hours' previous written notice of the intention to make such entry, and unless for any sufficient reason it shall be deemed inexpedient to furnish such information, of the purpose thereof ;

(c) sufficient notice shall in every instance be given, even when any premises may otherwise be entered without notice, to enable the inmates of any apartment appropriated to females to remove to some part of the premises where their privacy need not be disturbed ;

(d) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the premises entered.

*Enforcement of orders to execute works, &c.*

489. (1) When any requisition or order is made, by written notice, by the commissioner or by any municipal officer empowered under section 68 in this behalf, under any section, sub-section or clause of this Act mentioned in sub-section (2), a reasonable period shall be prescribed in such notice for carrying such requisition or order

Works, &c., which any person is required to execute may in certain cases be executed by the commissioner at such person's cost.

*The City of Bombay Municipal Act, 1888.*

[Ch. XIX.—Procedure, Sects. 489 (2)—492 (1).]

into effect and if, within the period so prescribed, such requisition or order or any portion of such requisition or order is not complied with, the commissioner may take such measures or cause such work to be executed or such thing to be done as shall, in his opinion, be necessary for giving due effect to the requisition or order so made, and, unless it is in this Act otherwise expressly provided, the expenses thereof shall be paid by the person or by any one of the persons to whom such requisition or order was addressed.

(2) The sections, sub-sections and clauses of this Act referred to in sub-section (1) are the following (namely):—

Section 226, sub-section (2)	Section 329, sub-section (1)
" 230, " (5)	" 334 " (1)
" 231 " "	" 349 " (2)
" 232 " "	" 352 " "
" 233, clause (b)	" 353 " "
" 243 " (2)	" 354 " "
" 248 " (1)	" 368, sub-section (2)
" 257 " (1)	" 375 " "
" 271 " (2)	" 376 " "
" 278 " (2)	" 377 " "
" 305 " "	" 380 " "
" 308, sub-section (2)	" 381 " "
" 309 " (1)	" 382 " "
" 311 " "	" 383, sub-section (1)
" 315 " "	" 392 " (1)
" 325 " "	" 405 " "
" 326, sub-section (3)	" 423, sub-section (1)

(3) The commissioner may take any measure, execute any work or cause anything to be done under this section, whether or not the person who has failed to comply with the requisition or order is liable to punishment or has been prosecuted or sentenced to any punishment for such failure.

490. (1) The expenses incurred by the commissioner in effecting any removal under sections 314, 315, 354 and 380 of a written notice issued under sub-section (1) of section 315 or section 354 or 380 not being complied with, under section 489, shall be recoverable by sale of the materials removed, and if the proceeds of such sale do not suffice, the balance shall be paid by the owner of the said materials.

(2) But if the expenses of removal are in any case paid before the materials are sold, the commissioner shall restore the materials to the owner thereof on his claiming the same at any time before they are sold or otherwise disposed of and on his paying all other expenses, if any, incurred by the commissioner in respect thereof or in respect of the intended sale or disposal thereof.

(3) If the materials are not claimed by the owner thereof, they shall be sold by auction or otherwise disposed of as the commissioner thinks fit, as soon as conveniently may be after one month from the date of their removal, whether the expenses of the removal have in the mean time been paid or not; and the proceeds, if any, of the sale or other disposal, shall, after defraying therefrom the costs of the sale or other disposal, and, if necessary, of the removal, be paid to the credit of the municipal fund, and shall be the property of the corporation.

*Recovery of expenses by the Commissioner.*

491. (1) Whenever under this Act or under this Act to be by-law made under payable on demand; and this Act, the expenses of any work executed or of any measure taken or thing done by or under the order of the commissioner or of any municipal officer empowered under section 68 in this behalf are payable by any person, the same shall be payable on demand.

(2) If not paid on demand, the said expenses shall be recoverable by the commissioner, subject to the provisions of sub-section (2) of section 503, by distress and sale of the goods and chattels of the defaulter, as if the amount thereof were a property-tax due by the said defaulter.

492. (1) If the said expenses are due in respect of some work executed or thing done to, upon, or in connection with, some building or land or of some measure taken with respect to some building or land, and the defaulter is the owner of such building or land, the amount thereof may be demanded from any person who at any time before the said expenses have been paid, occupies the said building or land under the said owner; and in the event of the said person failing to pay the same, they may be recovered, by distress and sale of the goods and chattels of the said person, as if the amount thereof were a property-tax due by him:

*The City of Bombay Municipal Act, 1888,*

[Ch. XIX.—Procedure, Sects. 492 (2) (a)—496 (3).]

(2) Provided as follows, namely :

(a) unless the said person neglects or refuses, at the request of the commissioner, truly to disclose the amount of the rent payable by him in respect of the said land or building and the name and address of the person to whom the same is payable, the said person shall not be liable to pay on account of the said expenses any larger sum than, up to the time of demand, is payable by him to the owner on account of rent of the said land or building ; but it shall rest upon the said person to prove that the amount of the expenses demanded of him is in excess of the sum payable by him to the owner ;

(b) the said person shall be entitled to credit in account with the owner for any sum paid by or recovered from him on account of the said expenses ;

(c) nothing in this section shall affect any agreement made between the said person and the owner of the building or land in his occupation respecting the payment of the expenses of any such work, thing or measure as aforesaid.

493. Instead of recovering any such expenses as aforesaid in any manner hereinbefore provided, the commissioner may, if he thinks fit and with the approval of the standing committee, take an agreement from the person liable for the payment thereof, to pay the same in instalments of such amounts and at such intervals as will secure the payment of the whole amount due, with interest thereon at the rate of nine per centum per annum, within a period of not more than five years.

494. If the expenses to be recovered have been incurred in respect of any work mentioned in any of the sections 227, clause (c), 230, 231, 233, clause (b), 248, sub-section (1), 257, 272, 274, sub-section (1), 305, 352, sub-section (1), 376, 381 and 405, the commissioner may, if he thinks fit and with the approval of the corporation, declare such expenses to be improvement expenses.

495. (1) Improvement expenses shall be a charge on the premises in respect of which or for the be-

nefit of which the same have been incurred and shall be recoverable in instalments of such amounts, not being less for any premises than twelve rupees per annum, and at such intervals as will suffice to discharge such expenses, together with interest thereon at the rate of six per centum per annum, within such period not exceeding thirty years as the commissioner, with the approval of the corporation, may in each case determine.

(2) The said instalments shall be payable by the occupier of the premises on which the expenses are so charged or, in the event of the said premises becoming unoccupied at any time before the expiration of the period fixed for the payment of such expenses or before the same, with interest as aforesaid, are fully paid off, by the owner for the time being of the said premises, so long as the same continue to be unoccupied.

496. (1) Where the occupier by whom any improvement expenses are paid holds the premises, on which the expenses are charged, at a rent not less than the rack-rent, he shall be entitled to deduct three-fourths of the amount paid by him on account of such expenses from the rent payable by him to his landlord, and if he hold at a rent less than the rack-rent, he shall be entitled to deduct from the rent so payable by him such proportion of three-fourths of the amount paid by him on account of such expenses as his rent bears to the rack-rent.

(2) And if the landlord from whose rent any deduction is so made is himself liable to the payment of rent for the premises in respect of which the deduction is made and holds the same for a term of which less than twenty years is unexpired (but not otherwise), he may deduct from the rent so payable by him such proportion of the sum deducted from the rent payable to him as the rent payable by him bears to the rent payable to him, and so in succession with respect to every landlord (holding for a term of which less than twenty years is unexpired) of the same premises both receiving and liable to pay rent in respect thereof :

(3) Provided that nothing in this section shall be construed to entitle any person to deduct from the rent payable by him more

*The City of Bombay Municipal Act, 1888.*

[Ch XIX.—Procedure, Sects. 497—504.]

than the whole sum deducted from the rent payable to him.

497. At any time before the expiration of the period for the payment of any improvement expenses, the owner or occupier of the premises on which they are charged may redeem such charge by paying to the commissioner such part of the said expenses as may not have been defrayed by sums already levied in respect of the same.

498. Any instalment payable under section 493 or section 495, which is not paid when the same becomes due, may be recovered by the commissioner by distress and sale of the goods and chattels of the person by whom it is due as if it were a property-tax due by the said person.

499. Whenever the owner of any building or land fails to execute any work which he is required to execute under this Act or under any regulation or by-law made under this Act, the occupier, if any, of such building or land may, with the approval of the commissioner, execute the said work and he shall be entitled to recover the reasonable expenses incurred by him in so doing from the owner and may deduct the amount thereof from the rent which from time to time becomes due by him to the owner.

500. No person who receives the rent of any premises in any capacity described in sub-clauses (i), (ii) and (iii) of clause (m) of section 3, shall be liable to do anything which is by this Act required to be done by the owner, unless he have sufficient funds of or due to the owner to pay for the same.

*Payment of Compensation.*

501. In any case not otherwise expressly provided for in this Act, the commissioner may, with the approval of the standing committee, pay compensation to any person who sustains damage by reason of the exercise of any of the powers vested

by this Act in the commissioner or in any municipal officer or servant.

502. (1) If, on account of any act or omission, any person has been convicted of an offence against this Act or against any regulation or by-law made under this Act, and, by reason of the same act or omission of the said person, damage has occurred to any property of the corporation, compensation shall be paid by the said person for the said damage, notwithstanding any punishment to which he may have been sentenced for the said offence.

(2) In the event of dispute, the amount of compensation payable by the said person shall be determined by the magistrate before whom he was convicted of the said offence, and on non-payment of the amount of compensation so determined the same shall be recovered under a warrant from the said magistrate as if it were a fine inflicted by him on the person liable therefor.

*Recovery of Expenses or Compensation, in case of dispute.*

503. (1) If, when the commissioner demands payment of any expenses under section 491, his right to demand the same or the amount of the demand is disputed, or if in the case of expenses incurred by the commissioner in taking temporary measures under sub-section (2) of section 329, the necessity for such temporary measures is disputed, the commissioner shall refer the case for the determination of the Chief Judge of the Small Cause Court.

(2) Pending the chief judge's decision, the commissioner shall defer further proceedings for the recovery of the sum claimed by him and, after the decision, shall proceed to recover only such amount, if any, as shall be thereby ascertained to be due.

504. If, in any case not falling under section 491, any person is required by the Act or by any regulation or by-law framed under this Act, to pay any expenses

*The City of Bombay Municipal Act, 1888.*

[Ch. XIX.—Procedure, Sects. 505—509 (1) (a).]

or any compensation, the amount to be so paid and, if necessary, the apportionment of the same, shall, in case of dispute, be determined, except as is otherwise provided in sections 502 and 515, by the Chief Judge of the Small Cause Court, on application being made to him for this purpose at any time within one year from the date when such expenses or compensation first became claimable.

505. If the amount of any expenses or

Expenses or compensation awarded by chief judge of the small cause court to be recovered, if necessary, as if they were due under a decree of the court.

compensation ascertained in accordance with the last preceding section is not paid by the person liable to pay the same on demand, it shall be

recoverable as if the same were due under a decree of the Small Cause Court.

506. Instead of proceeding in any

Persons liable for expenses or compensation may be sued for recovery thereof.

manner aforesaid for the recovery of any expenses or compensation of which the amount due has been

ascertained as hereinbefore provided, or after such proceedings have been taken unsuccessfully or with only partial success, the sum due, or the balance of the sum due, as the case may be, may be recovered by a suit brought against the person liable for the same in any court of competent jurisdiction.

*Proceedings before the Chief Judge of the Small Cause Court.*

507. (1) If the owner of any building

Remedy of owner of building or land against occupier who prevents his complying with any provision of this Act.

or land is prevented by the occupier thereof from complying with any provision of this Act or of any regulation or by-law made

under this Act or with any requisition made under this Act or under any such regulation or by-law, in respect of such building or land, the owner may apply to the Chief Judge of the Small Cause Court.

(2) The said chief judge, on receipt of any such application, may make a written order requiring the occupier of the building or land to afford all reasonable facilities to the owner for complying with the said provision or requisition and may also, if he thinks fit, direct that the costs of such

application and order be paid by the occupier.

(3) After eight days from the date of any such order, it shall be incumbent on the said occupier to afford all such reasonable facilities to the owner for the purpose aforesaid as shall be prescribed in the said order; and in the event of his continued refusal so to do, the owner shall be discharged, during the continuance of such refusal, from any liability which he would otherwise incur by reason of his failure to comply with the said provision or requisition.

508. (1) For the purposes of any

Power to summon witnesses and compel production of documents.

inquiry or proceeding under this Act, the Chief Judge of the Small Cause Court may summon and enforce the attendance of witnesses and compel them to give evidence and compel the production of documents, by the same means and, as far as is possible, in the same manner as is provided in the case of the Small Cause Court by the Presidency Small Cause Court Act, XV of 1882; and in all matters relating to any such inquiry or proceeding the said chief judge shall be guided generally by the provisions of the said Act so far as the same are applicable.

(2) If, in any such inquiry or proceeding, the person against whom the complaint or application has been made, fails to appear, notwithstanding that he has been duly summoned for this purpose, the said chief judge may hear and determine the case in his absence.

(3) The costs of every such inquiry or proceeding, as determined by the said chief judge, shall be payable by such parties and in such proportions, as the said chief judge shall direct and the amount thereof shall, if necessary, be recoverable as if the same were due under a decree of the Small Cause Court.

509. (1) The Governor in Council

Fees in proceedings before the Chief Judge of the Small Cause Court.

may, from time to time, by notification in the *Bombay Government Gazette* prescribe what fee, if any, shall be paid:

(a) on any application, appeal or reference made under this Act to the Chief Judge of the Small Cause Court; and

*The City of Bombay Municipal Act, 1888.*

[Ch. XIX.—Procedure, Sects. 509 (1) (b)—515 (2) (a).]

(b) previous to the issue, in any inquiry or proceeding of the said chief judge under this Act, of any summons or other process.

Provided that the fees, if any, prescribed under clause (a) shall not, in cases in which the value of the claim or subject-matter is capable of being estimated in money exceed the fees at the time being levied, under the provisions of the Presidency Small Cause Court Act, 1882 in cases in which the value of the claim or subject-matter is of like amount.

XV of 1882.

(2) The Governor in Council may from time to time by a like notification determine by what person any fee prescribed under clause (a) shall be payable.

(3) No application, appeal or reference shall be received by the said chief judge, until the fee, if any, prescribed therefor under clause (a) has been paid.

510. The Chief Judge of the Small Cause Court may, whenever he thinks fit, receive an application, appeal or reference made under this Act by or on behalf of a poor person and may issue process on behalf of any such person, without payment or on a part payment of the fees prescribed under section 509.

511. Whenever any application, appeal or reference made to the Chief Judge of the Small Cause Court under this Act is settled by agreement of the parties before the hearing, half the amount of all fees paid up to that time shall be repaid by the said chief judge to the parties by whom the same have been respectively paid.

Authority to the Chief Judge of the Small Cause Court to delegate certain powers and to make rules.

512. The Chief Judge of the Small Cause Court may :

(a) delegate either generally or specially to any other judge of the said court, power to receive applications, appeals and references under this Act and to discharge any other duty in connection with such applications, appeals and references, except the hearing and adjudication thereof ;

(b) if for any reason, it shall be necessary so to do in order to secure the disposal of any application made to him under section 20 within the limited period prescribed in the said section, delegate to any other judge of the said court the hearing and adjudication of the said application ;

(c) from time to time, with the approval of Government, make rules, not inconsistent with this Act, providing for any matter connected with the exercise of the jurisdiction conferred upon him by this Act which is not herein specifically provided for.

*Proceedings before Magistrates.*

513. All offences against this Act, or against any regulation or by-law made under this Act, whether committed within or without the city, shall be cognizable by a presidency magistrate ; and no such magistrate shall be deemed to be incapable of taking cognizance of any such offence or of any offence against any enactment hereby repealed, by reason only of his being liable to pay any municipal tax or of his being benefited by the municipal fund to the credit of which any fine inflicted by him will be payable.

514. No person shall be liable to punishment for any offence made punishable by this Act, unless complaint of such offence is made before a presidency magistrate within three months, or if the offence be against the provisions of section 155, within six months, next after the commission of such offence.

515. (1) Any person who resides in the city may complain to a presidency magistrate of the existence of any nuisance, or that in the exercise of any power conferred by sections 224, 244, 245, 246, or 367 more than the least practicable nuisance has been created.

(2) Upon receipt of any such complaint, the magistrate, after making such inquiry as he thinks necessary, may, if he sees fit, direct the commissioner :

(a) to put in force any of the provisions of this Act or to take such mea-



*The City of Bombay Municipal Act, 1888.*

[Ch. XIX.—Procedure, Sects. 515 (2) (b)—517 (1) (k).]

asures as to such magistrate shall seem practicable and reasonable for preventing, abating, diminishing or remedying such nuisance;

(b) to pay to the complainant such reasonable costs of and relating to the said complaint and order as the said magistrate shall determine, inclusive of compensation for the complainant's loss of time in prosecuting such complaint.

(3) It shall be incumbent on the commissioner to obey every such order.

(4) Nothing in this Act contained shall interfere with the right of any person who may suffer injury or whose property may be injuriously affected by any act done in the exercise of any power conferred by sections 224, 244, 245, 246, or 367 to recover damages for the same.

*Arrest of Offenders.*

516. (1) Any police officer may arrest any person who commits in his view any offence against this Act or against any regulation or by-law made under this Act, if the name and address of such person be unknown to him and if such person, on demand, declines to give his name and address or gives a name and address which such officer has reason to believe to be false.

(2) No person so arrested shall be detained in custody after his true name and address are ascertained or, without the order of a magistrate, for any longer time, not exceeding at the most forty hours from the arrest, than is necessary for bringing him before a magistrate competent to take cognizance of his offence.

*Legal Proceedings.*

Provisions respecting institution, &c., of civil and criminal actions and obtaining legal advice.

517. (1) The commissioner may :

- (a) take, or withdraw from, proceedings against any person who is charged with:
- (i) any offence against this Act;
  - (ii) any offence which affects or is likely to affect any property or interest of the corporation or the due administration of this Act;
  - (iii) committing any nuisance whatsoever;

(b) compound any offence against this Act, which under the law at the time in force may legally be compounded;

(c) defend any election petition brought under section 33;

(d) defend, admit or compromise any appeal against a rateable value or tax, brought under section 217;

(e) take, withdraw from, or compromise, proceedings, under sections 502, sub-section (2), 503, 504 and 505, for the recovery of expenses or compensation claimed to be due to the corporation;

(f) withdraw or compromise any claim for a sum not exceeding five hundred rupees against any person in respect of a penalty payable under a contract entered into with such person by the commissioner, or, with the approval of the standing committee, any such claim for any sum exceeding five hundred rupees;

(g) defend any suit or other legal proceeding brought against the corporation or against the commissioner or a deputy commissioner or a municipal officer or servant, in respect of anything done or omitted to be done by them, respectively, in their official capacity;

(h) with the approval of the standing committee, admit or compromise any claim, suit or legal proceeding brought against the corporation or against the commissioner or a deputy commissioner or a municipal officer or servant, in respect of anything done or omitted to be done as aforesaid;

(j) with the like approval, institute and prosecute any suit or withdraw from or compromise any suit or any claim, other than a claim of the description specified in clause (f), which has been instituted or made in the name of the corporation or of the commissioner;

(k) obtain such legal advice and assistance as he may from time to time think it necessary or expedient to obtain or as he may be desired by the corporation or the standing committee to obtain, for any of the purposes mentioned in the foregoing clauses of this section or for securing the lawful exercise or discharge of any power or duty vesting in or imposed upon any municipal authority or any municipal officer or servant;

*The City of Bombay Municipal Act, 1858.*

[Ch. XIX.—Procedure, Sect. 517 (2). Ch. XX.—Control, Sects. 518—520

Ch. XXI.—Supplemental Provisions, Sect. 521.]

(2) Provided that the commissioner shall not defend any suit or legal proceeding under clause (g) without first of all taking legal advice with regard thereto, and shall institute and prosecute any suit which the corporation shall determine to have instituted and prosecuted.

## CHAPTER XX.

## CONTROL.

518. (1) If, upon complaint being made to him and after such inquiry as he thinks fit to make, it shall at any time appear to the Governor in Council that any of the provisions of sections 61, 62, 134, 225, 434 and 438, have not been or are not being duly carried out or enforced, the Governor in Council may make an order prescribing a period within which such provision shall be carried out or enforced:

(2) Provided that, except in any case which appears to the Governor in Council to be one of emergency, no such order shall be made until after the expiry of one month from the date of service of a written notice on the corporation, and, if the Governor in Council shall think fit, on the commissioner, requiring cause to be shown why such order should not be made, nor until the cause, if any, so shown has been considered by the Governor in Council.

(3) If, within the period prescribed in an order made under sub-section (1) the provision is not carried out or enforced, the Governor in Council may appoint some person to carry out or enforce the same and may direct that the expense of carrying out or enforcing such provision, together with such reasonable remuneration to the person carrying out or enforcing the same as the Governor in Council shall determine and the costs of the proceedings under this section, shall be paid out of the municipal fund.

519. (1) If, from the report of any person appointed by Government under section 264 to inspect the Vehar water-works, it shall appear to Government that any portion of the said waterworks is not in a sound and effective condition, Government may by notice under the signature of a secre-

tary to Government, require that the said portion of the said works be repaired, improved or otherwise rendered sound and effective, within a reasonable time to be prescribed in the notice.

(2) The said notice shall be addressed to the corporation and to the commissioner and it shall be incumbent on the corporation and on the commissioner, within the limits of their respective powers, to give effect thereto. If effect be not given thereto, Government may cause the required work to be done and may direct that the expenses thereof shall be paid by the commissioner.

520. (1) When any such order as is mentioned in sub-section (3) of section 518, or in sub-section (2) of section 519 shall have been made, the corporation shall cause to be paid to Government the sum or sums of money of which payment shall from time to time be required, in pursuance of the said order, in any requisition signed by a secretary to Government.

(2) And if, within fourteen days from the delivery of any such requisition, the same is not complied with, Government may, by a written order signed by one of their secretaries, authorize and direct some person to receive from the bank in which the municipal fund is lodged, the sum or sums mentioned in the said order.

(3) The said bank shall, upon production of the said written order, forthwith pay the said sum or sums to the person therein authorized to receive the same, and the said written order shall be a sufficient discharge to the said bank from all liability to the corporation in respect of any sum or sums so paid by it out of the municipal fund.

## CHAPTER XXI.

## SUPPLEMENTAL PROVISIONS.

521. The commissioner and deputy commissioner and every councillor and every municipal officer or servant appointed under this Act, and every contractor or agent for the collection of any municipal tax, and every servant or other person

*The City of Bombay Municipal Act, 1888.*

(Ch XXI.—Supplemental Provisions, Sects. 522—527 (1) (a).]

Act XLV of 1860.

employed by any such contractor or agent, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

522. (1) The police commissioner shall, as far as may be, co-operate, by himself and through his subordinates, with the commissioner for carrying into effect and enforcing the provisions of this Act and for the maintenance of good order in the city.

(2) It shall be the duty of every police officer in the city to communicate without delay to the proper municipal officer any information which he receives of a design to commit or of the commission of any offence against this Act or against any regulation or by-law made under this Act, and to assist the commissioner or any municipal officer or servant, reasonably demanding his aid, for the lawful exercise of any power vesting in the commissioner or in such municipal officer or servant under this Act.

523. (1) In computing any limited time before, or from or after any date or event which is appointed or allowed by or under this Act for the doing of any act or the taking of any proceeding, such time shall be taken as exclusive of the day of that date or of the happening of that event and as ending or commencing, as the case may be, at the end of the last preceding day, or the beginning of the next following day.

(2) Where the limited time is to be computed from or after any date or event, the act or proceeding shall be done or taken at the latest on the last day of the limited time computed as aforesaid, unless the last day is a Sunday or a public holiday or unless, in the case of a proceeding to be taken before the Chief Judge of the Small Cause Court, the said court is closed on such last day, in which events any act or proceeding shall be deemed to be done or taken in due time if it is done or taken on the next day after such Sunday or after the close of such public holiday or on the first day when such Court re-opens, as the case may be.

(3) Where by this Act any act or proceeding is directed or allowed to be done or taken on a certain day and such day happens to be a Sunday or a public holiday, the act or proceeding shall be considered

as done or taken in due time if it is done or taken on the next day after such Sunday, or after the close of such public holiday.

524. The distances mentioned in this Act shall be measured in a straight line on a horizontal plane.

525. (1) Any informality, clerical error, omission or other defect in any assessment made or in any distress levied or in any notice, bill, schedule, summons or other document issued under this Act or under any regulation or by-law made under this Act, may at any time, as far as possible, be rectified.

(2) No such informality, clerical error, omission or other defect shall be deemed to render the assessment, distress, notice, bill, schedule, summons or other document invalid or illegal, if the provisions of this Act and of the regulations and by-laws made hereunder have in substance and effect been complied with; but any person who sustains any special damage by reason of any such informality, clerical error, omission or other defect shall be entitled to recover compensation for the same by suit in a court of competent jurisdiction.

526. The Governor in Council may at any time call upon the corporation to furnish him with any extract from any proceedings of the corporation or standing committee or of any committee constituted under this Act or from any record under the control of the corporation and with any statistics concerning or connected with the administration of this Act; and the corporation shall furnish the same without unreasonable delay.

527. (1) No suit shall be instituted against the corporation or against the commissioner, or a deputy commissioner, or against any municipal officer or servant, in respect of any act done in pursuance or execution or intended execution of this Act or in respect of any alleged neglect or default in the execution of this Act:

(a) until the expiration of one month next after notice in writing has been, in the case of the corporation, left at

*The City of Bombay Municipal Act, 1888.*

[Ch. XXI.—Supplemental Provisions, Sects. 527 (1) (b)—528. Schedule A.]

the chief municipal office and, in the case of the commissioner or of a deputy municipal commissioner or of a municipal officer or servant delivered to him or left at his office or place of abode, stating with reasonable particularity the cause of action and the name and place of abode of the intending plaintiff and of his attorney or agent, if any, for the purpose of such suit; nor

(b) unless it is commenced within six months next after the accrual of the cause of action.

(2) At the trial of any such suit:

(c) the plaintiff shall not be permitted to go into evidence of any cause of action except such as is set forth in the notice delivered or left by him as aforesaid;

(d) the claim, if it be for damages, shall be dismissed if tender of sufficient

amends shall have been made before the suit was instituted or if, after the institution of the suit, a sufficient sum of money is paid into court with costs.

(3) Where the defendant in any such suit is a municipal officer or servant, payment of the sum or of any part of any sum payable by him in or in consequence of the suit, whether in respect of costs, charges, expenses, compensation for damages or otherwise, may be made, with the sanction of the standing committee, from the municipal fund.

528. The provisions contained in schedule R for regulating the constitution of the corporation and other matters, until this Act is brought fully into operation shall be of the same effect as if they were enacted in the body of this Act.

## SCHEDULE A.

(SEE SECTION 2.)

*Enactments repealed.*

No. and year of Act.	Title or Subject.	Extent of Repeal.
	<i>Act of the Governor General in Council.</i>	
XLVIII of 1860...	An Act to amend Act XIII of 1856 ...	Section 17, as amended by Bombay Act IV of 1882 and clause (16) of section 19.
	<i>Acts of the Governor of Bombay.</i>	
VI of 1863 ...	An Act for the regulation of public conveyances in the town, suburbs and harbour of Bombay.	In section 7, the words "by the Commissioner of Police to the credit of the Municipal Commissioners of Bombay, and"
III of 1870 ...	An Act to secure the payment to Government of certain sums of money by the Corporation of the Justices of the Peace for the City of Bombay.	The whole.
III of 1872 ...	The Bombay Municipal Act of 1872 ...	The whole.
IV of 1878 ...	The Bombay Municipal Act Amendment and Continuance Act, 1878.	The whole.
VI of 1878 ...	An Act to remove doubts as to the time when certain portions of the Bombay Municipal Act Amendment and Continuance Act, 1878, were intended to come into force.	The whole.
II of 1880 ...	The Bombay Municipality's Consolidated Loan Act, 1880.	The whole.
II of 1881 ...	An Act to confirm the jurisdiction of Presidency Magistrates in municipal cases.	The whole.
VI of 1882 ...	An Act to amend the Bombay Municipal Acts of 1872 and 1878.	The whole.

## The City of Bombay Municipal Act, 1888.

[Schedules A and B.]

## SCHEDULE A—continued.

No. and year of Act.	Title or Subject.	Extent of Repeal.
II of 1885	.. An Act to empower the Municipal Corporation of the City of Bombay to subscribe to the Guarantee Funds of the Bombay International Exhibition and for other purposes.	So much as has not already been repealed.
III of 1885	... An Act to provide for the occasional appointment of a Deputy Municipal Commissioner for the City of Bombay.	The whole.
I of 1886	... An Act to remove certain doubts in the construction of section 9 B. of the Bombay Municipal Acts of 1872 and 1878.	The whole.
II of 1886	... An Act to enable the Municipal Corporation of the City of Bombay to raise increased revenue from town-duties.	The whole

## SCHEDULE B.

(SEE SECTION 24.)

## Division of the City into Wards.

Consecutive Number	Name of Ward.	BOUNDARIES.				Number of members of the corporation to be elected for each Ward.
		On the North.	On the South	On the East.	On the West.	
1	Fort and Harbour Ward (includes the southern portion of the island within the boundaries here specified and the entire harbour).	A line starting from the harbour and extending along the north wharf of Carnac Basin, the south side of Carnac Road, and of First Marine Street, and continuing thence to Back Bay	The sea . . . .	The harbour . . . .	Back Bay. . . .	Six
2	Mandvi Ward	A line starting from the harbour and extending along the south wharf of Clerk Basin, the south side of Wars Bandar Road, and the east side of Hancock Bridge and of Mázgaon Road to the junction of the latter with Babula Tank Road, thence along the south side of Babula Tank Road to Bhendy Bázár, Parel Road	A line starting from the harbour and extending along the north wharf of Carnac Basin, and the north side of Carnac Road, as far as Abdul Rehman Street.	The harbour from the south wharf of Clerk Basin to the north wharf of Carnac Basin,	A line starting from Babula Tank Road and extending along the east side of Bhendy Bázár, Parel Road, and the east side of Abdul Rehman Street as far as Carnac Road.	Eight.
3	Bhuleshwar Ward	A line starting from the west side of Bhenoj Bázár, Parel Road, and extending along the south side of Grant Road as far as the north-west corner of Northbrook Garden.	The north side of Carnac Road from Abdul Rehman Street, and the north side of First Marine Street and a line continuing thence to Back Bay.	The west side of Bhendy Bázár, Parel Road, and of Abdul Rehman Street as far as Carnac Road	A line starting from the north-west corner of Northbrook Garden, Grant Road, and extending along the east side of Trumbak Parashram Street, Ardesir Dady Street, passing thence along the north-east side of part of Bhuleshwar Street to the junction of that street and Thakurdwar Street and extending along the south side of the latter as far as Queen's Road and continuing thence to Back Bay.	Eight.
4	Girgaon Ward	A line starting from the north-west corner of Trumbak Parashram Street and extending along the south side of Grant Road as far as the B B & C. I. Railway, and again from the B B & C. I. Railway level crossing on Clerk Road along the south side of Clerk Road as far as the south end of Hornby Vellard.	Back Bay from a point opposite to Thakurdwar Street to Malabar Point.	A line starting from Back Bay at a point opposite Thakurdwar Street, and extending along the north side of Thakurdwar Street; south-west side of part of Bhuleshwar Street as far as the southern end of Ardesir Dady Street; thence along the west side of the latter and Trumbak Parashram Street as far as Grant Road again from the Grant Road Railway Bridge along the west side of the B B & C. I. Railway Line as far as the Clerk Road level crossing.	The sea from Malabar Point to the south end of Hornby Vellard.	Five.

## The City of Bombay Municipal Act, 1888.

[Schedules B and C.]

## SCHEDULE B—continued.

Consecutive Number	Name of Ward.	BOUNDARIES				Number of members of the corporation to be elected for each Ward
		On the North	On the South.	On the East.	On the West.	
5	Byculla Ward	A line starting from the harbour and extending along the south wharf of Bellair Basin, the south side of Sivri Road and the south side of Kala Choki Road as far as the Chunchpokli Station level crossing on Arthur Road.	A line starting from the harbour, and extending along the north wharf of Clerk Basin, the north side of Wari Bandar Road, the west side of Hancock Bridge and of Mazaon Road to the junction of the latter with Babula Tank Road, thence along the north side of Babula Tank Road and Grant Road as far as the east side of the B. B. & C. I. Railway Line.	The harbour from the north wharf of Clerk Basin to the south wharf of Bellair Basin	A line starting from the Grant Road Railway Bridge and extending along the east side of the B. B. & C. I. Railway Line as far as the Clerk Road level crossing, thence along the south side of Clerk Road and the east side of Arthur Road as far as the Chunchpokli Station level crossing	Five
6	Pacl Ward..	The northern boundary of the city from the east side of the G. I. P. Railway Line as far as the harbour.	A line starting from the harbour and extending along the north wharf of Bellair Basin, the north side of Sivri Road, and the north side of Kala Choki Road as far as the Chunchpokli Station level crossing on Arthur Road.	The harbour from the north wharf of the Bellair Basin as far as the northern boundary of the city	The east side of the G. I. P. Railway Line from the Chunchpokli Station level crossing as far as the northern boundary of the city.	Two
7	Máhm Ward	The northern boundary of the city from the west side of the G. I. P. Railway Line as far as Máhm Causeway.	The north side of Arthur Road and Clerk Road from the Chunchpokli Station level crossing to the south end of Hornby Vellard.	The west side of the G. I. P. Railway Line from the Chunchpokli Station level crossing as far as the northern boundary of the city.	The sea from the south end of Hornby Vellard as far as Máhm Causeway.	Two

## SCHEDULE C.

(SEE SECTION 110.)

Form of Debenture

No. \_\_\_\_\_ for Rs. \_\_\_\_\_

By virtue of the City of Bombay Municipal Act, 1888, we, the Municipal Corporation of the city of Bombay, in consideration of the sum of \_\_\_\_\_ paid to us by *A. B.* of \_\_\_\_\_ for the purposes of the said Act, promise to pay to the said *A. B.*, his heirs, executors, administrators and assigns the said sum of \_\_\_\_\_, together with interest at the rate of \_\_\_\_\_ per centum per annum, payable half-yearly on the \_\_\_\_\_ day of \_\_\_\_\_ and the \_\_\_\_\_ day of \_\_\_\_\_

And by way of security for the said payment, we do hereby grant and assign unto the said *A. B.*, his heirs, executors, administrators and assigns such proportion of the moneys arising or accruing by virtue of the said Act from (the taxes mortgaged) as the sum aforesaid doth or shall bear to the whole sum which is, or shall be borrowed on the credit of the said (taxes), to hold to the said *A. B.*, his heirs, executors, administrators and assigns from the day of the date hereof until the sum aforesaid with interest for the same at the rate aforesaid shall be fully paid and satisfied;

The City of Bombay Municipal Act, 1888.

[Schedules C., D. and E.]

and it is hereby declared that the said principal sum shall be repaid  
 on the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_ at (place of payment).  
 • Dated this \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_

(To be sealed with the  
 common seal of the Corporation.)

(Signed)  
 Municipal Commissioner,  
 on behalf of the Corporation.

This debenture has been sealed with  
 the common seal of the Municipal Corporation  
 of the city of Bombay in our presence :

(Signed)  
 1 \_\_\_\_\_ } Members of the Standing Committee.  
 2 \_\_\_\_\_ }

SCHEDULE D.

(SEE SECTION 110.)

Form of endorsement for transfer of Debenture.

I, A. B., in consideration of the sum of \_\_\_\_\_ paid to me by C. D. of  
 \_\_\_\_\_, do hereby transfer to the said C. D., his heirs, executors, adminis-  
 trators and assigns the within security, and all my right, estate and interest in  
 and to the money thereby secured and in and to the (taxes) thereby assigned.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_ .  
 (Signed) A. B.

SCHEDULE E.

(SEE SECTION 150.)

Form of Notice of Transfer to be given when the transfer has been effected by Instrument.

To the Municipal Commissioner for the city of Bombay.

I, A. B., hereby give notice, as required by section 149 of the City of Bombay Municipal  
 Act of 1888, of the following transfer of property :—

Date of Notice	Date of Instrument.	Name of Vendor or Assignor	Name of Purchaser or Assignee.	Amount of considera- tion	Description of the Property.						If Instrument has been registered, the date of Registration	Remarks.
					Of what it consists.	Situation	No. in Asses- ment-Book.	Collector's No	Dimensions of Land.	Boundaries.		

(Signed) A. B.

*The City of Bombay Municipal Act, 1888.*

[Schedules F, G. and H.]

**SCHEDULE F.**

(SEE SECTION 150.)

*Form of Notice of Transfer to be given when the transfer has taken place otherwise than by Instrument.*

To the Municipal Commissioner for the city of Bombay.

I, *A. B.*, hereby give notice, as required by section 149 of the City of Bombay Municipal Act of 1888, of the following transfer of property:—

Date of Notice.	Name in which the Property is at present entered in the Commissioner's Records.	To whose name it is to be transferred.	Description of the Property.						Remarks
			Of what it consists.	Situation.	No. in Assessment-Book.	Collector's No.	Dimensions of Land.	Boundaries.	

(Signed) *A. B.***SCHEDULE G.**

(SEE SECTION 180.)

*Tax on Vehicles and Animals.*

Description of Vehicle or Animal.	Maximum Amount of Tax per Quarter.		
	Rs.	a.	p.
Each four-wheeled vehicle, drawn or impelled by horses, ponies, mules, donkeys, bullocks or machinery ... ..	5	0	0
Each two-wheeled vehicle, drawn or impelled by do. do. ... ..	3	0	0
Each vehicle drawn or impelled otherwise than by horses, ponies, mules, donkeys, bullocks or machinery ... ..	2	0	0
Each horse, pony or mule of a height of 12 hands or upwards ... ..	6	0	0
Each horse, pony or mule of a height of less than 12 hands ... ..	2	0	0
Each bullock or buffalo kept for draft or pack purposes ... ..	1	0	0
Each donkey kept for draft or pack purposes or for riding ... ..	1	0	0

**SCHEDULE H.**

(SEE SECTION 192.)

*Articles liable to payment of Town-duties.*

Articles.	Maximum Rates of Town-duties leviable.
Grain of all sorts ... ..	6 annas per khandi.
Flour of all sorts ... ..	75 per centum of the rate at the time being levied on the grain from which the flour is prepared.
Wines and spirits ... ..	4 annas per imperial gallon.
Beer ... ..	6 pies per do.
Petroleum, as defined in the Petroleum Act, 1886 ... ..	6 pies per do.
Sugar, molasses and gúr ... ..	8 annas per cwt.
Ghí ... ..	10 annas per Bombay maund.
Timber, exclusive of railway sleepers ... ..	2½ per cent. of its market value.
Firewood ... ..	2 annas per khandi.



*The City of Bombay Municipal Act, 1888.*

[Schedules I. and J.]

## SCHEDULE I.

(SEE SECTION 202.)

*Form of Notice of Demand.*

To

A. B.

residing at

Take notice that the Municipal Commissioner for the city of Bombay demands from (you) the sum of \_\_\_\_\_ due from (you) on account of (here describe the premises, vehicle or animal on account of which the tax is leviable) for the half-year (or quarter) commencing (or ending) on the day of \_\_\_\_\_ 18 ; and that if the said sum is not paid into the municipal office at \_\_\_\_\_, or if sufficient cause for non-payment of the sum is not shown to the satisfaction of the commissioner within fifteen days from the service of this notice, a warrant of distress will be issued for the recovery of the same, with costs.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 18

(Signed)

Municipal Commissioner  
for the city of Bombay.

## SCHEDULE J.

(SEE SECTION 203.)

*Form of Distress Warrant.*

To (here insert the name of the officer charged with the execution of the warrant).

Whereas A. B., of \_\_\_\_\_, has not paid, or shown sufficient cause, to my satisfaction, for the non-payment of the sum of \_\_\_\_\_ due for the tax\* mentioned in the margin for the half-year (or quarter) commencing (or terminating) on the day of \_\_\_\_\_ 18, although the said sum has been duly demanded in writing from the said A. B., and fifteen days have elapsed since the service of the notice of demand ;

This is to command you to distrain the goods and chattels of the said A. B. (or, as the case may be, any goods and chattels found on the premises in respect of which the said tax is due) to the amount of the said sum of \_\_\_\_\_, and such further sum as may be sufficient to defray the costs of recovering the said amounts; and if within five days next after such distress the said sum shall not be paid, together with such further sum as shall be sufficient to defray the said costs, to sell the said goods and chattels: and having paid and deducted out of the proceeds of the sale the said sum of \_\_\_\_\_ and the costs of recovering the same, to return the surplus, if any, and if the same be demanded within one year from the date of the sale, to the person whom you shall find in possession of the said goods and chattels.

If sufficient distress cannot be found of the goods and chattels of the said A. B. (or on the said premises, as the case may be) you are to certify the same to me together with this warrant.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 18

(Signed)

Municipal Commissioner  
for the city of Bombay.

*The City of Bombay Municipal Act, 1888.*

[Schedules K, L and M.]

## SCHEDULE K.

(SEE SECTION 205.)

*Form of Inventory and Notice.*

To

A. B.

residing at

Take notice that I have this day seized the goods and chattels specified in the inventory beneath this, for the sum of \_\_\_\_\_ due for the tax mentioned in the margin\* for the half-year (or quarter) commencing (or terminating) on the \_\_\_\_\_ day of

\* Here describe the tax.

18 ; and that unless you pay into the municipal office at the amount due, together with the costs of recovery, within five days from the day of the date of this notice, the goods and chattels will be sold.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 18

(Signature of the officer  
executing the warrant.)

## Inventory.

(Here state particulars of the goods and chattels seized.)

## SCHEDULE L.

(SEE SECTION 207.)

*Table of Fees payable in Distraints.*

Sum distrained for.							Fee.
							Rs. a.
Under 5 Rupees	...	...	...	...	...	...	0 4
Rupees 5 and under 10 Rupees	...	...	...	...	...	...	0 8
" 10 " 15 "	...	...	...	...	...	...	0 12
" 15 " 20 "	...	...	...	...	...	...	1 0
" 20 " 25 "	...	...	...	...	...	...	1 4
" 25 " 30 "	...	...	...	...	...	...	1 8
" 30 " 35 "	...	...	...	...	...	...	1 12
" 35 " 40 "	...	...	...	...	...	...	2 0
" 40 " 45 "	...	...	...	...	...	...	2 4
" 45 " 50 "	...	...	...	...	...	...	2 8
" 50 " 60 "	...	...	...	...	...	...	3 0
" 60 " 80 "	...	...	...	...	...	...	3 12
" 80 " 100 "	...	...	...	...	...	...	4 8
Above 100 Rupees	...	...	...	...	...	...	5 0

The above fees are to include all expenses except when peons are kept in charge of property distrained, in which case four annas must be paid daily for each peon so employed.

## SCHEDULE M.

(SEE SECTIONS 394 AND 395.)

*Purposes for which premises shall not be used without a license.*

- (1) Casting metals ;
- (2) Manufacturing bricks or tiles ;
- (3) Packing, pressing, cleansing, preparing or manufacturing, by any process whatever, any of the following articles, viz. :—

Cloths in indigo or other colours.  
Paper.Pottery  
Silk

*The City of Bombay Municipal Act, 1888.*

[Schedules M. and N.]

(4) Storing, packing, pressing, cleansing, preparing or manufacturing, by any process whatever, any of the following articles, viz. :—

Blood.	Kerosine oil.
Bones.	Lime.
Candles.	Matches for lighting.
Catgut.	Manure.
Chemical preparations.	Meat.
China grass.	Nitro-glycerine.
Cocoanut fibre.	Oil.
*Cotton and cotton refuse or seed.	Oil-cloth.
Dammer.	Offal.
Dynamite.	Petroleum oil.
Fat.	Paraffin oil.
Fins.	Rags.
Fish.	Rosin.
Fireworks.	Rangoon or Burmah oil.
Flax.	Soap.
Fulminate of mercury.	Sulphur.
Gas.	Saltpetre.
Gun cotton.	Spirits.
Gunpowder or blasting powder.	Skins.
Hemp.	Tallow.
Hides.	Tar or pitch.
Horns.	Tow.
Hoofs.	Turpentine.
Hair.	Wool.
Jute.	

SCHEDULE N.

(SEE SECTION 444.)

*Particulars to be specified in the Register of Births.*

Serial number.	
Date of birth.	
Place of birth ...	{ District, Sub-district, Ward-No. of house ( <i>i.e. its distinguishing number under cl. (a) of s. 156</i> ). Street or wádi. No. of house in street or wádi.
Parents	{ Names (and surnames, if any), Occupation or profession, Place of birth, Duration of residence in Bombay... { Years, Months, Days.
Mother being ...	{ Only wife now alive. One of two wives, both now alive. One of three or more wives, all now alive.
Mother being unmarried.	
Child ...	{ Born alive. Still-born. Sex. Race, caste or nationality. Name, if any.

NOTE.—In the case of the birth of a Hindu, the particular subdivision of his caste should be given. Christians should be separated into those of pure European parentage; those of mixed blood, viz., Indo-Europeans; and those of pure Asiatic parentage, viz., Native Christians. Negro-Africans or Siddis should be registered as such, and not as Mussulmans. In the case of Europeans, their religion should be specified.

\* The storing of pressed bales of cotton is excepted.

*The City of Bombay Municipal Act, 1888.*

[Schedules O. and P.]

**SCHEDULE O.**

(SEE SECTION 444.)

*Particulars to be specified in the Register of Deaths.*

Serial number.

Date of death.

Abode ... { District,  
Sub-district,  
Ward-No. of house (*i.e.* its distinguishing number under cl. (a) of s. 156).  
Street or wádi,  
No. of house in street or wádi,

Duration of residence in Bombay. { Years,  
Months,  
Days,

If a stranger to Bombay, or lately arrived, wherefrom ... { Village,  
Táluka,  
District,

Name (and surname, if any),

Sex,

Race, caste or nationality,

Age .... { Years,  
Months,  
Days,  
Still-born,

Occupation or profession of deceased or of his or her family,

Place of birth ... { If in Bombay ... { District,  
Street or wádi,  
No. of house,  
If out of Bombay ... { Village,  
Táluka,  
District,

Country to which family belongs,

Cause of death,

Duration of disease. { Years,  
Months,  
Days,  
Hours,

Name and residence of medical attendant,

Place of disposal of dead, No. { Buried,  
Burnt,  
Exposed,

**SCHEDULE P.**

(SEE SECTION 450.)

*Certificate of Cause of Death.*

I do hereby certify that I attended the deceased during his last illness, and that the cause of his death was, to the best of my belief, (*here state particulars.*)

Date

(Signed)

Medical Designation or Diploma.

*The City of Bombay Municipal Act, 1888.*

[Schedules Q. and R.]

**SCHEDULE Q.**

(SEE SECTION 453.)

*Form certifying Name given in Baptism.*

I \_\_\_\_\_ of \_\_\_\_\_ lo hereby certify, that on the  
 18 \_\_\_\_\_, I baptized by the name of \_\_\_\_\_ male child produced to me by  
 as the \_\_\_\_\_ of \_\_\_\_\_, and declared by the said \_\_\_\_\_ to have been born at  
 \_\_\_\_\_, on the \_\_\_\_\_ 18 \_\_\_\_\_.

*(Signed by Officialing Minister.)*

Date \_\_\_\_\_

*Form certifying Name given not in Baptism.*

I \_\_\_\_\_ do hereby certify that the \_\_\_\_\_ male child born on the \_\_\_\_\_ 18 \_\_\_\_\_,  
 at \_\_\_\_\_, to \_\_\_\_\_ and \_\_\_\_\_ his wife, and registered in the district of \_\_\_\_\_  
 on the \_\_\_\_\_ 18 \_\_\_\_\_, has received the name of \_\_\_\_\_

*(Signed by father or mother, &c.)*

Date \_\_\_\_\_

**SCHEDULE R.**

(SEE SECTION 528.)

*Transitory Provisions.*

1. (1) The corporation in existence on the day before this Act comes into force shall be the corporation for the purposes of this Act until the first day of April, 1889; and every casual vacancy which occurs in the said corporation after the passing of this Act shall be filled up in the same manner in which it would have been filled up if this Act had not been passed.

(2) On the first day of April, 1889, the members of the said corporation shall retire from office, but unless disqualified, they shall be eligible for being councillors after the said date.

2. For the purpose of any election to fill a casual vacancy in the corporation under sub-section (1) of the last preceding section, the list prepared under section 9D. of the Bombay Municipal Acts of 1872 and 1878 during the first half of the year 1887-88 shall continue in operation until the first day of April, 1889.

3. The person who, on the day before this Act comes into force, is the chairman of the corporation shall, until the first day of April, 1889, be deemed to be the president of the corporation for the purposes of this Act, unless in the meantime a casual vacancy occurs in the office. If any such casual vacancy occurs before the last-mentioned day, it shall be filled up in accordance with the provisions of sub-section (3) of section 37.

*The City of Bombay Municipal Act, 1888.*

[Schedule R—continued.]

4. The town council in existence on the day before this Act comes into force shall be deemed to be the standing committee for the purposes of this Act until the first appointment of a standing committee under section 43; and every casual vacancy which occurs in the said committee after the passing of this Act shall be filled up in the same manner in which a vacancy in the town council would have been filled up if this Act had not been passed.

The town council in existence when this Act comes into force to be the standing committee till the first standing committee is appointed under this Act.

5. The person who, on the day before this Act comes into force, is the chairman of the town council shall be the chairman of the standing committee until the first appointment of a standing committee under section 43, unless in the meantime a casual vacancy occurs in the office. If any such casual vacancy occurs, it shall be filled up in accordance with the provisions of sub-section (3) of section 44.

Chairman of the standing committee until the first standing committee is appointed under this Act.

6. The commissioner and the deputy commissioner, if any, and all municipal officers and servants holding office on the day before this Act comes into force, shall be deemed to have been appointed under this Act and, until an order to the contrary is passed by competent authority under this Act, shall continue to hold, respectively, the same or the corresponding offices under this Act and to receive the same emoluments.

Continuance of present commissioner and municipal officers and servants in office.

7. The standing committee may, with the approval of the corporation, grant to the municipal secretary, in addition to his maximum monthly salary of one thousand rupees, a personal allowance not exceeding two hundred rupees monthly in consideration of such secretary's long and approved service, so long as the office is held by the same person who on the day when the Bombay Municipal Acts Amendment Act, 1882, came into force was secretary of the town council and clerk of the municipal corporation.

Personal allowance to present municipal secretary.

Bo. VI of 1882.

Bo. III of 1872 and IV of 1878.

8. Any budget-estimate adopted by the corporation under the provisions of the Bombay Municipal Acts of 1872 and 1878, which, if this Act had not been passed, would have had operation after the date on which this Act comes into force, shall, subject to the provisions of sections 131 to 134, both inclusive, continue in operation as if this Act had not been passed.

Continuance in operation of budget-estimate adopted before the passing of this Act.

9. The decision of the corporation under the said Acts as to the rates at which property-taxes and the rates at which and the articles on which town-duties shall be levied during the time for which any such budget-estimate is in operation, shall, subject to the provisions of section 196, have the same validity as if this Act had not been passed.

Sanction of property-taxes and town-duties given before this Act comes into force to continue valid.

10. Any assessment-book made by the commissioner under the said Acts, which, if this Act had not been passed, would have had effect after the date on which this Act comes into force, shall, subject to the provisions of sections 167, 217, 218 and 219, have the same effect as if this Act had not been passed.

Assessment-book made before this Act comes into force to continue valid.

11. The amount of contribution towards the protection of the city from fire, which has been determined by the town council under section 122 of the Bombay Municipal Acts of 1872 and 1878, to be due by any insurance company carrying on business in Bombay or having an agency for such

Contributions towards the fire-brigade in the year in which this Act comes into force.

Bo. III of 1872 and IV of 1879

*The City of Bombay Municipality Act, 1888.*

[Schedule R—concluded.]

purpose for the official year in which this Act comes into force, shall continue due as if this Act had not been passed.

12. In preparing, on or before the first day of October, 1888, the first ward lists under section 19, the qualifying-tax in clause (c) of section 11, shall be taken to mean either of the taxes, or the aggregate of the taxes specified in sub-section (3) of section 11 levied for the half-year from the first day of April to the thirtieth day of September, 1888, whether according to the provisions of this Act or of the Bombay Municipal Acts of 1872 and 1878 and the consolidated tax levied under the last-named Acts shall be deemed to be the general tax specified in sub-section (3) of section 11.

Bo III of 1872 and IV of 1878.

13. (1) All proceedings instituted under any Act hereby repealed and still pending when this Act comes into force before the Chief Presidency Magistrate, shall be continued and determined by the said magistrate as if this Act had not been passed; and every decision of the said magistrate in any such proceeding shall have the same validity as if this Act had not been passed.

Disposal of proceedings pending before the Chief Presidency Magistrate.

Legal proceedings which might, before the passing of this Act, have been heard by the Chief Presidency Magistrate, to be instituted, on and after 1st November, 1888, before the Chief Judge of the Small Cause Court.

(2) Any legal proceeding which might, but for the passing of this Act, have been instituted before the Chief Presidency Magistrate, but which under this Act is within the cognizance of the Chief Judge of the Small Cause Court, shall, if commenced on or after the first day of November, 1888, be instituted before the Chief Judge of the Small Cause Court.

(3) Any such legal proceeding as aforesaid which is commenced before the said date and any legal proceeding commenced after the date when this Act comes into force but before the first day of November, 1888, which under the provisions of this Act should be instituted before the Chief Judge of the Small Cause Court, shall be instituted before the Chief Presidency Magistrate and be heard and determined by the said magistrate; and the decision of the said magistrate in every such proceeding shall have the same validity as if this Act had not been passed or as if such decision had been made by the Chief Judge of the Small Cause Court, as the case may be.

Jurisdiction of Chief Presidency Magistrate continued till 1st November, 1888.

(4) If an application of the nature specified in section 504 is made to the Chief Presidency Magistrate or to the Chief Judge of the Small Cause Court in respect of any expenses or compensation which became claimable before this Act comes into force, such application shall be deemed to be in time if it is made within one year from the date of this Act coming into force.

Period of limitation for applications under section 504 in respect of claims which arose before this Act comes into force.

*By order of His Excellency the Right Honourable the Governor in Council,*

J. J. HEATON,

Acting Under Secretary to Government,

*Poona, 13th September 1888.*

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## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF INDIA

#### LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 20th September 1888, and is hereby promulgated for general information :

#### Act No. X of 1888.

*An Act to amend the Code of Civil Procedure and the Presidency Small Cause Courts Act, 1882.*

WHEREAS it is expedient to amend the Code of Civil Procedure and the Presidency Small Cause Courts Act, 1882; It is hereby enacted as follows:—

XIV of 1882. 1. For the second schedule to the Code of Civil Procedure there shall be substituted the schedule in the first schedule to this Act.

XV of 1882. 2. (1) To section 23 of the Presidency Small Cause Courts Act, 1882, the following shall be added, namely:—“Subject to such control, the Court may modify or cancel any notification under this section as occasion may appear to it to require.”

(2) For the second schedule to the same Act there shall be substituted the schedule in the second schedule to this Act.

(3) Any declaration which has been notified under the proviso to section 23 of the Presidency Small Cause Courts Act, 1882, before the day on which this Act is passed, and which was in

force immediately before that day, shall, subject to the powers of the Court under that section, be construed, so far as may be, as referring to the schedule which has been substituted by the last foregoing sub-section for the second schedule to that Act.

3. To section 589 of the Code of Civil Procedure the following shall be added, namely:—

“Provided that an appeal from an order specified in section 588, clause (17), shall be—

(a) to the District Court where the order was passed by a Court subordinate to that Court, and

(b) to the High Court in any other case.”

4. Act VIII of 1880 (*an Act to correct a clerical error in the Indian Limitation Act, XV of 1877.*) and section 26 of the Provincial Small Cause Courts Act, 1887, are hereby repealed.

#### THE FIRST SCHEDULE TO THIS ACT,

#### THE SECOND SCHEDULE TO THE CODE OF CIVIL PROCEDURE.

(See section 5)

#### CHAPTERS AND SECTIONS OF THIS CODE EXTENDING TO PROVINCIAL COURTS OF SMALL CAUSES.

PRELIMINARY: Sections 1, 2, 3 and 5.



CHAPTER I.—Of the Jurisdiction of the Courts and *Res Judicata*, except section 11 and the last paragraph of section 14.

CHAPTER II.—Of the Place of Suing, except section 20, paragraph 4, and sections 22 to 24 (both inclusive).

CHAPTER III.—Of Parties and their Appearances, Applications and Acts.

CHAPTER IV.—Of the Frame of the Suit, except section 42 and section 44, rule a.

CHAPTER V.—Of the Institution of Suits.

CHAPTER VI.—Of the Issue and Service of Summons, except section 77.

CHAPTER VII.—Of the Appearance of the Parties and Consequence of Non-appearance.

CHAPTER VIII.—Of Written Statements and Set-off.

CHAPTER IX.—Of the Examination of the Parties by the Court, except section 119.

CHAPTER X.—Of Discovery and the Admission, &c., of Documents.

CHAPTER XII.—Section 155, first paragraph, Judgment where either party fails to produce his evidence.

CHAPTER XIII.—Of Adjournments.

CHAPTER XIV.—Of the Summoning and Attendance of Witnesses.

CHAPTER XV.—Of the Hearing of the Suit and Examination of Witnesses, except sections 182 to 188 (both inclusive).

CHAPTER XVI.—Of Affidavits.

CHAPTER XVII.—Of Judgment and Decree, except sections 204, 207, 211, 212, 213, 214 and 215.

CHAPTER XVIII.—Of Costs, sections 220, 221 and 222.

CHAPTER XIX.—Of the Execution of Decrees, sections 223 to 236 (both inclusive), 239 to 258 (both inclusive), 259 (except so far as relates to the recovery of wives), 266 (except so far as relates to immoveable property), 267 to 272 (both inclusive), 273 (so far as relates to decrees for moveable property), 275 to 283 (both inclusive), 284 (so far as relates to moveable property), 285, 286, 287, 288, 289, 290 (so far as relates

to moveable property), 291, 292, 293 (so far as relates to re-sales under 297), 294 to 303 (both inclusive), 328 to 333 (both inclusive, so far as relates to moveable property), 336 to 343 (both inclusive).

CHAPTER XX.—Section 360, Power to invest certain Courts with Insolvency-jurisdiction.

CHAPTER XXI.—Of the Death, Marriage and Insolvency of Parties.

CHAPTER XXII.—Of the Withdrawal and Adjustment of Suits.

CHAPTER XXIII.—Of Payment into Court.

CHAPTER XXIV.—Of requiring Security for Costs.

CHAPTER XXV.—Of Commissions, except section 396.

CHAPTER XXVI.—Suits by Paupers.

CHAPTER XXVII.—Suits by and against Government or Government Servants.

CHAPTER XXVIII.—Suits by Aliens and by and against Foreign and Native Rulers.

CHAPTER XXIX.—Suits by and against Corporations and Companies.

CHAPTER XXX.—Suits by and against Trustees, Executors and Administrators.

CHAPTER XXXI.—Suits by and against Minors and Persons of Unsound Mind.

CHAPTER XXXII.—Suits by and against Military Men.

CHAPTER XXXIII.—Interpleader.

CHAPTER XXXIV.—Of Arrest and Attachment before Judgment, except as regards Immoveable Property.

CHAPTER XXXVI.—Appointment of Receivers.

CHAPTER XXXVII.—Reference to Arbitration.

CHAPTER XXXVIII.—Of Proceedings on Agreement of Parties.

CHAPTER XLVI.—Reference to and Revision by High Court.

CHAPTER XLVII.—Of Review of Judgment, sections 623, 626 and 630.

CHAPTER XLIX.—Miscellaneous.

THE SECOND SCHEDULE TO  
THIS ACT.

THE SECOND SCHEDULE TO THE PRESIDENCY  
SMALL CAUSE COURTS ACT, 1882.

(See section 23.)

PORTIONS OF CIVIL PROCEDURE CODE  
EXTENDING TO COURT.

PRELIMINARY: Section 2, Interpretation-clause.

- CHAPTER I.—Of the Jurisdiction of the Courts and *Res Judicata*, except section 11.
- CHAPTER II.—Of the Place of Suing, except sections 15 to 19 (both inclusive), section 20, paragraph 4, sections 22, 23 and 24, and section 25, paragraphs 2 and 3.
- CHAPTER III.—Of Parties and their Appearances, Applications and Acts, except section 37, clause (b), and the last paragraph.
- CHAPTER IV.—Of the Frame of the Suit, except section 42 and section 44, rule a.
- CHAPTER V.—Of the Institution of Suits, except section 53, clause (b), sub-clause (iv), section 55, section 57, clause (b), and sections 58 and 62.
- CHAPTER VI.—Of the Issue and Service of Summons, except, in section 64, the words "and the copies or concise statements required by section 58 have been filed," and sections 65 and 66.
- CHAPTER VII.—Of the Appearance of the Parties and Consequence of Non-appearance.
- CHAPTER VIII.—Of Written Statements and Set-off, except sections 110, 112 and 113.
- CHAPTER IX.—Of the Examination of the Parties by the Court, except section 119.
- CHAPTER X.—Sending for Records and Production, &c., of Documents, sections 137 (except paragraph 2), 138, 140 (except the proviso and the last six words), 141, 141A, 142, 142A, sub-section (1), 143 and 145.
- CHAPTER XI.—Settlement of Issues, sections 150 and 151.
- CHAPTER XII.—Disposal of the Suit at the first Hearing, except sections 154 and 155.
- CHAPTER XIII.—Of Adjournments.
- CHAPTER XIV.—Of the Summoning and Attendance of Witnesses, except sections 168, 169, 170 and 175.
- CHAPTER XV.—Of the Hearing of the Suit and Examination of Witnesses, except sections 182 to 191 (both inclusive) and the second paragraph of section 193.
- CHAPTER XVI.—Of Affidavits.
- CHAPTER XVII.—Of Judgment and Decree, except sections 200, 201, 202, 204, 207 and 211 to 215 (both inclusive)
- CHAPTER XVIII.—Of Costs.
- CHAPTER XIX.—Of the Execution of Decrees, sections 229, 229A and 229B, section 230, first two clauses, sections 231 to 236 (both inclusive), 243 to 259 (both inclusive), 266 (so far as relates to the attachment of moveable property or decrees therefor), 267 to 272 (both inclusive), 273 (so far as relates to decrees for moveable property), 275 to 303 (both inclusive), 328 to 333 (both inclusive), 336 (except the last three clauses), and 337 to 343 (both inclusive).
- CHAPTER XXI.—Of the Death, Marriage and Insolvency of Parties.
- CHAPTER XXII.—Of the Withdrawal and Adjustment of Suits.
- CHAPTER XXIII.—Of Payment into Court.
- CHAPTER XXIV.—Of requiring Security for Costs.
- CHAPTER XXV.—Of Commissions, except section 396.
- CHAPTER XXVII.—Suits by or against Government or Public Officers.
- CHAPTER XXVIII.—Suits by Aliens and by and against Foreign and Native Rulers, except section 433, sub-sections (1), (2), (4) and (5).
- CHAPTER XXIX.—Suits by and against Corporations and Companies.
- CHAPTER XXX.—Suits by and against Trustees, Executors and Administrators.
- CHAPTER XXXI.—Suits by and against Minors and Persons of Unsound Mind.
- CHAPTER XXXII.—Suits by and against Military Men.
- CHAPTER XXXIII.—Interpleader.
- CHAPTER XXXIV.—Of Arrest and Attachment before Judgment, except as regards the attachment of immoveable property.
- CHAPTER XXXV.—Interlocutory Orders, sections 498, 499, 500 and 502.
- CHAPTER XXXVI.—Appointment of Receivers, section 503.
- CHAPTER XXXVII.—Reference to Arbitration, except the provisions of section 522 as to appeals.
- CHAPTER XXXVIII.—Of Proceedings on Agreement of Parties, except so much of section 527, clause (b), as relates to immoveable property.
- CHAPTER XLVI.—Of Reference to and Revision by High Court.
- CHAPTER XLIX.—Miscellaneous.

S. HARVEY JAMES,

Secretary to the Government of India.

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## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

#### Erratum.

No. 212 of 1888.

LEGISLATIVE DEPARTMENT.

*Poona, 9th October 1888.*

**The City of Bombay Municipal Act, 1888.**

In Section 471, amongst the list of sections for breach of the provisions of which the maximum fine is Rs. 50, for "418 sub-section (1)" read "428 sub-section (1)."

*By order of His Excellency the Right Honourable the Governor in Council,*

J. J. HEATON,

Acting Under Secretary to Government.

## ACTS PASSED BY THE GOVERNMENT OF INDIA.

### LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 5th October 1888, and is hereby promulgated for general information:—

#### Act No. XI of 1888.

*An Act to make an addition to the Indian Telegraph Act, 1885.*

WHEREAS it is expedient to make an addition XIII of 1885. to the Indian Telegraph Act, 1885; It is hereby enacted as follows:—

1. The following section shall be added to that Act, namely—

“34. (1) This Act, in its application to the presidency-towns, shall be read as if for the words ‘District Magistrate’ in section 16, sub-section (1), and section 17, sub-sections (2) and (3), for the words ‘Magistrate of the first or second class’

in section 18, sub-section (1) and for the word ‘Magistrate’ in section 18, sub-section (2), there had been enacted the words ‘Commissioner of Police’, and for the words ‘District Judge’ in section 16, sub-sections (3), (4) and (5), the words ‘Chief Judge of the Court of Small Causes.’

(2) Section 16, in its application to the town of Rangoon, shall be read as if for the words ‘District Judge’, wherever they occur in that section, there had been enacted the words ‘Judge of the Court of Small Causes.’

(3) The fee in respect of an application to the Chief Judge of a Presidency Court of Small Causes under sub-section (3) of section 16 shall be the same as would be payable under the Court-fees Act, 1870, in respect of such an application to a District Judge beyond the limits of a presidency-town, and fees for summonses and other processes in proceedings before the Chief Judge under sub-section (3) or sub-section (4) of that section shall be payable according to the scale set forth in the fourth schedule to the Presidency Small Cause Courts Act, 1882.” XV of 1882.

S. HARVEY JAMES,  
Secretary to the Government of India.

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## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor General on the 12th October 1888, and is hereby promulgated for general information:—

#### Act No. XII of 1888.

*An Act to supplement certain provisions of the City of Bombay Municipal Act, 1888, and of the Calcutta Municipal Consolidation Act, 1889.*

WHEREAS it is expedient to supplement by legislation in the Council of the Governor-General for making Laws and Regulations certain provisions of the City of Bombay Municipal Act, 1888, and of the Calcutta Municipal Consolidation Act, 1889; It is hereby enacted as follows:—

1. The City of Bombay Municipal Act, 1888,

Confirmation of the City of Bombay Municipal Act, 1888, and the Calcutta Municipal Consolidation Act, 1889, so far as regards Benches, Magistrates and Courts of Small Causes

and the Calcutta Municipal Consolidation Act, 1889, shall, so far as regards—

(a) the jurisdiction thereby conferred upon Appellate

Benches of Municipal Authorities and upon Presidency and other Magistrates and Courts of Small Causes or any Judge of such a Court, and

(b) the decisions, orders and other proceedings of those Benches, Magistrates and Courts or of any such Judge,

be as valid as if they had been passed by the

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Governor-General of India in Council at a meeting for the purpose of making Laws and Regulations.

2 (1) If before or on the hearing of an appeal under section 217 of the

Reference of questions by the Chief Judge of the Bombay Small Cause Court to the Bombay High Court.

City of Bombay Municipal Act, 1888, any question of law or usage having the force of law, or

the construction of a document, which construction may affect the merits, arises, on which the Chief Judge of the Court of Small Causes of Bombay entertains reasonable doubt, the Chief Judge may, either of his own motion or on the application of either or any of the parties, draw up a statement of the facts of the case and the point on which doubt is entertained, and refer the statement, with his own opinion on the point, for the decision of the High Court of Judicature at Bombay.

(2) When a reference is made to the High Court under sub-section (1), the provisions of sections 618 to 621, both inclusive, of the Code of Civil Procedure shall, so far as they can be made applicable, apply to the Chief Judge of the Court of Small Causes and to the High Court, respectively.

3. (1) An appeal shall lie to the High Court of Judicature at Bombay

Appeal to the Bombay High Court from certain orders of the Chief Judge of the Bombay Small Cause Court.

from a decision passed by the Chief Judge of the Court of Small Causes

of Bombay under section 503 or section 504 of the City of Bombay

Municipal Act, 1888, when the amount of the claim in respect of which the decision is passed exceeds two thousand rupees.

XIV of 1882.

(2) The provisions of the Code of Civil Procedure with respect to appeals from original decrees shall, so far as they can be made applicable, apply to appeals under sub-section (1), and orders passed therein by the High Court may, on application to the Chief Judge of the Court of Small Causes, be executed by him as if they were decrees made by himself.

(3) A decision passed by the Chief Judge of the Court of Small Causes of Bombay under section 503 or section 504 of the City of Bombay Municipal Act, 1888, shall, if an appeal does not lie therefrom under sub-section (1), be final.

4. (1) An appeal shall lie to the High Court of Judicature at Bombay from an order passed by a Presidency Magistrate under section 515 of the City of Bombay Municipal Act, 1888.

Appeal to the Bombay High Court from orders of Presidency Magistrates in Bombay.

(2) The High Court may from time to time make rules for regulating the admission of appeals under sub-section (1) and the procedure to be followed in the adjudication thereof.

(3) When an appeal has been preferred to the High Court under this section, the Municipal Commissioner for the City of Bombay shall

defer action upon the order of the Presidency Magistrate until the appeal has been disposed of:

(4) But, when the appeal has been disposed of, he shall forthwith give effect to the order passed therein by the High Court, or, if the order of the Presidency Magistrate has not been disturbed by the High Court, then to his order.

(5) When disposing of an appeal under this section the High Court may direct by whom the costs of the appeal are to be paid, and whether in whole or in what part or proportion.

(6) Costs so directed to be paid may, on application to a Presidency Magistrate, be recovered by him, in accordance with the direction of the High Court, as if they were a fine imposed by himself.

5. An appeal to the High Court of Judicature at Bombay under either of the two last foregoing sections shall, for the purposes of No. 156 of the second schedule to the Indian Limitation Act, 1877, be deemed to be an appeal under the Code of Civil Procedure in a case not provided for by No. 151 and No. 153 of that schedule.

Period of limitation for appeals to the Bombay High Court under the two last foregoing sections. of the two last foregoing sections shall, for the purposes of No. 156 of the second schedule to the Indian Limitation Act, 1877, be deemed to be an appeal under the Code of Civil Procedure in a case not provided for by No. 151 and No. 153 of that schedule.

S. HARVEY JAMES,  
Secretary to the Government of India



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## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 26th October 1888, and is hereby promulgated for general information:—

#### Act No. XVI of 1888.

*An Act to repeal certain enactments relating to the purchase of regimental necessaries from soldiers.*

WHEREAS it is expedient to repeal the enactments specified in the schedule to this Act; It is hereby enacted as follows:—

Repeal.                    1. The enactments specified in the schedule are hereby repealed.

#### SCHEDULE.

Number and year.	Subject or title.	Extent of repeal.
<i>Act of the Governor General in Council.</i>		
VII of 1867.	Purchase of regimental necessaries from soldiers.	So much as has not been repealed.
<i>Regulation of the Madras Code.</i>		
XIV of 1832	Purchase of regimental necessaries from soldiers.	So much as has not been repealed.

S. HARVEY JAMES,  
Secretary to the Government of India.

## LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 26th October 1888, and is hereby promulgated for general information :—

## Act No. XVII of 1888.

*An Act to amend the Indian Marine Act, 1887.*

WHEREAS it is expedient to amend the Indian Marine Act, 1887; It is hereby enacted as follows :—

1. For sub-section (2) of section 2 of the Indian Marine Act, 1887, XIV of 1887. Amendment of section 2, the following shall be substituted, namely :—

“(2) The Governor General in Council may, by notification in the Gazette of India, vary any of the definitions in clauses (b), (c) and (d) of sub-section (1) as occasion may appear to him to require, and the references to those clauses in the definition of the expression ‘superior officer’ in clause (e) of that sub-section shall be construed to be references to them as varied by any notification published under this sub-section and for the time being in force.”

S. HARVEY JAMES,  
Secretary to the Government of India.



THE



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## PART IV.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 15th October 1888, and the assent of His Excellency the Viceroy and Governor General on the 8th December 1888, and is published for general information:—

### Bombay Act No. IV of 1888.

*An Act to amend the City of Bombay Municipal Act, 1888.*

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 20th December 1888)

WHEREAS it is expedient to amend the Bom III of City of Bombay Municipal Act, 1888, in 1888. manner hereinafter appearing; It is enacted as follows:—

1. This Act may be cited as "The City of Bombay Municipal Act Amendment Act, 1888."  
Short title.

Section 7 shall come into force on the first day of April, 1889; the rest of this Act shall come into force at once.  
Commencement.

2. In section 106 of the City of Bombay Municipal Act, 1888, the words "General of India" shall be inserted after the word "Governor".  
Amendment of s. 106 of Bo. Act III of 1888.

3. In clause (c) of section 109 of the said Act, the words "the Governor-General of India in  
Amendment of s. 109 of Bo. Act III of 1888.

Council" shall be substituted for the word "Government".

4. In sub-section (1) of section 138 of the said Act, the word "and" shall be substituted for the words "provided that" and the words "as determined by the Governor in Council, shall" for the words "shall not, without the consent of the corporation".  
Amendment of s. 138, subs. (1) of Bo. Act III of 1888.

5. (1) The words "Her Majesty" shall be substituted for the words "the Secretary of State for India in Council"  
Amendment of ss. 89, 100, 143, 144, 181 and 299 of Bo. Act III of 1888.

(a) whenever they occur in sections 89, 100, 181, clause (e) and 299, sub-section (2) of the said Act;

(b) the first time they occur in section 143, clause (b) of the said Act; and

(c) the first and last times they occur in section 144, sub-section (2) of the said Act.

(2) In section 144, sub-section (1) of the said Act the words "Her Majesty" shall be substituted for the word "him."

6. In section 308, sub-section (2) of the said Act, after the

Amendment of s. 308, sub-s. (2) of Bo. Act III of 1888. word "section", the words "or of section 196 of the Bombay Municipal Act, 1872," shall be inserted.

Bom. Act III of 1872.

Amendment of sched. H of Bo. Act III of 1888.

7. In the schedule H annexed to the said Act, the lines :

"Petroleum, as defined in the Petroleum Act, 1886, 6 pies per imperial gallon"

shall be repealed.

8. For Section 9 of the Schedule R annexed to the said Act the following Section shall be deemed to have been substituted from the date on which that Act came into force, viz. :—

"9. (1). The several rates, taxes, tolls and duties the rates for levy of which were fixed by the Corporation under the said Acts for the

Rates and taxes sanctioned for the current year in which this Act comes into force to continue leviable for that year.

period during which any such budget estimate is in operation shall, subject to the provisions of Section 196, be leviable in respect of the said period, as if the rates for levy thereof had been determined by the Corporation under this Act, notwithstanding that the said rates, taxes, tolls and duties, or any of them, may have been fixed at rates or on articles at or on which corresponding taxes are not imposable under this Act.

(2). Sections 144 and 145 shall have operation on and from the first day of April 1889, only; and the sums payable to the Corporation in respect of the period aforesaid by the Secretary of State for India in Council or by the Trustees of the Port of Bombay in lieu of property rates, under the said Acts or under Section 36 of the Bombay Port Trust Act, 1879, respectively, shall be paid as if this Act had not been passed."

Bom. VI of 1879.

*By order of His Excellency the Right Honourable the Governor in Council,*

J. J. HEATON,

Acting Under Secretary to Government.

*Bombay Castle, 19th December 1888.*

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## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 26th October 1888, and the assent of His Excellency the Viceroy and Governor General on the 8th January 1889, and is published for general information:—

#### Bombay Act No. V of 1888.

#### THE ADEN PORT TRUST ACT, 1888.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 19th January 1889)

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## Bombay Act No. V of 1888.

*An Act to vest the Port of Aden in a Trust.*

WHEREAS it is expedient to vest the port of Aden in a trust and to provide for the management of the affairs of the said port by trustees; It is enacted as follows:—

### I.—PRELIMINARY.

1. This Act may be called "The Aden Port Trust Act, 1888."
- Short title.
2. In this Act, unless there be something repugnant in the subject or context,—
- Definitions.
- (a) "port" means the port of Aden as defined for the purposes of this Act;
- "port";
- (b) "high-water mark" means a line drawn through the highest points reached by ordinary spring-tides, at any season of the year;
- "high-water mark";
- (c) "low-water mark" means a line drawn through the lowest points reached by ordinary spring-tides at any season of the year;
- "low-water mark";
- (d) "land" includes the bed of the sea below high-water mark, and also things attached to the earth or permanently fastened to anything attached to the earth;
- "land";
- (e) "master," when used in relation to any vessel, means any person having for the time being the charge or control of such vessel;
- "Master";
- (f) the word "goods" includes wares and merchandise of every description;
- "goods";
- (g) "owner," when used in relation to goods, includes any consignor, consignee, shipper or agent for the sale or custody of such goods; and when used in relation to any vessel, includes any part-owner, charterer, consignee, or mortgagee in possession thereof.
- "owner".
3. (1) The Governor in Council may, by notification in the *Bombay Government Gazette*, define the limits of the port.
- Power to define and alter limits of port.

limits of the port for the purpose of this Act, and may from time to time by a like notification alter such limits.

(2) Such limits may extend to any part of the navigable approaches to the port, and may include any wharves, tramways, warehouses, sheds and other works made on behalf of the public for convenience of traffic, for safety of vessels, or for the improvement, maintenance, and good government of the port, whether within or without high-water mark, and, subject to any rights of property therein, any portion of the shore within fifty yards of high-water mark.

### II.—OF THE BOARD OF TRUSTEES.

#### *Constitution of Board.*

4. The duty of carrying out the provisions of this Act shall, subject to such conditions and limitations as are hereinafter contained, be vested in a board to be called "The Trustees of the Port of Aden"; and such board, hereinafter referred to as "the board," shall be a body corporate and have perpetual succession and a common seal, and shall sue and be sued by the name first aforesaid.
- Act to be carried out by trustees.
5. The board shall consist of such number of trustees as shall from time to time be fixed by Government, the same being not less than six.
- Number of trustees.
6. The First Assistant Resident at Aden, the Executive Engineer, Aden, the Port Surgeon, Aden, and the senior officer of the Royal Engineers for the time being stationed at Aden, or in the absence of any of the abovementioned officers the officer acting for him, shall be *ex-officio* trustees, and the First Assistant Resident at Aden, or in his absence the officer acting for him, shall be *ex-officio* chairman of the board.
- Appointment of *ex-officio* trustees and chairman.
7. The rest of the trustees shall be appointed by Government, and of these such number as shall from time to time be fixed by Government, shall not be public officers.
- Appointment of other trustees.
8. The names of all trustees other than the *ex-officio* trustees shall be published in the *Bombay Government Gazette*.
- Publication of names of non-official trustees in the official gazette.

9. The term of office of the first trustees shall commence on such date as shall be notified in this behalf by the Governor in Council.

Term of office of first trustees when to commence.

10. Every trustee, other than the *ex-officio* trustees, shall, unless he becomes in the meantime disqualified, hold office for a term of two years.

Length of term of office of non-official trustees.

11. (1) In the event of the death, resignation or disqualification of a trustee other than an *ex-officio* trustee, or of his becoming incapable of acting previous to the expiry of his term of office, the vacancy shall be filled up, as soon as it conveniently may be, by the appointment of a person thereto, who shall hold office so long only as the trustee in whose place he is appointed would have held it, if the vacancy had not occurred.

Filling up of casual vacancies.

(2) If a trustee other than an *ex-officio* trustee departs from Aden with an intention of being absent for a longer period than three months, or if a trustee shall have been absent from Aden for such period, a person shall be appointed to act for such trustee during his absence, or until he shall cease to be a trustee, and the person so acting shall be deemed for all the purposes of this Act to be a trustee.

Acting trustees.

12. A person who has already been a trustee on one or more occasions shall, if not disqualified under section 13, be again eligible at any time for appointment.

Re-eligibility of trustees.

#### Disqualifications of Trustees.

13. (1) No person shall be qualified to be a trustee:

Disqualifications for office of trustee.

(a) who, under any law for the time being in force is an uncertificated bankrupt or an undischarged insolvent, or

(b) who, unless he is an *ex-officio* trustee, holds any office or place of profit under the board, or

(c) who, unless as aforesaid, has, directly or indirectly, any share or interest in any work done by order of the board,

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or in any contract, or employment with, by, or on behalf of the board; or

(d) who has been sentenced by a criminal court to imprisonment or to whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence not having been subsequently reversed or quashed, and whose disqualification on account of such sentence has not been removed by an order, which the Governor in Council is hereby empowered to make, if he shall think fit, in this behalf;

and any trustee who—

(e) becomes disqualified for any of the aforesaid reasons, or

Trustee who becomes disqualified to cease to be a trustee.

(f) is absent from the meetings of the board for a period exceeding six consecutive months, or, without the permission of the board, from six consecutive meetings of the board,

shall cease to be a trustee, and his office shall thereupon become vacant:

(2) Provided always that no trustee shall vacate his office by reason only of his—

Proviso.

(g) having a share in any joint-stock company which shall contract with or be employed by, or on behalf of, the board, or

(h) having a share or interest in any newspaper in which any advertisement relating to the affairs of the board may be inserted, or

(i) being interested in any loan of money to the board.

#### Remuneration of Trustees.

14. Every trustee who is not a public officer shall be entitled to a fee of such amount as shall from time to time be prescribed by Government, for each meeting of the board at which a quorum is present and business is transacted, and which he attends from the beginning to the end thereof: Provided that if more than one such meeting is held in any one month no more than one fee shall be paid to any trustee for his attendance at all or any such meetings during that one month.

Fee payable to non-official trustees.

*Proceedings of Board.*

15. The following provisions shall be observed with respect to the proceedings of the board (namely)—

Provisions concerning the board's proceedings.

(1) During any vacancy in the board the continuing trustees may act as if no vacancy had occurred.

Vacancy not to affect board's proceedings.

(2) The board shall meet together and arrange for transaction of business as they think fit, but shall from time to time make such arrangements, not inconsistent with this Act, with respect to the place, day, hour, notice, management, and adjournment of such meetings, and generally with respect to the transaction of business, as they think fit, subject to the following conditions (namely):—

Board to meet together and arrange for transaction of business as they think fit, but

there must be two ordinary meetings in each month, and

(a) that two ordinary meetings at least shall be held in every month;

(b) that the chairman may, whenever he thinks fit, and shall, upon the written request of not less than three trustees, call a special meeting;

a special meeting may be called whenever necessary, and

(c) that no business shall be transacted at any meeting unless at least three trustees are present from the beginning to the end of such meeting;

three trustees shall form a quorum, and

(d) that every meeting shall be presided over by the chairman, if he is present at the time appointed for holding the same, and, if he is absent, by such one of the trustees present as may be chosen by the meeting;

every meeting shall be presided over by the chairman, and

(e) that all questions shall be decided by a majority of votes of the trustees present, the president having a second or casting vote in all cases of equality of votes;

all questions must be decided by a majority of votes, and

(f) that if a poll be demanded, the names of the trustees voting and the nature of their votes shall be recorded by the president;

votes must be recorded if a poll is demanded, and

(g) that minutes shall be kept of the names of the trustees present and of the proceedings at each meeting, in a book to be provided for this purpose, which shall be signed, as soon as practicable, by the president of such meeting, and shall be open to inspection by any trustee during office hours.

minutes of proceedings must be kept.

(3) The board may delegate any of their powers to committees consisting of such trustees as they think fit. Any committee so formed shall conform to any instructions that may from time to time be given to them by the board, and the board may at any time discontinue or alter the constitution of any committee so formed.

Board may delegate powers to committees.

(4) A committee may elect a chairman of their meetings, and, if no such chairman is elected, or, if he is not present at the time appointed for holding the same, the members present shall choose one of their number to be chairman of such meeting.

Committees' meetings to be presided over by a chairman.

(5) Committees may meet and adjourn as they think proper, but the chairman of the board may, whenever he thinks fit, and shall, upon the written request of not less than two members of a committee, call a special meeting of such committee.

Committees when to meet.

(6) Questions at any meeting of a committee shall be decided by a majority of votes of the members present, and, in case of an equal division of votes, the chairman of the meeting shall have a second or casting vote, but no business shall be transacted at any such meeting unless at least two-thirds of the members of the committee are present from the beginning to the end thereof.

Questions how to be decided at committees' meetings.



(7) No act of the board, or of any committee, or of any person acting as trustee, shall be deemed to be invalid by reason only of some defect in the appointment of such board, committee, or trustee, or on the ground that they, or any of them, were disqualified for the office of trustee.

16. (1) The chairman may, on behalf of the board, enter into any contract or agreement, whereof the value or amount shall not exceed one thousand rupees, in such manner and form as, according to the law for the time being in force, would bind him if such contract or agreement were on his own behalf; but every other contract and agreement on behalf of the board shall be in writing, and shall be signed by the chairman and by two other trustees, and shall be sealed with the common seal of the board.

(2) No contract or agreement not executed as aforesaid shall be binding on the board:

(3) Provided that the signatures of the chairman and two other trustees may be engraved, lithographed, or impressed by any mechanical process, on coupons attached to debentures which the board is at any time authorized to issue under the Local Authorities Loan Act, 1879, or other law for the time being in force, and the signatures so engraved, lithographed or impressed shall have the same validity as if they were written in the proper handwriting of the chairman and other trustees.

17. The board may compound or compromise for or in respect of any claim or demand made against them for such sum of money, or other compensation, as they shall deem sufficient.

#### The Chairman.

18. The chairman shall—

(a) attend every meeting of the board, unless prevented by sickness or other reasonable cause;

(b) exercise supervision and control over the acts and proceedings of all officers and servants of the board in matters of executive administration, and in mat-

ters concerning the accounts and records of the board; and, subject to the regulations at the time being in force framed by the board under section 20, dispose of all questions relating to the service of the said officers and servants, and their pay, privileges, and allowances;

(c) furnish to Government a copy of the minutes of any of the board's proceedings, and any returns or other information which Government may from time to time call for.

### III.—OF THE OFFICERS AND SERVANTS OF THE BOARD.

#### Strength of Staff.

19. (1) The board shall from time to time prepare and sanction a schedule of the staff of officers and servants whom they shall deem it necessary and proper to maintain for the purposes of this Act. Such schedule shall also set forth the amount and nature of the salaries, fees, and allowances which the board sanctions for each such officer or servant.

(2) Until a schedule is prepared and sanctioned under this section, the staff of officers and servants maintained, on the day previous to the date notified by the Governor in Council under section 9, under the authority of Government, on the establishment of the Aden port fund, and the officers and servants, if any, maintained on the said day by Government at the cost of the provincial revenues for employment in the Aden harbour, shall be deemed to be the staff sanctioned by the board under the foregoing provisions.

(3) And all officers and servants holding any office on the said day on the establishment of the Aden port fund, and the officers and servants aforesaid, if any, employed by Government on the said day, shall be deemed to have been appointed under this Act, and shall continue to hold the same office, and to receive the same remuneration under the board, until it is otherwise directed under this Act:

#### PROVISOS.

(4) Provided:

(a) that artisans, porters, and labourers, and mukadams of porters and labour-

ers, and persons temporarily employed in the engineering department, shall not be deemed to be officers or servants within the meaning of this section, or of section 20, clauses (a) to (d), both inclusive, or of section 21;

(b) that if an officer is lent to the board by Government, the board shall make such contributions, if any, on account of his pension and leave allowances, as may be required by the rules in this behalf from time to time in force, and shall not, except with the consent of Government, dispense with his further services at any time, without giving to Government six months' previous notice;

(c) that every officer and servant, if any, maintained by Government on the day aforesaid at the cost of the provincial revenues, for employment in connection with the Aden harbour, shall, if he is entitled as a Government servant to pension and leave allowances, be deemed to be lent to the board on and from the date notified by the Governor in Council under section 9,

Board to frame regulations. 20. The board shall from time to time frame regulations :

(a) for regulating the grant of leave to the officers and servants of the board ;

(b) for authorizing the payment of allowances to the said officers and servants, or to certain of them, whilst absent on leave ;

(c) for determining the remuneration to be paid to the persons appointed to act for any such officers or servants during their absence on leave ;

(d) for regulating the period of service of all such officers and servants ;

(e) for determining whether any of the said officers and servants, and if so which of them, shall on retirement receive pensions, gratuities or compassionate allowances, and whether compassionate allowances shall be paid to the surviving relatives of any of the said officers and servants who are

killed in the execution of their duty, and if so to which of them, and the conditions under which such pensions, gratuities or compassionate allowances shall be payable and the amount of the same ;

(f) for authorizing the payment of contributions at certain prescribed rates, and subject to certain prescribed conditions, to any provident fund which may be established by the board for the benefit of their officers and servants, or which, with their approval, may be established by their officers and servants themselves :

Provided that :

(a) no regulation framed by the board under clause (e) shall have validity, unless or until the same has been sanctioned by Government ;

(b) any pension or leave allowance payable to any officer or servant of Government employed in connection with the Aden harbour prior to the date notified by the Governor in Council under section 9, shall, in so far as the same has been earned during such employment, be a charge on the port fund and shall be defrayed thereout, on the requisition of Government, by the board.

*Powers of Appointment, &c.*

21. (1) Subject to the provisions of the said regulations and of the schedule for the time being in force framed by the board under section 19, the power of appointing, promoting, suspending, dismissing for misconduct, fining, reducing, or granting leave to the officers and servants of the board, shall be exercised by the chairman in the case of officers and servants whose monthly salary does not exceed one hundred rupees, and in every other case by the board.

(2) An appointment so made by the board shall not be held to be a contract or agreement within the meaning of section 16.

(3) The power of dispensing with the services of any officer or servant of the board, otherwise than by reason of such officer's or servant's own misconduct, or of permitting any such officer or servant to retire on a pension, gratuity, or compassionate allowance, shall, subject to the aforesaid provisions, be exercised by the board alone.

Every order of the chairman dismissing for misconduct an officer or servant whose monthly salary exceeds thirty rupees shall be subject to the approval of the board.

22. Every order or regulation made by the board under any of the three last preceding sections shall, so far as the same relates to any officer whose monthly salary is three hundred rupees or more, be subject to the previous sanction of the Political Resident at Aden.

Sanction of Political Resident at Aden when necessary.

#### IV.—OF THE PROPERTY AND LIABILITIES OF THE BOARD.

##### *General Powers as to Property.*

23. (1) The board shall, for the purposes of this Act, have power to acquire and hold moveable and immovable property, whether within or without the limits of the port or settlement of Aden; and shall also have power to lease, sell or otherwise convey any moveable or immovable property which may have become vested in or been acquired by them:

(2) Provided that no sale of immovable property, and no lease of any such property for a term exceeding twenty-one years, shall be valid unless such sale or lease shall have been made with the previous sanction of Government.

24. (1) When the board are unable to acquire by agreement any immovable property required for the purposes of this Act, Government may, in their discretion, order proceedings to be taken for acquiring the same on behalf of the board as if such property were land needed for a public purpose within the meaning of the Land Acquisition Act, 1870.

(2) The amount of compensation awarded and all other charges incurred in the acquisition of any such property shall be forthwith defrayed by the board, and thereupon the said property shall vest in the board.

25. (1) The property specified in schedule A shall, upon and after the date notified by the Governor in Council under section 9, vest in the board;

Transfer of Government property to the board.

9, vest in the board;

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Proviso.

(2) Provided that—

(a) if any question arises between the Government and the board as to the boundaries of any portion of such property, Government may define and demarcate such boundaries, and the decision of Government in respect to such boundaries shall be final;

(b) any portion of the land specified in the said schedule which shall be required by Government for a public purpose may be resumed by Government without claim to compensation on the part of the board, except for buildings or other permanent structures erected by the board thereon;

(c) any work which the Governor-General in Council may consider necessary in the public interests, may be executed by Government in or upon any of the property specified in the said schedule, without claim to compensation on the part of the board, except for buildings or other permanent structures erected by the board which it shall be necessary to clear away for the purposes of such work.

26. All debts and obligations incurred, all contracts entered into, and all matters of the Aden port fund's liabilities and claims, and things engaged to be done by, with, or for the Political Resident on behalf of the Aden port fund, shall be deemed to have been incurred, entered into, or engaged to be done by, with, or for the board;

and all sums of money due to the said Aden port fund, shall be deemed to be due to the board;

and all suits or other legal proceedings, civil or criminal, instituted, or which might but for the passing of this Act have been instituted, by or against the said Political Resident as manager of the Aden port fund, may be continued or instituted by or against the board.

#### V.—OF THE POWERS AND DUTIES OF THE BOARD.

##### *Works.*

27. (1) The works to be constructed and carried out by the board may include the following:—

Works to be constructed.

(a) cleaning, deepening, and improving any portion of the port, and the con-

struction, procuring, and application, of dredges and other machinery for that purpose;

(b) wharves, quays, stages, jetties, piers and docks, with all necessary and convenient arches, drains, landing-places, stairs, fences, roads, railways, and approaches;

(c) tramways, warehouses, sheds, engines, and other appliances for conveying, receiving, and storing goods landed, or to be shipped, or otherwise;

(d) light-houses, light-ships, beacons, pilot-boats, and other appliances necessary for the safe navigation of the port and of the approaches thereto within a distance of three miles from the limits of the port;

(e) laying down moorings, and the erection of cranes, scales, and all means and appliances necessary for berthing, loading and unloading vessels;

(f) reclaiming, excavating, enclosing, and raising any part of the foreshore of the port vested in the board;

(g) procuring and employing steam-vessels for towing vessels into, out of, or within the port;

(h) the construction of such works, without the limits of the port, as shall be necessary for the protection of works executed by the board within the port, and all such other works and appliances as may, in the opinion of the board, be necessary or desirable for carrying out the purposes of this Act:

(2) Provided always that no new work, the estimated cost of which exceeds one thousand rupees, shall be commenced by the board, nor shall any contract be entered

But no new work to be commenced without a plan and estimate, if its cost shall exceed Rs. 1,000;

into by the board in respect of any such new work, until a plan and estimate of such work shall have been submitted to the board and considered and approved by them; nor shall any new work, the estimat-

nor without the sanction of Government to such plan and estimate, if the cost shall exceed Rs. 50,000.

ed cost of which exceeds fifty thousand rupees, or which forms part of a projected work, the whole of which is estimated or is likely to cost more than fifty thousand rupees, be commenced until such plan and estimate shall have been submitted to, and approved by, Government.

28. The board shall provide such number of public landing-places as shall, in the opinion of the Political Resident at Aden, be sufficient, from and upon which the public shall be permitted to embark and to land free of charge.

29. The board may occupy, or remove, or alter any public bathing-place or landing-place within the port, and prohibit the public from resorting to or using the same: Provided that the board shall provide for the use of the public such other bathing-places or landing-places, if any, as the Political Resident at Aden may direct.

#### *Landing and Shipping of Goods.*

30. When any wharf, quay, stage, jetty or pier has been made or completed, with sufficient warehouses, sheds and appliances for landing or for shipping goods from and in sea-going vessels, the board may, with the previous sanction of the Political Resident at Aden, by a notification published in three consecutive numbers of the *Bombay Government Gazette*, declare that such wharf, quay, stage, jetty or pier is ready for receiving, landing and shipping, or for landing or for shipping, as the case may be, goods from and in sea-going vessels.

31. When a sufficient number of wharves, quays, stages, jetties, piers, warehouses, sheds, and appliances have been provided as

If accommodation sufficient, all sea-going vessels compelled to use wharves, &c.

aforsaid, the board may, with the previous sanction of Government, by an order published in three consecutive numbers of the *Bombay Government Gazette*, direct that no goods, or that no goods other than a particular class or classes of goods, shall be landed or shipped from or in any sea-going vessel within the port, save at such wharves, quays, stages, jetties and piers, and may, in like manner, alter, vary or revoke any such order: Provided that no order shall

be made under this section in respect of the landing or shipping of coals.

32. (1) When any wharf, quay, stage, jetty or pier for receiving, landing, or shipping goods from or in vessels, not being sea-

Inland vessels compelled to use wharves, &c.

going vessels, has been made and completed by the board, with sufficient warehouses, sheds and appliances in that behalf, the board may, with the sanction of the Political Resident at Aden, by an order published in three consecutive numbers of the *Bombay Government Gazette*, declare :

(a) that such wharf, quay, stage, jetty or pier is ready for receiving, landing and shipping goods from or in vessels, not being sea-going vessels; and

(b) that, within certain prescribed limits within the port to be specified in such order, it shall not be lawful to land or ship any goods from or in any vessel not being a sea-going vessel of any class specified in such order, except at such wharf, quay, stage, jetty or pier, nor for any such vessel, while within such limits, to anchor, fasten or lie within fifty yards of low-water mark without the consent of the board.

(2) If after such publication any such vessel, while within such limits, so anchors, fastens or lies, the board may cause the same to be removed out of the said limits.

(3) The board may in like manner, and with the like sanction, alter, vary or revoke any such order.

Exemptions from obligation to use wharves, &c.

33. (1) Notwithstanding anything contained in sections 31 and 32 :

(a) the Political Resident at Aden may, by notification in the *Bombay Government Gazette*, from time to time permit certain specified vessels or classes of vessels to discharge or ship targo, or certain specified cargo or classes of cargo, at such part of the port, in such manner, during such period, subject to such payments, and on such conditions, as he may think fit, and otherwise grant exemption from the provisions of the said sections ;

(b) military or naval munitions or stores may be landed or shipped at any time and at any place within the limits of the port which the Political Resident at Aden may deem convenient.

(2) The Political Resident at Aden may, by like notification, cancel or modify any notification made by him under clause (a) of sub-section (1).

(3) The Political Resident at Aden may also at any time require that troops and their baggage, and military or naval munitions or stores, be landed or shipped with

the least practicable delay, in preference to all other passengers or goods at the time awaiting landing or shipping; and it shall be incumbent on the board to give effect to any such requisition.

34. (1) Whenever any goods are landed by the board from any vessel, the board shall, if so required, give to the master of such vessel a receipt in the form or to the effect set forth in schedule B, and may in any such receipt include all goods landed from such vessel during one day.

(2) No master or owner of a vessel from which the goods in respect of which such receipt is given may have been landed, shall be liable for any loss or damage to such goods which may occur after they have been so landed.

#### *Customs wharves, &c.*

35. When Government appoint under the provisions of any Act for the levy of Sea Customs duties any wharf, quay, stage, jetty, or pier, to be a wharf or place for the

landing and shipping of goods within the meaning of such Act, the board shall set apart, maintain, and secure on or in such wharf, quay, stage, jetty, or pier, such portion thereof or place therein, or adjoining thereto, for the use of the officers of Customs as the Political Resident at Aden approves or appoints in that behalf.

36. Notwithstanding that any wharf, quay, stage, jetty, or pier, or portion thereof, has, under the provisions of the last section, been set apart for the use of the officers of Customs, all rates, tolls, charges, and rents payable under this Act in respect thereof, or for the use thereof, shall be paid and be payable to the board or to such persons as they may appoint to receive the same.

#### *Erection of Wharves, &c., by private persons.*

37. (1) Save as hereinafter provided, no person except the board shall, after the date on which this Act comes into force, make, erect, or fix below high-water mark within the port any wharf, dock, quay, stage, jetty, pier, erection, or mooring.

(2) Any matter or thing so made, erected, or fixed, may be removed by the board, and the person who has so made, erected, or fixed any such matter or thing shall be punished with fine, which may extend to one thousand rupees, and with a further fine which may extend to one hundred rupees for every day during which such matter or thing has been permitted to remain so made, erected, or fixed after notice to remove the same has been given to him, and shall also be liable to pay all expenses which may have been incurred by the board in removing such matter or thing.

38. The board may, by an order in writing and subject to the conditions contained in the same, permit any person to make, erect, or fix below high-water mark within the port any wharf, dock, quay, stage, jetty, pier, erection, or mooring.

39. In case any wharf, dock, quay, stage, jetty, pier, erection, or mooring is, after the date on which this Act comes into force, without the consent in writing of the Governor in Council, made, erected, or fixed below high-water mark without the limits for the time being of the port, and thereafter the limits of the port are extended so as to include the place in which such wharf, dock, quay, stage, jetty, pier, erection, or mooring has been made, erected, or fixed, the board may remove, fill up, or destroy such wharf, dock, quay, stage, jetty, pier, erection, or mooring without making any compensation therefor.

#### Rates.

40. (1) The board shall frame, and may from time to time alter—

(a) a scale of tolls on the landing and shipping of goods from and in sea-going vessels and vessels not being sea-going vessels, respectively, at any place within the port;

(b) a scale of rates for the use of the moorings, wharves, quays, stages, jetties and piers belonging to the board, and for the storing and keeping of any goods stored in any premises belonging to the board;

(c) a scale of charges for the landing and shipping of goods by the servants of the board and for the removal of goods, and for any services to be performed by the board or their servants in respect of any vessel, or goods, or for the use of any works or appliances to be provided by the board.

(2) Such scales or altered scales shall be submitted, through the approval of the Political Resident at Aden, to Government and, after approval or modification by Government, shall be published in the *Bombay Government Gazette* and shall thereupon have the force of law: Provided that no such scale or altered scale shall be approved or modified by Government until a draft of the same and a notice specifying a date at or after which the draft will be submitted to Government shall have been published in the *Bombay Government Gazette* and in such other manner as Government from time to time prescribe.

(3) Nothing in sub-section (1) or (2) shall be deemed to authorize:

(a) the inclusion in any scale framed or approved thereunder of any toll, rate or charge in respect of military or naval munitions or stores, or for such time as a vessel is landing or shipping any such munitions or stores, in respect of any such vessel;

(b) the levy from officers and soldiers of Her Majesty's regular forces on duty or on the march, of any duties or tolls from which they are exempted by section 143 of the Army Act, 1881.

44 and 45  
Vic., c. 53.

(4) From the time when any scale framed under this section comes into force, the *Bombay Landing and Wharfage Fees Act, 1882*, shall be repealed so far as regards the port of Aden.

Bom. VII of  
1882.

41. Government may, in special cases, remit the whole or any portion of any toll, rate or charge leviable under the last preceding section.

Tolls, rates and charges may be remitted in special cases.

42. Tolls on the landing and shipping of goods may be collected by officers and servants appointed by the board in this behalf, or by any person whom the board appoint to be their agent for this purpose,

Agency for collection of tolls on landing and shipping of goods.

or may be farmed or compounded for, either wholly or in part, by the board for any period not exceeding one year at a time.

43. (1) For the amount of all tolls, rates, and charges leviable under this Act in respect of any goods, the board shall have a lien on such goods, which may be seized and detained until such tolls, rates, and charges are fully paid.

(2) Toll, rates, and charges in respect of goods to be landed shall become payable immediately on the landing of the goods, and, in respect of goods to be removed from the premises of the board or to be shipped for export, shall be payable before the goods are removed or shipped or taken on board a lighter for the purpose of being shipped.

(3) The lien for such tolls, rates, and charges shall have priority over all other liens and claims, except a lien for freight, primage and general average, or for lighterage, where such lien has been preserved in the manner hereinafter provided, and a lien for money payable to Her Majesty or the Secretary of State for India in Council under any law for the time being in force.

44. (1) If, at or before the time of landing from any vessel of any goods at any wharf, quay, stage, jetty or pier, belonging to the board, the master or owner of such vessel, or the person by whom the goods are landed, gives to the board notice in writing that such goods are to remain subject to a lien for freight, primage or general average, or for lighterage, as the case may be, of an amount to be mentioned in such notice, such goods shall continue liable, after the landing thereof, to such lien.

(2) Such goods shall be retained either in the warehouses and sheds of the board, or, with the consent of the Political Resident at Aden, in a public warehouse, at the risk and expense of the owner of the said goods, until the lien is discharged as hereinafter mentioned.

45. Upon the production to any officer appointed by the board in that behalf of a document purporting to be a receipt for, or a release from, the amount of any lien to which any goods are liable under the last preceding section, executed by the person by or on

whose behalf notice of such lien has been given, the board may permit such goods to be removed without regard to such lien: Provided they shall have used reasonable care in respect to the authenticity of such document.

46. (1) Whenever goods which have been landed have, without any default on the part of the board, Goods may be removed to warehouse. been left for five clear days on or in any wharf or shed belonging to the board, the board may cause such goods to be removed either to any warehouse belonging to them, or, with the consent of the Political Resident at Aden, to a public warehouse; and the removal to and detention in any such warehouse shall be at the risk and expense of the owner of the said goods.

(2) Whenever any goods are so removed, the board shall give notice of such removal to the consignee of such goods or to his agent, if any, if such consignee's or agent's address be known, by letter sent by post to such address or left thereat; and the consignee of such goods, in addition to the expenses of the removal of the same, shall be liable, in case the goods are removed to any warehouse of the board, to a charge for warehousing for the time during which the goods shall remain in the said warehouse.

(3) If the goods are removed to a public warehouse, the said consignee shall be liable to the charges for warehousing goods in such public warehouse; and the said goods shall remain subject to all liens to which they would have been liable if they had remained in the possession of the board and shall be subject to the power of sale hereinafter given.

47. (1) If the tolls, rates, and charges payable to the board under this Act in respect of any goods are not paid, or if the Recovery of tolls, rates and charges by sale of goods. lien for freight, primage, general average, or lighterage, where such notice as aforesaid has been given, is not discharged, the board may, and in the latter event, if required by or on behalf of the person claiming such lien for freight, primage, general average, or lighterage shall, at the expiration of four months from the time when the goods were seized or placed in their custody, sell by public auction the said goods, or so much thereof as may be necessary to satisfy the amounts hereinafter directed to be paid out of the produce of such sale.

(2) Before making such sale, at least ten days' notice of the same shall be given by publication thereof by beat of tom-tom, and by posting notices at the public landing places within the settlement of Aden.

(3) If the address of the owner of the goods or of his agent has been stated on the manifest of the cargo, or in any of the documents which have come into the hands of the board, or is otherwise known, notice shall also be given to the owner of the goods or to his agent by letter delivered at such address or sent by post; but the title of a *bond fide* purchaser of such goods shall not be invalidated by reason of the omission to send such notice, nor shall any such purchaser be bound to enquire whether such notice has been sent:

(4) Provided that, if such goods are of so perishable a nature as in the opinion of the officer appointed by the board in that behalf, to render early or immediate sale necessary or advisable, the board may, within such period, being not less than twenty-four hours after the landing of the goods as they think fit, sell by public auction the said goods or such portion of them as aforesaid, in which event such notice, if any, shall be given to the owner of the goods or his agent as the urgency of the case admits of.

48. (1) The proceeds of every such sale shall be applied as follows:—

(a) in payment of the expenses of the sale;

(b) in payment, according to their respective priorities, of the liens and claims excepted in section 43 from the priority of the lien of the board;

(c) in payment of the tolls, rates and charges due to the board in respect of the goods.

(2) The surplus, if any, shall be paid to the owner of the goods, or to his agent, on his applying for the same: Provided such application be made within one year from the sale, or reason be shown to the satisfaction of the board why such application was not so made, and, in case such application shall not be so made nor reason shown, such surplus shall be held by the board upon trust for the purposes of this Act.

49. (1) If the master of any vessel, in respect of which any tolls, rates, charges, or penalties shall be payable under

Power to distrain vessels for the non-payment of rates, &c.,

this Act, or any bye-law made in pursuance hereof, refuses or neglects to pay the same, or any part thereof, on demand, it shall be lawful for the board to distrain or arrest of their own authority such vessel, and the tackle, apparel, or furniture belonging thereto, or any part thereof, and detain the same until the amount so due shall be paid.

(2) And in case any part of the said tolls, rates, charges or penalties, or of the costs of the distress or arrest or of the keeping of the same, shall remain unpaid for the space of fifteen days next after any such distress or arrest shall have been so made, the board may cause the vessel, or other thing so distrained or arrested, to be sold, and with the proceeds of such sale may satisfy such tolls, rates, charges, or penalties, and costs of sale remaining unpaid, rendering the surplus, if any, to the master of such vessel on demand.

50. If the board shall give to the officer of Government whose duty it is to grant the port clearance of any vessel, a notice stating that an amount therein specified is due in respect of tolls, rates, charges or penalties chargeable under this Act, or any bye-law or order made in pursuance hereof, against such vessel or the owner or master of such vessel, in respect thereof, such officer shall not grant such port clearance until the amount so chargeable shall have been paid.

51. The surplus, if any, of the moneys credited under section 47 of the Indian Ports Act, 1875, to the account of the Port Fund of Aden after defraying therefrom all expenses legally chargeable to the said account, shall be paid to the board.

#### Control of Pilots.

52. (1) The board shall have the right and privilege of maintaining pilots for the navigation of vessels at the port, and shall be bound to provide a sufficient number of pilots for that purpose, and all fees for pilotage shall be paid to the board: Pro-

Trustees to be vested with the right and privilege of maintaining pilots,

XII of 1875.



vided that no person shall be appointed to be a pilot by the board who is not for the time being authorized by Government, under the provisions of the Indian Ports Act, 1875, to pilot vessels.

XII of 1875.

(2) The board may also, from time to time, make such bye-laws and regulations as they shall think fit—

(a) for fixing and regulating the wages and allowances for pilotage to be received by pilots, and

(b) for regulating the behaviour and conduct of pilots;

and shall enforce the observance of such bye-laws and regulations by the imposition of pecuniary penalties not exceeding two hundred rupees for each offence, or by suspension, or deprivation of appointment, or otherwise, as to them may appear expedient: Provided that such bye-laws shall

first have been approved by Government, and published in the manner directed by section 54.

#### Bye-laws.

53. (1) The board may from time to time make bye-laws, consistent with this Act and with the

Trustees empowered to make bye-laws.

XII of 1875.

Indian Ports Act, 1875,—

(a) for regulating, declaring and defining the wharves, quays, stages, jetties, and piers, on and from which goods shall be landed from and shipped in vessels within the port;

(b) for the safe and convenient use of such wharves, quays, stages, jetties, piers, and of landing-places, tramways, warehouses, sheds and other works in and adjoining the same;

(c) for regulating the reception and removal of goods within and from the premises of the board, and for declaring the procedure to be followed in taking charge of goods which may have been damaged before landing, or may be alleged to be so damaged;

(d) for settling the mode of payment of tolls, charges, and rates levied under this Act;

(e) for licensing and regulating water-boats and lighters within the port;

(f) for the removal of wrecks from the port, and keeping clean the port, the foreshore, and the works of the board, and for preventing filth or rubbish being thrown therein or thereon;

(g) for the guidance of persons employed by them under this Act, and generally for carrying out the purposes of this Act.

(2) The board may also from time to time alter or revoke any bye-laws so made by them.

54. (1) No bye-law, or alteration or revocation of a bye-law, shall have effect until the same shall have been approved by Government, and such approval shall have been published in the *Bombay Government Gazette*; and no bye-law, or alteration or revocation of a bye-law, shall be approved by Government, until a draft of the same, and a notice specifying a date at or after which the draft will be submitted to Government, shall have been published in the *Bombay Government Gazette*, and in such other manner as Government from time to time prescribe, nor unless the said draft shall have been submitted for their approval through the Political Resident at Aden.

(2) It shall be lawful for Government at any time, by notification in the *Bombay Government Gazette*, to cancel any bye-law or regulation made and published under the provisions of this and of the two last preceding sections.

55. The board may, in the bye-laws made under section 53, prescribe such penalties as they shall deem fit for the infringement of the same: Provided that no penalty for any one infringement of a bye-law shall exceed one hundred rupees, nor, in case of a continuing infringement, shall any penalty exceed fifty rupees per diem for every day after notice of such infringement shall have been given by the board to the person guilty of such infringement.

56. The board shall cause the said bye-laws, and every scale of tolls, rates, and charges leviable by the board, to be printed in the English, Gujarati, and Arabic languages, and to be kept hung up in some conspicuous place at each of the several wharves, quays, stages, jetties, piers, warehouses, and sheds, belonging to the board.

Bye-laws and scales of rates and charges to be exhibited.

## VI.—OF REVENUE AND EXPENDITURE.

*Management of Funds.*

57. (1) All moneys raised by or paid to the board under this Act shall be kept in the Government Treasury at Aden.

(2) No disbursement of such moneys or any part thereof shall be made except upon a cheque signed by the chairman and one other trustee.

(3) Payment of any sum in excess of five hundred rupees, if it relate to the Port Engineer's department, or of one hundred rupees, if it relate to any other department, shall be made by the board by means of a cheque signed as aforesaid, and not in any other way.

(4) Payments of sums not exceeding five hundred rupees each may be made on behalf of the board by the Port Engineer on account of any charge in his department, in cash, cheques for sums not in excess of five thousand rupees each, signed as aforesaid, being drawn from time to time in favour of the Port Engineer to cover such payments.

(5) In every department other than that of the Port Engineer, sums not exceeding one hundred rupees each may be paid, by such officer as the board appoints for this purpose, in cash, cheques for sums not in excess of five hundred rupees each, signed as aforesaid, being drawn from time to time in favor of such officer to cover such payments.

58. The moneys belonging to the board shall be held by them in trust, and, except as is hereinafter provided, shall be applied by them in payment of the following charges (namely):—

(a) the salaries, fees, allowances, pensions, gratuities, compassionate allowances, or other moneys, due to the trustees, and to the officers and servants appointed under this Act, or lent to the board by Government, and the contributions, if any, payable to Government on account of the pension and leave allowances of any officer lent to the board by Government, and the contributions, if any, duly authorized to be made to any provident fund established by the officers and servants appointed under this Act;

(b) the cost of repairs and maintenance of the property vested in the board, and all charges upon the same and all working expenses;

(c) such sum as Government may from time to time require for the establishment and maintenance of police for the protection of the port and of the approaches thereto;

(d) the interest and instalments of capital due in respect of any loan that may have been raised by the board or for which it is liable;

(e) any charges for which the board may be liable under section 76 or section 77;

(f) the cost, or such portion of the cost, of any new work, plant, vessel, or appliance, which the board may determine to charge to revenue;

(g) any other charge which may be specially sanctioned by Government on the application of the board, or for which the board may be legally liable.

*Annual Estimates.*

59. (1) The chairman shall, at a special meeting to be held in the month of January in each year, lay before the board an estimate of the income and of the expenditure of the board for the year commencing on the first day of April then next ensuing, in such detail and form as the board shall from time to time direct.

(2) Such estimate shall be completed and printed, and a copy thereof sent by post, or otherwise, to each trustee, at least ten clear days prior to the meeting before which the estimate is to be laid.

60. The board shall consider the estimate so submitted to them, and shall sanction the same, either unaltered, or subject to such alterations as they shall think fit.

61. The estimate, as sanctioned by the board, shall be submitted, through the Political Resident at Aden, to the Government, which may, if it thinks fit, at any time within one month after receipt of the same, disallow such estimate, or any portion thereof, and return the same for

amendment. The board shall, if the estimate is so returned by Government, forthwith proceed to amend the same, and shall re-submit the estimate so amended, through the Political Resident at Aden, to the Government.

62. Together with the said estimate, the board shall submit, through the Political Resident at Aden, to the Government, a list of the works which the board propose to execute during the year to which the estimate relates, showing the order in which the said works are to be executed, and the date within which each of them will probably be completed, or, in the case of any work which will not be completed within the year, the progress intended to be made therewith during the said year.

63. The board may, at any time during the year for which any such estimate has been sanctioned cause a supplementary estimate to be prepared and submitted to them. Every such supplementary estimate shall be considered and sanctioned by the board, and submitted to the Government in the same manner as if it were an original annual estimate.

64. (1) Save in cases of pressing emergency no sum exceeding three thousand rupees shall be expended by or on behalf of the board, unless such sum is included in some estimate at the time in force which has been finally approved by Government.

(2) If any sum exceeding three thousand rupees in amount is so expended on a pressing emergency, the circumstances shall be forthwith reported by the chairman, through the Political Resident at Aden, to Government, together with an explanation of the way in which it is proposed by the board to cover such extra expenditure.

#### *Audit of Accounts.*

65. (1) The accounts of the receipts and expenditure of the board shall, twice in every year, be laid before Government, and shall be audited and examined in such manner and by such auditor or auditors as shall, from time to time, be appointed by Government.

(2) For the purposes of such audit and examination the auditors may, by summons in writing, require the production before them of all books, deeds, contracts, vouchers, and all other documents and papers which they may deem necessary, and may require any person holding, or accountable for any such books, deeds, contracts, accounts, vouchers, documents, or papers, to appear before them at any such audit and examination, or adjournment thereof, and to make and sign a declaration with respect to the same.

(3) The auditors shall be paid by the board such remuneration as Government shall determine; and, within fourteen days after the audit and examination of the accounts for any half-year shall have been completed, the auditors shall forward a report upon the accounts for such half-year to the board, who shall cause the same to be published, together with an abstract of the accounts, in the *Bombay Government Gazette*.

#### *Disposal of Balances.*

66. (1) The board may invest any balance remaining on the thirty-first day of March of each year in public securities, and may from time to time sell the said securities, and either re-invest the proceeds in other such securities, or credit the same to the general funds of the board.

(2) But the money so invested by the board shall not exceed such amount annually, or in the aggregate, as shall from time to time be prescribed by Government.

(3) In this section "public securities" means securities of the Government of India, and debentures or other securities issued by the board.

#### VII.—PENALTIES.

67. (1) Any person who being a trustee, or an officer or servant of the board, shall acquire, directly or indirectly, any share or interest in any contract or

employment with, by, or on behalf of the board, shall be deemed to have committed the offence made punishable by section

XLV of 1860. 168 of the Indian Penal Code :

(2) Provided that nothing in this section shall apply to any person by reason only of

Proviso.

his—

(a) having a share in any joint-stock company which shall contract with, or be employed by, or on behalf of, the board ; or

(b) having a share or interest in any newspaper in which any advertisement relating to the affairs of the board may be inserted ; or

(c) being interested in any loan of money to the board.

68. Any person employed under

For obtaining illegal gratification.

this Act, not being a public servant within the meaning of section

XLV of 1860. 21 of the Indian Penal Code, who shall accept or obtain, or agree to accept or attempt to obtain, from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a reward for doing, or forbearing to do, any official act, or for showing, or forbearing to show, in the exercise of his official functions, favour or disfavour to any person, or for rendering, or attempting to render, any service or dis-service to any person with the board or with any public servant as such, or with the Government, shall be liable to the same punishment as is provided by the Indian Penal Code in the case of the like offence committed by a public servant.

69. Whoever infringes any order

Infringement of sections 31, 32, 33, or 38.

issued under section 31 or 32, or any condition prescribed under section 33 or 38, shall

be punished with fine which may extend to one hundred rupees ; and, if the infringement be continuing, with a further fine which may extend to one hundred rupees for every day such order is infringed.

70. Any person who shall refuse or

For refusing or neglecting to appear before an auditor of accounts, &c.

neglect to appear before any auditor of accounts, or to produce any books, deeds, contracts, accounts,

vouchers, documents, or papers, or to make or sign any declaration, when duly required so to do by any auditor of accounts under section 65, shall be punished for every

such neglect or refusal with fine which may extend to one hundred rupees.

71. If it be found when goods are

For understating quantity or weight of goods, &c.

imported at, or exported from, any wharf, quay, stage, jetty or pier in the possession

of the board, that the weight or quantity of such goods, or the tonnage of any vessel carrying such goods, has been, in the opinion of the board, intentionally understated in any document presented to any officer of the board for the purpose of enabling him to determine the tolls, rates, or charges payable in respect of the said goods or vessel, the consignee, in the case of goods imported, and the consignor, in the case of goods exported, shall be liable to pay to the board such sum not exceeding twice the proper tolls, rates, or charges on the weight or quantity of goods or amount of tonnage so understated as may be determined by the board, and the said sum shall, on the application of the board, be recoverable under the warrant of a Magistrate of any class as if it were a fine inflicted by such Magistrate.

72. Any person who removes, or

For evading rates, &c.

attempts to remove, or abets, within the

meaning of the Indian Penal Code, the removal of any goods, vessel, animal, or vehicle with the intention of evading payment of the tolls, rates, or charges lawfully payable in respect thereof to the board shall be punished with fine which may extend to fifty rupees.

73. (1) In case any damage or mischief is done to any

Compensation for damage to property of board may be awarded by Magistrate after enquiry.

wharf, dock, quay, jetty, stage, pier, or work constructed or acquired by the board

under this Act by any vessel, through the negligence of the master thereof or of any of the mariners or persons employed therein, not being in the service of the board, any Magistrate of the first class having jurisdiction at Aden may, on the application of the board, and on declaration by them that payment for such damage or mischief has been refused or has not been made on demand, issue a summons to the master or owner of such vessel, requiring him to attend on a day and at an hour named in the summons to answer touching such damage or mischief.

(2) If, at the time appointed in the summons, and whether the person summoned appears or not, it is proved that the al-

leged damage was done through such negligence as aforesaid, and that the pecuniary amount of the same does not exceed two hundred rupees, the Magistrate may issue his warrant of distress, under which a sufficient portion of the boats, masts, spars, ropes, cables, anchors, or stores of the vessel may be seized and sold to cover the expenses of and attending the execution of the distress, and the pecuniary amount of damage as aforesaid, and such amount shall be paid to the board out of the proceeds of the distress :

(3) Provided that if, at the time of the damage or mischief,

Proviso.

the vessel was under the orders of a duly authorized officer belonging to the pilot service, or to the Harbour Master's or Port Officer's department, the case shall not be cognizable by the Magistrate under this section.

74. (1) Except as is otherwise provided in sections 71 and 73, all offences against this Act, or against a bye-law made under section 53, shall be cognizable by a Magistrate of any class.

(2) All fines and damages recovered from any offender or by any distress under section 73 shall be paid to the board.

75. Prosecutions under this Act may be instituted by the board, or by any person authorized by them in this behalf, and not otherwise.

#### VIII.—CONTROL.

76. The Governor in Council may at any time order a survey and examination of any work of the board under this Act, or of the site thereof, and the cost of such survey or examination shall be borne and paid by the board.

77. If the board allow any work acquired or constructed by them under this Act to fall into disrepair, or do not complete any work commenced by them, or duly estimated for and sanctioned, and do not, after notice given by Government in writing, proceed effectually to repair or complete such work to the satisfaction of the Governor in Council, Government may cause such work to be restored, completed,

or constructed, and the cost thereof shall be borne and paid by the board.

78. (1) If, in the opinion of the Governor in Council, the execution of any order or Resolution of the board, or the doing of anything which is being done, or is about to be done, by or on behalf of the board, injuriously affects or is likely to affect the defensibility of Aden against Her Majesty's enemies, or the security or sanitary condition of the Garrison, he may, by an order in writing, prohibit the execution or doing thereof.

(2) Pending the receipt of an order by the Governor in Council under this section, the Political Resident at Aden may, by a like order, suspend the execution or doing of anything by or on behalf of the board, which appears to him, for any of the reasons aforesaid, to be open to objection.

79. (1) If it shall at any time appear to the Governor in Council that sufficient provision is not being made by the board to meet their liabilities, the Governor in Council may require the board, by an order in writing, to increase, subject to his sanction, and to the provisions of section 40, to such extent and for such period as shall appear necessary, the tolls, rates, and charges, or any of them for the time being in force under the said section.

(2) If within fifteen days after receipt of such order the board do not comply with the same, the Governor in Council may, by notification in the *Bombay Government Gazette*, increase the said tolls, rates, charges, or any of them, and such notification shall have the same force as if a new scale to the same effect had been duly framed, sanctioned, and published under section 40.

80. (1) If at any time the Governor in Council is satisfied that the purposes intended to be accomplished under this Act have not been, and are not likely to be, properly accomplished by the board, the Governor in Council may, by notification in the *Bombay Government Gazette*, give notice that, unless within six months the board take measures to the satisfaction of

the Governor in Council for properly accomplishing such purposes, the powers by this Act conferred on the board will, at the end of such period, be withdrawn and revoked.

(2) On the expiration of the period aforesaid, the Governor in Council may, if no such measures to his satisfaction have been taken by the board, declare such powers to be withdrawn or revoked, and thereupon such powers shall be withdrawn and revoked accordingly, and all the powers, rights, and authorities, and all the property vested by this Act in the board, shall thereupon vest in Government.

#### IX.—MISCELLANEOUS.

81. All acts done and proceedings taken by the Political Resident on behalf of the Aden port fund before this Act comes into force, and all orders, rules, and regulations relating to the port, and to wharves, quays, stages, jetties, piers, and landing places within the port, made and issued before this Act comes into force, shall, whenever such acts, proceedings, orders, rules, or regulations would have been lawful if this Act had been in force, be deemed to have been respectively done, taken, made, and issued under the provisions of this Act.

82. All fees and sums due on account of property for the time being vested in the board, and all arrears of tolls, charges, and rates imposed under this Act, may be recovered, in addition, to the other modes hereinbefore provided, upon a summary proceeding before a Magistrate in the manner provided in the Code of Criminal Procedure, 1882, for the recovery of fines.

83. No trustee shall be personally liable for any contract made or expense incurred by or on behalf of the board; but the funds from time to time in the hands of the board shall be liable for, and chargeable with, all contracts made in manner provided in this Act.

84. Every trustee shall be liable for any misapplication of money entrusted to the board to which he has been a party, or which happens through, or is facilitated by, the neglect of his duty.

85. (1) No suit shall be commenced against any person for anything done, or purporting to have been done, in pursuance of this Act without giving to such person one month's previous notice in writing of the intended suit and of the cause thereof, nor after six months from the accrual of the cause of such suit.

(2) And in the case of a suit for damages, if tender of sufficient amends shall have been made before the suit was brought, the plaintiff shall not recover more than the amount so tendered, and shall pay all costs incurred by the defendant after such tender.

86. (1) The board shall not be responsible for any misfeasance, mal-feasance or non-feasance of any officer or servant appointed under this Act;

nor, if they should be appointed by Government under the Indian Ports Act, 1875, XII of 1875. Conservators of the Port, for any misfeasance, mal-feasance, or non-feasance of any Deputy Conservator, Port Officer or Harbour Master, or of any assistant or deputy of any such officer or of any person acting under the authority or direction of or in subordination to any such officer, assistant or deputy;

nor for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers, or other things belonging to the board, which may be used by such vessel.

(2) Provided that nothing in this section shall protect the board from a suit in respect of damage to, or loss of, goods landed or shipped by them or retained in their custody.

## SCHEDULE A.

(See Section 25.)

## PROPERTY VESTED IN THE BOARD.

I.—All the right, title and interest of the Secretary of State for India in Council in the following lands, buildings, piers, embankment, light-house, signal stations, jetty and quay (namely):—

Consecutive Number.	Name of Property.	Heretofore in charge of :	Boundaries and general description.
1	Pilot bandar ... ..	The Political Resident at Aden.	Below Ras Morbut Fort at Steamer Point; a stone pier.
2	Port fund boat-slips ... ..	Do. ...	Adjoining the Peninsular and Oriental Company's slip at Steamer Point, consisting of stone-sheds, slips and rails.
3	Post Office pier... ..	Do. ...	Opposite Post Office at Steamer Point; partly constructed of stone and partly of screw iron piles.
4	Port fund store-rooms... ..	Do. ...	On Government ground near the Post Office at Steamer Point; stone building.
5	Ditto ... ..	Do. ...	Ditto.
6	Port magazine ... ..	Do. ...	A magazine in the solid rock near the saluting battery near Ras Morbut.
7	Lascars' lines (Khalási lines).	Do. ...	In Post Office Bay.
8	Port Surgeon's jetty ... ..	Do. ...	Opposite Government tanks at Steamer Point; stone pier.
9	Government landing pier (Prince of Wales' pier).	Do. ...	Reclamation and iron shed west of Government buildings at Steamer Point.
10	Boat Inspector's office and quarters.	Do. ..	Under the hill opposite Prince of Wales' Pier at Steamer Point; stone house.
11	Abkári pier and adjoining reclamation.	Do. ...	Reclamation east of Government buildings at Steamer Point.
12	Government jetty ... ..	Do. ...	Near Hotel de l'Universe at Steamer Point; a small rubble stone jetty.
13	Maala pier ... ..	Do. ...	At Maala village; stone pier.
14	Office and godowns attached to the Maala pier.	Do. ...	Adjoining Maala pier; stone buildings.
15	Marshag signal station... ..	Do. ...	On Ras Marshag.
16	Marshag light-house, lascars' quarters and stone rooms.	Do. ...	On Ras Marshag. First order dioptric light on a stone light-house, with stone buildings attached.
17	Shum Shum signal station.	Do. ...	On Jebel Shum Shum; a flagstaff and sheds.
18	The station signal staff..	Do. ...	On hillock above the Protestant church at Steamer Point; a flagstaff.
19	Port Officer's quarters and out-houses.	Do. ...	Adjoining the property of the Messageries Maritimes and the Peninsular and Oriental Company, near Steamer Point barracks; a partly stone building.
20	Pilot's quarters and out-houses.	Do. ...	On Ras Morbut; kutcha houses.
21	Pier of Obstruction with a 15-ton iron crane.	Military Department.	A stone pier adjoining the Tower or Western Gate.

Consecutive Number.	Name of Property.	Hitherto in charge of :	Boundaries and general description.
22	<p>The right, title and interest of the Secretary of State for India in Council, in the following properties on the foreshore of the inner harbour of Aden :—</p> <p>1. In the occupation of the Peninsular and Oriental Steam Navigation Company,—</p> <p>(a) Ground near Ras Morbut used as work-yards, boat-shed, &amp;c.</p> <p>(b) Coal ground adjoining what was formerly the Government Coal ground,</p> <p>(c) Coal ground formerly in the occupation of the European and Australian Mail Company.</p> <p>2. In the occupation of the British India Steam Navigation Company—</p> <p>(a) Coal depôt, opposite Flint Island,</p>	<p>The Political Resident at Aden.</p> <p>Do.</p> <p>Do.</p> <p>Do.</p> <p>Do.</p> <p>Do.</p>	<p>At Steamer Point, bounded on the north and west by the sea ; on the east by the Port Department Workshop ; and on the south by the public road.</p> <p>(1) Bounded on the north and east by the sea ; on the west partly by the sea and partly by Government ground ; and on the south by the public road.</p> <p>(2) On the north by the public road, and on the east, south, and west by Government ground.</p> <p>(1) Bounded on the north, west, and south by the sea ; and on the east by the public road.</p> <p>(2) On the west by the public road ; on the south and east by Government ground ; and on the north, by the British India Steam Navigation Company's coal depôt.</p> <p>(1) Bounded on the north, west and south by the sea ; and on the east by the public road.</p> <p>(2) Bounded on the west by the public road ; and on the south, east, and north by Government ground.</p>
22	<p>3. In the occupation of the Messageries Maritimes Company—</p> <p>(a) Coal ground, ...</p> <p>(b) Boat-slip, ...</p> <p>4. In the occupation of Luke Thomas and Company, Limited—</p> <p>(a) Coal ground, formerly in the occupation of Mr. Edulji Maneckji.</p> <p>(b) Ground used for buildings for mechanics.</p>	<p>Do.</p> <p>Do.</p> <p>Do.</p> <p>Do.</p>	<p>(1) Bounded on the south by the public road ; and on the west, north, and east by the sea</p> <p>(2) On the north, by the public road ; and on the west, south, and east by Government ground.</p> <p>Bounded on the east by Government ground ; on the west by the sea ; on the south by Cowasji Dinshaw and Brothers' boat-slip, and on the north by the premises of Messrs. Luke Thomas and Company's Mechanic's house.</p> <p>(1) Bounded on the north, east, and west by the sea ; and on the south by Government ground.</p> <p>(2) On all sides by Government ground.</p> <p>Bounded on the east and south by Government ground ; on the west by the Messageries Maritimes Company's boat-slip and on the north by Mr. Cowasji Dinshaw's landing place</p>



Consecutive Number.	Name of Property.	Heretofore in charge of:	Boundaries and general description.
	(c) Coal depôt, condensers and Ice Factory.		Bounded on the north and west by the sea; on the south by Mr. Cowasji Dinshaw's landing place, and on the east by Government ground.
5.	In the occupation of Messrs. Hajibhoy Lalji— Coal ground ...	The Political Resident at Aden.	(1) Bounded on the north and east and west by the sea; and on the south by Government ground. (2) On all sides by Government ground.
6.	In the occupation of Messrs. Cowasji Dinshaw and Brothers— Boat-slip at Hedjuff.	Do.	Bounded on the east by the Messageries Company's boat-slip; on the south by Government ground; and on the west and north by the sea.
7.	In the occupation of Mr. Cowasji Dinshaw— Ground used for the landing and shipping of goods.	Do.	Bounded on the south by Messrs. Luke Thomas & Company's Mechanic's house; on the west by the sea; on the north by Messrs. Luke Thomas & Company's coal depôt, and on the east by Government ground.
22.	8. In the occupation of the Aden Coal Company, Limited— Coal ground ...	Do.	
	9. In the occupation of the Aden Water Company, Limited— Grounds used for condensers.	Do.	Bounded on the south by Government ground; on the west by Messrs. Luke Thomas and Company's coal depôt; on the north by the sea; and on the east by the premises of the Aden Water Company.
		Do.	Bounded on the west by the premises of the Aden Coal Company; on the south and east by Government ground; and on the north by the sea.

II.—The following vessels and boats (namely):—

Consecutive Number.	Names, descriptions and numbers.	Heretofore in charge of:
1	Light ship, ... ..	The Political Resident, Aden.
2	Steam-launch "Rbse" ... ..	Ditto.
3	No. O lighter ... ..	Ditto.
4	Hopper barge ... ..	Ditto.
5	Mud-punt ... ..	Ditto.
6	Diver's boat... ..	Ditto.
7	Cutters ... ..	Ditto.
8	Whale-boats of sizes ... ..	Ditto.
9	Jollies ... ..	Ditto.
10	Punts ... ..	Ditto.
11	Canoes ... ..	Ditto.
12	Launch whale, 40 feet ... ..	Ditto.

III.—All other lands, buildings, machinery, plant, tools and other property whatsoever, not hereinbefore particularly described, heretofore in the charge of the Port Engineer of Aden, the Master Attendant of Aden, or the Political Resident on behalf of the Aden Port Fund.

SCHEDULE B.

(See Section 34.)

*Receipt for Goods by the Port Trust, Aden.*

Landed, during the \_\_\_\_\_ day of \_\_\_\_\_ from the \_\_\_\_\_  
\_\_\_\_\_, by the Port Trust, Aden, the \_\_\_\_\_ noted in the margin;  
contents and state of the contents unknown.

NOTE.—(If there be any apparent injury, this is to be stated.)

For the Board,

(Signed) A. B.

The ADEN,  
day of } \_\_\_\_\_

*By order of His Excellency the Right Honourable the Governor in Council,*

J. J. HEATON,

Acting Under Secretary to Government.

*Bombay Castle, 16th January 1889.*

THE



# Bombay Government Gazette

Published by Authority.

THURSDAY, 7<sup>TH</sup> FEBRUARY 1889.

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

## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 1st February 1889, and is hereby promulgated for general information :—

#### Act No. I of 1889.

*An Act for the Protection of Coinage and other Purposes.*

WHEREAS it is expedient to prohibit the making, or the possession for issue, or the issue, by private persons of pieces of metal for use as money ;

And whereas it is also expedient to amend section 28 of the Indian Penal Code ;

It is hereby enacted as follows :—

Title, extent and commencement. I. (1) This Act may be called the Metal Tokens Act, 1889.

(2) It extends to the whole of British India ; and

(3) It shall come into force at once.

2. In this Act " issue " means to put a piece of metal into circulation for the first time for use as money in British India, such piece having been made in contravention of this Act or brought into British India by sea or by land in contravention of any notification for the time being in force under section 19 of the Sea Customs Act, 1878.

VIII of 1878.

3. No piece of copper or bronze or of any other metal or mixed metal, which, whether stamped or unstamped, is intended to be used as money, shall be made except by the authority of the Governor General in Council.

Penalty for unlawful making, issue or possession of such pieces. 4. (1) In either of the following cases namely :—

(a) if any person makes in contravention of the last foregoing section, or issues or attempts to issue, any such piece as is mentioned in that section,

(b) if, after the expiration of three months from the commencement of this Act, any person has in his possession, custody or control any such piece as is mentioned in the last foregoing section, with intent to issue the piece,

the person shall be punished,—

(i) if he has not been previously convicted under this section, with imprisonment which may extend to one year, or with fine, or with both ; or,

(ii) if he has been previously convicted under this section, with imprisonment which may extend to three years, or with fine, or with both.

(2) If any person is convicted of an offence under sub-section (1), he shall, in addition to

any other punishment to which he may be sentenced, forfeit all such pieces as aforesaid, and all instruments and materials for the making of such pieces, which may have been found in his possession, custody or control.

(3) If in the trial of any such offence the question arises whether any piece of metal or mixed metal was intended to be used or to be issued for use as money, the burden of proving that the piece was not intended to be so used or issued shall lie on the accused person.

5. (1) The offence of making, in contravention of section 3, any such piece as is mentioned in that section shall be a cognizable offence.

Cognizance of offences under the last foregoing section.

X of 1882.

(2) Notwithstanding anything in the Code of Criminal Procedure, 1882, no other offence punishable under section 4 shall be a cognizable offence, or beyond the limits of a presidency-town be taken cognizance of by any Magistrate, except a District Magistrate or Subdivisional Magistrate, without the previous sanction of the District Magistrate or Subdivisional Magistrate.

6. If at any time the Governor General in Council sees fit, by notification under section 19 of the Sea Customs Act, 1878, to prohibit or restrict the bringing by sea

VIII of 1878.

Application of certain of the foregoing provisions of this Act to importation of pieces of metal for use as money.

or by land into British India of any such pieces of metal as are mentioned in section 3, he may by the notification direct that any person contravening the prohibition or restriction shall be liable to the punishment to which he would be liable if he were convicted under this Act of making such pieces in British India, instead of to the penalty mentioned in section 167 of the Sea Customs Act, 1878, and that the provisions of sub-section (3) of section 4 and sub-section (1) of section 5, or of either sub-section, in relation to the offence of making such pieces shall, notwithstanding anything in the Sea Customs Act, 1878, apply, so far as they can be made applicable, to the offence of contravening the prohibition or restriction notified under section 19 of that Act.

X of 1882.

7. To section 98 of the Code of Criminal Procedure, 1882, the following shall be added, namely:—

“The provisions of this section with respect to—

- (a) counterfeit coin,
- (b) coin suspected to be counterfeit, and
- (c) instruments or materials for counterfeiting coin,

shall, so far as they can be made applicable, apply, respectively, to—

- (a) pieces of metal made in contravention of the Metal Tokens Act, 1889, or brought into British India in contravention of any notification for the time being in force under section 19 of the Sea Customs Act, 1878, VIII of 1878.

- (b) pieces of metal suspected to have been so made or to have been so brought into British India or to be intended to be issued in contravention of the former of those Acts, and

- (c) instruments or materials for making pieces of metal in contravention of that Act.”

8. (1) No piece of metal which is not coin as defined in the Indian Penal Code shall be received as money by or on behalf of any railway-administration or local authority.

Prohibition of receipt by local authorities and railways as money of metal which is not coin.

XLV of 1860.

(2) If any person on behalf of a railway-administration, or on behalf of a local authority, or on behalf of the lessee of the collection of any toll or other impost leviable by a railway-administration or local authority, receives as money any piece of metal which is not such coin as aforesaid, he shall be punished with fine which may extend to ten rupees.

9. For the Explanation to section 28 of the Indian Penal Code the following shall be substituted, namely:—

Amendment of section 28 of the Indian Penal Code.

XLV of 1860.

“Explanation 1.—It is not essential to counterfeiting that the imitation should be exact.

“Explanation 2.—When a person causes one thing to resemble another thing, and the resemblance is such that a person might be deceived thereby, it shall be presumed, until the contrary is proved, that the person so causing the one thing to resemble the other thing intended by means of that resemblance to practise deception or knew it to be likely that deception would thereby be practised.”

S. HARVEY JAMES,  
Secretary to the Government of India.

The following Report of the Select Committee on the Bill to prohibit the making or issue by private persons of pieces of metal for use as money and the making of coins in resemblance or similitude of coins of Foreign States was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 18th January 1889:—

### LEGISLATIVE DEPARTMENT.

We, the undersigned, Members of the Select Committee to which the Metal Tokens Bill was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report, with the Bill as revised by us annexed thereto.

1. From Mr. P. R. Desai, Pleader, District Court, Thána, dated 25th February 1888 [Paper No. 1].  
 Opinion by the Hon'ble Rana Sir Shankar Bakhsh Singh Bahadur, K. C. I. E. [Paper No. 2].  
 Office Memorandum by Government of India, Department of Finance and Commerce, No. 1686, dated 29th March 1888, and enclosure [Papers No. 3].  
 From Secretary to Chief Commissioner, Assam, No. 760, dated 12th April 1888 [Paper No. 4].  
 From Secretary to Chief Commissioner, Coorg, No. 711—468, dated 16th April 1888, and enclosure [Papers No. 5].  
 From Chief Commissioner, Ajmere-Merwára, No. 395—690, dated 24th April 1888 [Paper No. 6].  
 From Officiating Chief Secretary to Chief Commissioner, Burma, No. 486—17 S. S., dated 20th April 1888, and enclosure [Papers No. 7].  
 From Secretary for Berár to Resident, Hyderabad, No. 145 G, dated 26th April 1888, and enclosure [Papers No. 8].  
 From Chief Secretary to Government, Madras, No. 990 B., dated 24th April 1888, and enclosures [Papers No. 9].  
 From Secretary to Government, Bengal, No. 52 T. F., dated 2nd June 1888, and enclosures [Papers No. 10].  
 From Chief Secretary to Government, Bombay, No. 3753, dated 9th June 1888, and enclosures [Papers No. 11].  
 From Registrar, High Court, Calcutta, No. 1496, dated 29th June 1888 [Paper No. 12].  
 From Officiating Secretary to Chief Commissioner, Central Provinces, No. 3803—191, dated 5th July 1888, and enclosures [Papers No. 13].  
 From Secretary to Government, North-Western Provinces and Oudh, No. 1594—VI. 110 B., dated 21st July 1888, and enclosures [Papers No. 14].  
 Telegram from Secretary to Government, Punjab, dated 9th January 1889.

the retention of those words unnecessary.

2. We have amended the definition of "issue" in section 2, so as to make it clear that the Act is not intended to apply to tokens now in circulation.

3. From section 3, sub-section (1) (section 3 of the revised Bill), we have omitted the words "or likely." Section 4, sub-section (2), of the revised Bill appears to us to render

4. We have proposed, in section 4 of the revised Bill, that an attempt to "issue," and possession with intent to "issue," any pieces of metal made in British India in contravention of the Act or imported into British India in contravention of any prohibition under the Sea Customs Act, 1878, shall be offences, punishable in the same manner as the offence of issuing such pieces.

5. For section 3, sub-section (5), of the Bill as introduced we have proposed to substitute a section (section 7 of the revised Bill) applying to the pieces of metal to which the Bill mainly relates the provisions of section 98 of the Code of Criminal Procedure, 1882, respecting counterfeit coin.

6. For section 3, sub-section (6), of the Bill as introduced we have substituted a section (section 5 of the revised Bill) providing that no offence relating in any way to the "issue" of unauthorised pieces of metal for use as money is to be cognizable by the police or, without the previous sanction of the District Magistrate or Sub-divisional Magistrate, by any Magistrate except a District Magistrate or Sub-divisional Magistrate.

7. In section 4 we have reduced the maximum period of imprisonment to one year for a first offence, and to three years after a previous conviction.

8. We have added to section 5 of the Bill as introduced (section 8 of the revised Bill) a clause making it an offence for any person on behalf of a railway-administration or local authority, or on behalf of the lessee of any tolls leviable by such an administration or authority, to receive as money any piece of metal which is not coin as defined in the Indian Penal Code.

9. As regards section 6 of the Bill as introduced (section 9 of the revised Bill) we agree with Mr. R. J. Crosthwaite, the Judicial Commissioner of the Central Provinces, in thinking that the effect of that section might be to weaken the existing law as to Queen's coin, and we think that the purposes not only of section 231 but also of other sections of the Indian Penal Code will be better served by the addition to the definition of "counterfeit," in section 28 of that Code, of an *Explanation* applicable as well to coin as to every other thing with reference to which the word "counterfeit" is used in the Code.

10. The publication ordered by the Council has been made as follows:—

#### *In English.*

<i>Gazette.</i>	<i>Date.</i>
Gazette of India ... ..	18th February 1888.
Fort Saint George Gazette .. ..	28th February 1888.
Bombay Government Gazette ... ..	23rd February 1888
Calcutta Gazette ... ..	22nd February 1888.
North-Western Provinces and Oudh Government Gazette...	25th February 1888.
Punjab Government Gazette ... ..	1st March 1888.
Central Provinces Gazette ... ..	25th February 1888.
Burma Gazette ... ..	10th March 1888
Assam Gazette .. ..	10th March 1888
Coorg District Gazette .. ..	2nd April 1888
Sindh Official Gazette ... ..	22nd March 1888.

			<i>In the Vernaculars.</i>		
<i>Province.</i>			<i>Language.</i>		<i>Date.</i>
Madras ...	...	...	Kánarese ...	..	... 27th March 1888.
			Malayalam ...	...	... 10th April 1888.
			Tamil ...	..	... 10th April 1888.
			Telugu ...	...	... 17th April 1888.
Bombay ...		...	Hindustani...	..	... 24th April 1888.
		...	Maráthi ...	...	... 5th April 1888.
		...	Kánarese ...	...	... 5th April 1888.
		...	Gujaráthi ...	...	... 12th April 1888.
Bengal ...		...	Bengali ...	...	... 20th March 1888.
		...	Uriya ...	...	... 29th March 1888.
		...	Hindi ...	...	... 10th April 1888.
Central Provinces ...		...	Maráthi ...	...	... 18th April 1888.
		...	Hindi ...	...	... 23rd May 1888.
Burma ...	...	...	Burmese ...	...	... 31st March 1888
Assam ...	...	...	Bengali ...	...	... 14th April 1888
Coorg ...	...	...	Kánarese ...	...	... 1st May 1888.
Sindh ...	...	...	Sindhi ...	...	... 22nd March 1888.

11. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

*The 17th January 1889.*

D. BARBOUR.  
ANDREW R. SCOBLE.  
ROBT. STEEL.  
FRED. M. HALLIDAY.  
ANANDAGAJAPATI RAZU.

S. HARVEY JAMES,  
*Secretary to the Government of India.*

THE



# Bombay Government Gazette

Published by Authority.

THURSDAY, 21st FEBRUARY 1889.

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

## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 15th February, 1889, and is hereby promulgated for general information:—

#### Act No. II of 1889.

*An Act to declare the imperial standard yard for the United Kingdom to be the legal standard measure of length in British India.*

WHEREAS it is expedient to declare the imperial standard yard for the United Kingdom to be the legal standard measure of length in British India; It is hereby enacted as follows:—

1. (1) This Act may be called the Measures of Length Act, 1889.
- (2) It extends to the whole of British India; and
- (3) It shall come into force on such day as the Governor-General in Council may appoint in this behalf.
2. The imperial standard yard for the United Kingdom shall be the legal standard measure of length in British India and be called the standard yard.
3. A copy, approved by the Governor-General in Council, of the imperial standard for determining the length of the imperial standard yard for the United Kingdom shall be kept in such place within the limits of the Town of Calcutta as the Governor General in council may prescribe, and shall be the standard for determining the length of the standard yard.
4. One-third part of the standard yard shall be called a standard foot, and one thirty-sixth part of such a yard shall be called a standard inch.

5. Any measure having stamped thereon or affixed thereto a certificate purporting to be made under the authority of the Governor-General in Council or of a Local Government, and stating that the measure is of the length of the standard yard or that a measure marked thereon as a foot or inch is of the length of the standard foot or standard inch, as the case may be, shall, when produced before any Court by any public servant having charge of the measure in pursuance of any direction published in an official Gazette by order of the Governor-General in Council or the Local Government, or by any person acting under the general or special authority of such a public servant, be deemed to be correct until its inaccuracy is proved.

6. A public servant having in pursuance of such a direction charge of such a measure as is mentioned in the last foregoing section shall allow any person to inspect it free of charge at all reasonable times and to compare therewith or with any measure marked thereon any measure which such person may have in his possession.

7. There shall be kept by the Commissioner of Police in the Town of Calcutta under section 55 of the Calcutta Police Act, 1866, by the Commissioners in Calcutta under section 370 of the Calcutta Municipal Consolidation Act, 1889, by the Commissioner of Police in the City of Madras under section 32 of the Madras City Police Act, 1888, by the Municipal Commissioner in the City of Bombay under section 418 of the City of Bombay Municipal Act, 1888, and by the District Magistrate under section 20 of Regulation XII of 1827 of the Bombay Code, such certified measures of the standard yard, standard foot and standard inch as are mentioned in section 5.

Certified measures to be kept by authorities required by existing enactments to keep measures of length.

Ben. Act IV of 1866.

Ben Act II of 1883.

Mad. Act III of 1838.

Bom. Act III of 1838.

S. HARVEY JAMES,  
Secretary to the Government of India.

The following Report of the Select Committee on the Bill to declare the imperial standard yard for the United Kingdom to be the legal standard measure of length in British India was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 1st February, 1889:—

### LEGISLATIVE DEPARTMENT.

We, the undersigned, Members of the Select Committee to which the Bill to declare the imperial

From Secretary to Chief Commissioner, Assam, No. 784, dated 14th April, 1888 [Paper No. 1].

From Registrar, High Court, Calcutta, No. 984, dated 26th April, 1888 [Paper No. 2]  
From Chief Commissioner, Ajmere-Merwara, No. 510—590, dated 21st May, 1888, and enclosures [Papers No. 3]

From Officiating Chief Secretary to Chief Commissioner, Burma, No. 585—5N., dated 22nd May, 1888, and enclosure [Papers No. 4].

From Secretary to Government, North-Western Provinces and Oudh, No. 1044—VI-95 A, dated 23rd May, 1888, and enclosures [Papers No. 5].

From Secretary to Government, Bengal, No. 947, dated 30th May, 1888, and enclosures [Papers No. 6].

From Secretary for Berar to Resident, Hyderabad, No. 197 G., dated 28th May, 1888 [Paper No. 7].

From Secretary to Chief Commissioner, Coorg, No. 6, dated 22nd May, 1888, and enclosures [Papers No. 8].

From Chief Secretary to Government, Bombay, No. 1937, dated 6th June, 1888 [Paper No. 9].

Endorsement by Under Secretary to Government of India, Home Department, No. 1655, dated 12th June, 1888, and enclosures [Papers No. 10].

From Secretary to Government, North-Western Provinces and Oudh, No. 1332—VI-95 A, dated 22nd June, 1888, and enclosure [Papers No. 11].

From Officiating Junior Secretary to Chief Commissioner, Central Provinces, No. 744S., dated 20th June, 1888 [Paper No. 12].

Endorsement by Under Secretary to Government of India, Home Department, No. 1833, dated 4th July, 1888, and enclosures [Papers No. 13].

From Officiating Secretary to Government, Punjab, No. 206S., dated 7th July, 1888, and enclosures [Papers No. 14].

standard yard for the United Kingdom to be the legal standard measure of length in British India was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

2. We understand that the copy of the imperial standard which has been ordered from England has not yet been received. We have therefore proposed that it shall be left to the Governor-General in Council to bring the Act into force by executive order as soon as circumstances admit.

3. In section 5 we have extended the presumption in favour of the correctness of certified measures, and in section 7 have substituted references to the Calcutta and Bombay Municipalities and Madras Police Acts of last year for the references to the enactments which have been or are about to be superseded by them.

4. The publication ordered by the Council has been made as follows:—

#### In English.

Gazette	Date.
Gazette of India ... ..	17th March, 1888.
Fort Saint George Gazette ... ..	27th March, 1888.
Bombay Government Gazette ... ..	22nd March, 1888.
Calcutta Gazette ... ..	21st March, 1888.
North-Western Provinces and Oudh Government Gazette ... ..	24th March, 1888.
Punjab Government Gazette ... ..	29th March, 1888.
Central Provinces Gazette ... ..	24th March, 26th May, and 2nd and 9th June, 1888.
Burma Gazette ... ..	7th April, 1888.
Assam Gazette ... ..	7th April, 1888.
Coorg District Gazette ... ..	2nd April, 1888.

#### In the Vernaculars.

Province.	Language.	Date.
Madras ... ..	Kánarese ... ..	1st May, 1888.
	Maláyalam ... ..	8th May, 1888.
	Tamil ... ..	15th May, 1888.
	Telugu ... ..	15th May, 1888.
Bombay ... ..	Hindustáni ... ..	15th May, 1888.
	Gujaráthi ... ..	17th May, 1888.
	Kánarese ... ..	17th May, 1888.
	Maráthi ... ..	24th May, 1888.
Bengal .. ..	Bengálí .. ..	3rd April, 1888.
	Urdu ... ..	5th April, 1888.
	Hindi ... ..	17th April, 1888.
North-Western Provinces and Oudh.	Urdu ... ..	12th May, 1888.
Punjab. ... ..	Urdu ... ..	10th May, 1888.
Central Provinces ... ..	Hindi ... ..	23rd May, 1888.
Burma ... ..	Maráthi.....	6th and 13th June, 1888.
	Burmese ... ..	21st April, 1888.

5. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

ANDREW R. SCOBLE.  
D. BARBOUR.  
ROBT. STEEL.  
DINSHAW MANOCKJEE PETIT.  
DOORGA CHURN LAW.

The 23th January 1889.

S. HARVEY JAMES,  
Secretary to the Government of India.



THE



# Bombay Government Gazette

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

## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor-General on the 1st March 1889, and is hereby promulgated for general information:—

#### Act No IV of 1889.

*An Act to amend the Law relating to Fraudulent Marks on Merchandise.*

WHEREAS it is expedient to amend the law relating to fraudulent marks on merchandise; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Title, extent and Merchandise Marks Act, 1889.

(2) It extends to the whole of British India; and, subject to the provision of the last section of this Act,

(3) It shall come into force on the first day of April 1889.

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

(1) "trade mark" has the meaning assigned to that expression in section 478 of the Indian Penal Code as amended by this Act:

(2) "trade description" means any description, statement or other indication, direct or indirect,—

(a) as to the number, quantity, measure, gauge or weight of any goods, or

(b) as to the place or country in which, or the time at which, any goods were made or produced, or

(c) as to the mode of manufacturing or producing any goods, or

(d) as to the material of which any goods are composed, or

(e) as to any goods being the subject of an existing patent, privilege or copyright;

and the use of any numeral, word or mark which, according to the custom of the trade, is commonly taken to be an indication of any of the above matters shall be deemed to be a trade description within the meaning of this Act:

(3) "false trade description" means a trade description which is untrue in a material respect as regards the goods to which it is applied, and 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 within the meaning of this Act:

(4) "goods" means anything which is the subject of trade or manufacture: and

(5) "name" includes any abbreviation of a name.

XLV of 1860

*Amendment of the Indian Penal Code.*

XLV of 1860.

Substitution of new sections for sections 478 to 489 of the Indian Penal Code.

3. For that part of Chapter XVIII of the Indian Penal Code which relates to Trade and Property Marks, the following shall be substituted, namely:—

*"Of Trade, Property and Other Marks.*

46 &amp; 47 Vict., c. 57.

"478. A mark used for denoting that goods are the manufacture or merchandise of a particular person is called a trade mark, and for the purposes of this Code the expression 'trade mark' includes any trade mark which is registered in the register of trade marks kept under the Patents, Designs and Trade Marks Act, 1883, and any trade mark which, either with or without registration, is protected by law in any British possession or foreign State to which the provisions of the one hundred and third section of the Patents, Designs and Trade Marks Act, 1883, are, under order in Council, for the time being applicable.

"479. A mark used for denoting that moveable property belongs to a particular person is called a property mark.

"480. Whoever marks any goods or any case, package or other receptacle containing goods, or uses any case, package or other receptacle with any mark thereon, in a manner reasonably calculated to cause it to be believed that the goods so marked, or any goods contained in any such receptacle so marked, are the manufacture or merchandise of a person whose manufacture or merchandise they are not, is said to use a false trade mark.

"481. Whoever marks any moveable property or goods or any case, package or other receptacle containing moveable property or goods, or uses any case, package or other receptacle having any mark thereon, in a manner reasonably calculated to cause it to be believed that the property or goods so marked or any property or goods contained in any such receptacle so marked, belong to a person to whom they do not belong, is said to use a false property mark.

"482. Whoever uses any false trade mark or any false property mark shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

"483. Whoever counterfeits any trade mark or property mark used by any other person shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

"484. Whoever counterfeits any property mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place, or that the property is of a particular quality or has passed through a particular office, or that it is entitled to any exemption, or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

"485. Whoever makes or has in his possession any die, plate or other instrument for the purpose of counterfeiting a trade mark or property mark, or has in his possession a trade mark or property mark for the purpose of denoting that any goods are the manufacture or merchandise of a person whose manufacture or merchandise they are not, or that they belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

"486. Whoever sells, or 'exposes' or has in possession for sale or any purpose of trade or manufacture, any goods or things with a counterfeit trade mark or property mark affixed to or impressed upon the same or to or upon any case, package or other receptacle in which such goods are contained, shall, unless he proves—

(a) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the mark, and

(b) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things or

(c) that otherwise he had acted innocently, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

"487. Whoever makes any false mark upon any case, package or other receptacle containing goods, in a manner reasonably calculated to cause any public servant or any other person to believe that such receptacle contains goods which it does not contain or that it does not contain goods which it does contain or that the goods contained in such receptacle are of a nature or quality different from the real nature or quality thereof shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

"488. Whoever makes use of any such false mark in any manner prohibited by the last foregoing section shall, unless he proves that he acted without intent to defraud, be punished as if he had committed an offence against that section.

"489. Whoever removes, destroys, defaces or adds to any property mark, intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to one year or with fine, or with both.

#### *Trade Descriptions.*

4. (1) The provisions of this Act respecting the application of a false trade description to goods or respecting goods to which a false trade description is applied, shall extend to the application to goods of any such numerals, words or marks, or arrangement or combination thereof, whether including a trade mark or not, as are or is reasonably calculated to lead persons to believe that the goods are the manufacture or merchandise of some person other than the person whose manufacture or merchandise they really are and to goods having such numerals, words or marks, or arrangement or combination, applied thereto.

(2) The provisions of this Act respecting the application of a false trade description to goods, or respecting goods to which a false trade description is applied, shall extend to the application to goods of any false name or initials of a person, and to goods with the false name or initials of a person applied, in like manner as if such name or initials were a trade description, and for the purpose of this enactment the expression false name or initials means as applied to any goods any name or initials—

- (a) not being a trade mark, or part of a trade mark, and
- (b) being identical with, or a colourable imitation of, the name or initials of a person carrying on business in connection with goods of the same description and not having authorised the use of such name or initials.

(3) A trade description which denotes or implies that there are contained in any goods to which it is applied more yards, feet or inches than there are contained therein standard yards, standard feet or standard inches is a false trade description.

5. (1) A person shall be deemed to apply a trade description to goods who—

- (a) applies it to the goods themselves, or
- (b) applies it to any covering label, reel or other thing in, or with, which the goods are sold or are exposed or had in possession for sale or any purpose of trade or manufacture, or

(c) places, encloses or annexes any goods which are sold, or are exposed or had in possession for sale or any purpose of trade or manufacture, in, with or to any, covering, label, reel or other thing to which a trade description has been applied, or

(d) uses a trade description in any manner reasonably calculated to lead to the belief that the goods in connexion with which it is used are designated or described by that trade description.

(2) A trade description shall be deemed to be applied, whether it is woven, impressed or otherwise worked into or annexed or affixed to the goods or any covering, label, reel or other thing.

(3) The expression "covering" includes any stopper, cask, bottle, vessel, box, cover, capsule, case, frame or wrapper, and the expression "label" includes any band or ticket.

6. If a person applies a false trade description to goods, he shall, subject to the provisions of this Act and unless he proves that he acted without intent to defraud, be punished with imprisonment for a term which may extend to three months or with fine which may extend to two hundred rupees, and in the case of a second or subsequent conviction with imprisonment which may extend to one year, or with fine, or with both.

7. If a person sells, or exposes or has in possession for sale or any purpose of trade or manufacture, any goods or things to which a false trade description is applied, he shall, unless he proves—

- (a) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the trade description, and
- (b) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or
- (c) that otherwise he had acted innocently,

be punished with imprisonment for a term which may extend to three months or with fine which may extend to two hundred rupees, and in case of a second or subsequent conviction with imprisonment which may extend to one year, or with fine, or with both.

#### *Unintentional Contravention of the Law relating to Marks and Descriptions.*

8. Where a person is accused under section 482 of the Indian Penal Code of using a false trade mark or property mark by reason of his having applied a mark to any goods, property or receptacle in the manner mentioned in section 480 or section 481 of that Code, as the case may be, or under section 6 of this Act of applying to goods

any false trade description, or under section 485 of the Indian Penal Code of making any die, plate or other instrument for the purpose of counterfeiting a trade mark or property mark, and proves—

- (a) that in the ordinary course of his business he is employed, on behalf of other persons, to apply trade marks or property marks, or trade descriptions, or, as the case may be, to make dies, plates or other instruments for making, or being used in making, trade marks or property marks, and that in the case which is the subject of the charge he was so employed and was not interested in the goods or other thing by way of profit or commission dependent on the sale thereof, and
- (b) that he took reasonable precautions against committing the offence charged, and
- (c) that he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the mark or description, and
- (d) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons on whose behalf the mark or description was applied,
- he shall be acquitted.

#### Forfeiture of Goods.

XLV of 1860.

9. (1) When a person is convicted under section 482 of the Indian Penal Code of using a false trade mark, or under section 486 of that Code of selling, or exposing or having in possession for sale or any purpose of trade or manufacture, any goods or things with a counterfeit trade mark applied thereto, or under section 487 or section 488 of that Code of making, or making use of, a false mark, or under section 6 or section 7 of this Act of applying a false trade description to goods or of selling, or exposing or having in possession for sale or any purpose of trade or manufacture, any goods or things to which a false trade description is applied, or is acquitted on proof of the matter or matters specified in section 486 of the Indian Penal Code or section 7 or section 8 of this Act, the Court convicting or acquitting him may direct the forfeiture to Her Majesty of all goods and things by means of, or in relation to, which the offence has been committed or, but for such proof as aforesaid, would have been committed.

(2) When a forfeiture is directed on a conviction and an appeal lies against the conviction, an appeal shall lie against the forfeiture also.

(3) When a forfeiture is directed on an acquittal and the goods or things to which the direction relates are of value exceeding fifty rupees, an appeal against the forfeiture may be preferred, within thirty days from the date of the direction, to the Court to which in appealable cases appeals lie

from sentences of the Court which directed the forfeiture.

#### Amendment of the Sea Customs Act, 1878.

10. (1) For clause (d) of section 18 of the Sea Customs Act, 1878, <sup>VII of 1878.</sup> the following shall be substituted, namely:—

- “(d) goods having applied thereto a counterfeit trade mark within the meaning of the Indian Penal Code, or a false trade description within the meaning of the Indian Merchandise Marks Act, 1889: XLV of 1860.
- (e) goods made or produced beyond the limits of the United Kingdom and British India and having applied thereto any name or trade mark being, or purporting to be, or being a colourable imitation of, the name or trade mark of any person who is a manufacturer, dealer or trader in the United Kingdom or in British India, unless—
- (i) 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 the United Kingdom and British India, and
- (ii) that place and the country in which it is situated are in that indication indicated in letters as large and conspicuous as any letter in the name or trade mark, and in the same language and character as the name or trade mark:

(2) To section 18 of the Sea Customs Act, 1878 as amended by sub-section (1) the following shall be added, namely:—

“(f) piece-goods, such as are ordinarily sold by length or by the piece, which—

- (i) 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

(ii) have been manufactured beyond the limits of India, or,

(iii) having been manufactured within those limits, have been manufactured beyond the limits of British India in premises which, if they were in British India, would be a factory as defined in the Indian Factories Act, 1881. <sup>XV of 1881.</sup>

11. The following shall be added after section 19 of the Sea Customs Act, 1878, namely:—

“19A. (1) Before detaining any such goods as are or may be specified in or under section 18 or section 19, as the case may be, or taking any further proceedings with a view to the confiscation thereof under this Act, the Chief Customs-officer or other officer appointed by the Local Government

in this behalf may require the regulations under this section, whether as to information, security, conditions or other matters, to be complied with and may satisfy himself in accordance with those regulations that the goods are such as are prohibited to be imported.

(2) The Governor General in Council may make regulations, 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 regulations 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.

(3) Where there is on any goods a name which is identical with, or a colourable imitation of, the name of a place in the United Kingdom or British India, that name, unless accompanied in equally large and conspicuous letters, and in the same language and character, by the name of the country in which such place is situate, shall be treated for the purposes of sections 18 and 19 as if it were the name of a place in the United Kingdom or British India.

(4) Such regulations may apply to all goods the importation of which is prohibited by section 18 or under section 19, or different regulations may be made respecting different classes of such goods or of offences in relation to such goods.

(5) The regulations may provide for the informant reimbursing any public officer and Secretary of State for India in Council all expenses and damages incurred in respect of any detention made on his information, and of any proceedings consequent on such detention.

(6) All regulations under this section shall be published in the Gazette of India and in the Calcutta, Fort St. George, Bombay and Burmah Gazettes."

*Stamping of Length of Piece-goods manufactured in British India.*

12. (1) Piece-goods, such as are ordinarily sold by length or by the

Stamping of length of piece-goods manufactured in British India.

piece, which have been manufactured in premises which are a factory as defined in the Indian Factories Act, 1881, shall not be removed from those premises without having 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.

(2) If any person removes or attempts to remove any such piece-goods from any such premises without the length of each piece being stamped in the manner mentioned in sub-section (1), every such piece, and everything used for the packing or removal thereof, shall be forfeited to Her Majesty, and such person shall be punished with fine which may extend to one thousand rupees.

*Supplemental Provisions.*

13 In the case of goods brought in to British India by sea, evidence of origin of the port of shipment shall, in a prosecution for an offence against this Act or section 18 of the Sea Customs Act, 1878, as amended by this Act, be *prima facie* evidence of the place or country in which the goods were made or produced. VIII of 1878.

14. (1) On any such prosecution as is mentioned in the last foregoing section, or on any prosecution for an offence against any of the sections of the Indian Penal Code, as amended by this Act, which relate to trade, property and other marks, the Court may order costs to be paid to the defendant by the prosecutor, or to the prosecutor by the defendant, having regard to the information given by and the conduct of the defendant and prosecutor respectively. XLV of 1870

(2) Such costs shall on application to the Court be recoverable as if they were a fine.

15. No such prosecution as is mentioned in the last foregoing section shall be commenced after the expiration of three years next after the commission of the offence, or one year after the first discovery thereof by the prosecutor, whichever expiration first happens.

16. (1) The Governor General in Council may, by notification in the Gazette of India and in local official Gazettes, issue instructions as to administration of this Act. observance by Criminal Courts in giving effect to any of the provisions of this Act.

(2) Instructions under sub-section (1) may provide, among other matters, for the limits of variation as regards number, quantity, measure, gauge or weight, which are to be recognised by Criminal Courts as permissible in the case of any goods.

17. On the sale or in the contract for the sale of any goods to which a trade mark or mark or trade description has been applied, the seller shall be deemed to warrant that the mark is a genuine mark and not counterfeit or falsely used, or that the trade description is not a false trade description within the meaning of this Act, unless the contrary is expressed in some writing signed by or on behalf of the seller and delivered at the time of the sale or contract to and accepted by the buyer.

18. (1) Nothing in this Act shall exempt any person from any suit or other proceeding which might, but for anything in this Act, be brought against him.

(2) Nothing in this Act shall entitle any person to refuse to make a complete discovery

or to answer any question or interrogatory in any suit or other proceeding, but such discovery or answer shall not be admissible in evidence against such person in any such prosecution as is mentioned in section 14.

(3) Nothing in this Act shall be construed so as to render liable to any prosecution or punishment any servant of a master resident in British India who in good faith acts in obedience to the instructions of such master, and, on demand made by or on behalf of the prosecutor, has given full information as to his master and as to the instructions which he has received from his master.

*Transitory Provision.*

19. The prohibition of the bringing into British India of such piece-goods as are described in clause (f) of section 18 of the Sea Customs Act, VIII of 1878, as amended by this Act, shall not take effect till the first day of August, 1889, and the provisions of section 12 shall, as regards piece-goods made up in bales in a factory before the first day of April, 1889, remain in abeyance till the first day of July, 1889.

(Signed) S. HARVEY JAMES,  
Secretary to the Government of India.

THE



# Bombay Government Gazette

Published by Authority.

THURSDAY, 14<sup>TH</sup> MARCH 1889.

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

## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 8th March, 1889, and is hereby promulgated for general information :—

#### Act No. VI of 1889.

*An Act to amend the Indian Succession Act, 1865, the Probate and Administration Act, 1881, the Court-fees Act, 1870, and the Indian Stamp Act, 1879, and to make provision with respect to certain other matters.*

WHEREAS it is expedient to amend the Indian Succession Act, 1865, the Probate and Administration Act, 1881, the Court-fees Act, 1870, and the Indian Stamp Act, 1879, and to make provision with respect to certain other matters; It is hereby enacted as follows :—

1. (1) This Act may be called the Probate and Administration Act, 1889.

(2) It applies to the whole of British India (inclusive of Upper Burma except the Shan States); and

(3) It shall come into force at once.

*Indian Succession Act, 1865.*

2. After the 4th clause of the *explanation* to section 234 of the Indian Succession Act, 1865, the following shall be added, namely :—

"5th, that the person to whom the grant was made has wilfully and without reasonable cause

omitted to exhibit an inventory or account in accordance with the provisions of Part XXXIV of this Act or has exhibited under that Part an inventory or account which is untrue in a material respect."

3. In section 244 of the same Act, for the words "and that the petitioner is the executor therein named" the following shall be substituted, namely :—

"the amount of assets which are likely to come to the petitioner's hands, and

"that the petitioner is the executor named in the will."

4. For the last forty-two words of section 254 of the same Act, the following shall be substituted, namely :—

"he having undertaken to administer the same, and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint."

5. For the last forty-five words of section 255 of the same Act the following shall be substituted, namely :—

"he having undertaken to administer the same, and to make a full and true inventory of the said property and credits and exhibit the

X of 1865.  
V of 1881.  
VII of 1870.  
I of 1879.

X of 1865.

Amendment of section 234, Act X, 1865.

section 234 of the Indian Succession Act, 1865, the following shall be added,

Amendment of section 255, Act X, 1865.

of the same Act the following shall be substituted, namely :—

same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint."

6. In section 256 of the same Act, for the words "Every person to whom any grant of administration shall be committed" the words "Every person to whom any grant of letters of administration is committed" shall be substituted.

7. For section 277 of the same Act the following shall be substituted, namely:—

"277. (1) An executor or administrator shall, within six months from the grant of probate or letters of administration, or within such further time as the Court which granted the probate or letters may from time to time appoint, exhibit in that Court an inventory containing a full and true estimate of all the property in possession, and all the credits, and also all the debts owing by any person to which the executor or administrator is entitled in that character, and shall in like manner, within one year from the grant or within such further time as the said Court may from time to time appoint, exhibit an account of the estate, showing the assets which have come to his hands and the manner in which they have been applied or disposed of.

"(2) The High Court may from time to time prescribe the form in which an inventory or account under this section is to be exhibited.

"(3) If an executor or administrator, on being required by the Court to exhibit an inventory or account under this section, intentionally omits to comply with the requisition, he shall be deemed to have committed an offence under section 176 of the Indian Penal Code.

"(4) The exhibition of an intentionally false inventory or account under this section shall be deemed to be an offence under section 193 of that Code."

8. In section 277A of the same Act, for the words "it is sought to obtain a grant" the words "a grant has been made," and for the words and figures "the person applying for administration after the first day of April 1875," the word "administrator," shall be substituted.

9. (1) In section 283 of the same Act, for the words "the country in which he was domiciled" the words "British India" shall be substituted.

(2) The illustration to the same section is hereby repealed.

10. To the same Act the following shall be added, namely:—

"333. (1) When a grant of probate or letters of administration is revoked or annulled under this Act, the person to whom the grant was made shall forthwith deliver up the probate or letters to the Court which made the grant.

"(2) If such person wilfully and without reasonable cause omits so to deliver up the probate or letters, he shall be punished with fine which may extend to one thousand rupees, or with imprisonment of either description for a term which may extend to three months, or with both."

*Probate and Administration Act, 1881.*

11. After the 4th clause of the explanation to section 50 of the Probate and Administration Act, 1881, the following shall be added, namely:—

"5th, that the person to whom the grant was made has wilfully and without reasonable cause omitted to exhibit an inventory or account in accordance with the provisions of Chapter VII of this Act, or has exhibited under that Chapter an inventory or account which is untrue in a material respect."

12. For the portion of section 76 of the same Act, beginning with the words "he having undertaken to administer the same" and ending with the words "within one year from the same date" the following shall be substituted, namely:—

"he having undertaken to administer the same, and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint."

13. For the portion of section 77 of the same Act beginning with the words "he having undertaken to administer the same" and ending with the words "within one year from the same date" the following shall be substituted, namely:—

"he having undertaken to administer the same, and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint."

14. For section 90 of the same Act the following shall be substituted, namely:—



"90. (1) An executor or administrator has, subject to the provisions of this section, power to dispose, as he thinks fit, of all or any of the property for the time being vested in him under section 4.

"(2) The power of an executor to dispose of immoveable property so vested in him is subject to any restriction which may be imposed in this behalf by the will appointing him, unless probate has been granted to him and the Court which granted the probate permits him by an order in writing, notwithstanding the restriction, to dispose of any immoveable property specified in the order in a manner permitted by the order.

"(3) An administrator may not, without the previous permission of the Court by which the letters of administration were granted,—

- (a) mortgage, charge or transfer by sale, gift, exchange or otherwise any immoveable property for the time being vested in him under section 4, or
- (b) lease any such property for a term exceeding five years.

"(4) A disposal of property by an executor or administrator in contravention of sub-section (2) or sub-section (3), as the case may be, is voidable at the instance of any other person interested in the property.

"(5) Before any probate or letters of administration is or are granted under this Act there shall be endorsed thereon or annexed thereto a copy of sub-sections (1), (2) and (4), or of sub-sections (1), (3) and (4), as the case may be.

"(6) A probate or letters of administration shall not be rendered invalid by reason of the endorsement or annexure required by the last foregoing sub-section not having been made thereon or attached thereto, nor shall the absence of such an endorsement or annexure authorise an executor or administrator to act otherwise than in accordance with the provisions of this section."

15. For section 98 of the same Act the following shall be substituted, namely:—

"98. (1) An executor or administrator shall, within six months from the grant of probate or letters of administration, or within such further time as the Court which granted the probate or letters may from time to time appoint, exhibit in that Court an inventory containing a full and true estimate of all the property in possession, and all the credits, and also all the debts owing by any person to which the executor or administrator is entitled in that character, and shall in like manner, within one year from the grant or within such further time as the said Court may from time to time appoint, exhibit an account of the estate, showing the assets which have come to his hands and the manner in which they have been applied or disposed of.

"(2) The High Court may from time to time prescribe the form in which an inventory or account under this section is to be exhibited.

"(3) If an executor or administrator, on being required by the Court to exhibit an inventory or account under this section, intentionally omits to comply with the requisition, he shall be deemed to have committed an offence under section XLV of 1860. tion 176 of the Indian Penal Code.

"(4) The exhibition of an intentionally false inventory or account under this section shall be deemed to be an offence under section 193 of that Code."

16. In section 99 of the same Act, for the words "it is sought to obtain a grant" the words "a grant has been made", and for the words "the person applying for administration" the word "administrator" shall be substituted.

17. To the same Act the following shall be added, namely:—

"157. (1) When a grant of probate or letters of administration is revoked or annulled under this Act, the person to whom the grant was made shall forthwith deliver up the probate or letters to the Court which made the grant.

"(2) If such person wilfully and without sufficient cause omits so to deliver up the probate or letters, he shall be punished with fine which may extend to one thousand rupees, or with imprisonment which may extend to three months, or with both."

*Court-fees Act, 1870, and Indian Stamp Act, 1879.*

18. (1) Article 16 (Administration-bond) of the second schedule to the Court-fees Act, 1870, is hereby repealed.

(2) In article 6 of the second schedule to the Court-fees Act, 1870, for the words "Bail-bond or other instrument of obligation not otherwise provided for by this Act, when given by the direction of any Court or executive authority" the following words shall be substituted, namely:—

"Bail-bond or other instrument of obligation given in pursuance of an order made by a Court or Magistrate under any section of the Code of X of 1882. Criminal Procedure, 1882, or the Code of Civil XIV of 1882. Procedure."

(3) In article 2 of the first schedule to the Indian Stamp Act, 1879, after the words "Administration-bond" the following shall be added, namely:—

"including a bond given under section 256 of the Indian Succession Act, 1865, section 6 of X of 1865. the Government Savings Banks Act, 1873, section V of 1873. tion 78 of the Probate and Administration Act, V of 1881. 1881, or section 9, or section 10 of the Succession Certificate Act, 1889."

VII of 1889.

VII of 1870. (4) In article 13 of the first schedule to the Indian Stamp Act, 1879, after the words "not otherwise provided for by this Act" there shall be added the words "or by the Court-fees Act, 1870."

*Miscellaneous.*

V of 1881. 19. Notwithstanding anything in section 90 of the Probate and Administration Act, 1881, a disposal of property by an executor or administrator who was appointed before the commencement of this Act, and to whom the provisions of that section were applicable, shall not be void by reason only that the consent of the Court to the disposal of the property was not obtained.

VII of 1870. 20. (1) Any penalty or forfeiture under section 19G or section 19H of the Court-fees Act, 1870, may, on the certificate of the Chief Controlling Revenue-authority, be recovered from the executor or administrator as if it were an

arrears of land-revenue by any Collector in any part of British India.

(2) The Chief Controlling Revenue-authority may remit the whole or any part of any such penalty or forfeiture, or any part of any further penalty payable under section 19E of the said Act.

21. The following portion of section 7, clause (3), of the Act of the Lieutenant-Governor of Bengal in Council No. VII of 1880, entitled

the Public Demands Recovery Act, 1880, namely:—

"or in the following sections and portions of the following Act passed by the Governor General in Council, that is to say, in Act VII of 1870, 'the Court-fees Act,' sections 19G, 19H,"

is hereby repealed.

S. HARVEY JAMES,

Secretary to the Government of India.

## LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 8th March 1889, and is hereby promulgated for general information:—

## Act No VII of 1889.

THE SUCCESSION CERTIFICATE  
ACT, 1889.

## CONTENTS.

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28. Provisions with respect to certificates under Bombay Regulation VIII of 1827.

THE FIRST SCHEDULE.—ENACTMENTS  
REPEALED.THE SECOND SCHEDULE.—FORMS OF  
CERTIFICATE AND EXTENDED CERTIFICATE.

*An Act to facilitate the collection of debts on successions and afford protection to parties paying debts to the representatives of deceased persons.*

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; It is hereby enacted as follows:—

Title, commencement, extent and application.

1. (1) This Act may be called the Succession Certificate Act, 1889.

(2) It shall come into force on the first day of May 1889; and

(3) It extends to the whole of British India (inclusive of Upper Burma except the Shan States);

(4) But a certificate shall not be granted thereunder with respect to any debt or security to which a right can be established by probate or letters of administration under the Indian Succession Act, 1865, or by probate of a will to which the Hindu Wills Act, 1870, applies, or by probate of a will annexed to a will to which the Hindu Wills Act, 1870, applies, or by probate of a will annexed to a will to which the Hindu Wills Act, 1870, applies, or by probate of a will annexed to a will to which the Hindu Wills Act, 1870, applies.

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

(2) But nothing in this Act shall affect any certificate granted before the commencement of this Act under Act XXVII of 1860 or any enactment repealed by that Act.

(3) Any enactment except this Act and section 152 of the Probate and Administration Act, 1881, or any document, referring to any enactment repealed by this Act shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

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

(1) "District Court"; subject to the other provisions of this Act and to the provisions of proviso (b) to section 23 of the Punjab Courts Act, 1884, and of any other like enactment for the time being in force, means a Court presided over by a District Judge: and

(2) "security" means—

(a) any promissory note, debenture, stock or other security of the Government of India;

(b) any bond, debenture or annuity charged by the Imperial Parliament on the revenues of India;

(c) any stock or debenture of, or share in, a company or other incorporated institution:

*The Succession Certificate Act, 1889.*

(Sections 5—7.)

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| <p>(d) any debenture or other security for money issued by, or on behalf of, a local authority;</p> <p>(e) any other security which the Governor General in Council may, by notification in the <i>Gazette of India</i>, declare to be a security for the purposes of this Act.</p> | <p>(a) the time of the death of the deceased;</p> <p>(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;</p> <p>(c) the family or other near relatives of the deceased and their respective residences;</p> <p>(d) the right in which the petitioner claims;</p> <p>(e) the absence of any impediment under section 1, sub-section (4), or under any other provision of this Act or any other enactment, to the grant of the certificate or to the validity thereof if it were granted; and</p> <p>(f) the debts and securities in respect of which the certificate is applied for.</p> |
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Proof of representative title a condition precedent to recovery through the Courts of debts from debtors of deceased persons.

4. (1) No Court shall—

- (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,
- except on the production, by the person so claiming, of—

- (i) a probate or letters of administration evidencing the grant to him of administration to the estate of the deceased, or
- (ii) a certificate granted under section 36 or section 37 of the Administrator General's Act, 1874, and having the debt mentioned therein, or
- (iii) a certificate granted under this Act and having the debt specified therein, or
- (iv) a certificate granted under Act XXVII of 1860 or an enactment repealed by that Act, or
- (v) a certificate granted under the Regulation of the Bombay Code No VIII of 1827 and, if granted after the commencement of this Act, having the debt specified therein.

(2) The word "debt" in sub-section (1) includes any debt except rent, revenue or profits payable in respect of land used for agricultural purposes.

5. 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.

6. (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:—

(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.

7. (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—

- (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.

II of 1874.

XIV of 1882

*The Succession Certificate Act, 1889.*

(Sections 8—13.)

8. 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—

- (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.

9. (1) The District Court shall in any case in which it proposes to proceed under section 7, 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 enure 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.

10. (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.

(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 a bond or further bond or other security for the purposes mentioned in the last foregoing section may be required, in the same manner as upon the original grant of a certificate.

11. Certificates shall be granted and extensions of certificates shall be made, as nearly as circumstances admit, in the forms set forth in the second schedule.

12. 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 8, or by substituting any one for any other of those powers.

13. (1) For articles 11 and 12 of the first schedule to the Court-fees Act, 1870, the following shall be substituted, namely:—

Number.		Proper fee.
"11. Probate of a will or letters of administration with or without will annexed.	If the amount or value of the property in respect of which the grant of probate or letters is made exceeds one thousand rupees.	Two per centum on such amount or value: provided that when, after the grant of a certificate under the Succession Certificate Act, 1889, or any enactment repealed by that Act, or under the Regulation of the Bombay Code No VIII of 1827, 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.
"12. Certificate under the Succession Certificate Act, 1889.	In any case.	Two per centum on the amount or value of any debt or security specified in the certificate under section 8 of the Act, and three per centum on the amount or value of any debt or security to which the certificate is extended under section 10 of the Act. NOTE.—(1) 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. (2) 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

Contents of certificate

Amendment of certificate in respect of powers as to securities.

Requisition of security from grantee of certificate.

Amendment of Act VII, 1870.

VII of 1870.

VII of 1889.

*The Succession Certificate Act, 1889.*

(Sections 5—7.)

- (d) any debenture or other security for money issued by, or on behalf of, a local authority;
- (e) any other security which the Governor General in Council may, by notification in the *Gazette of India*, declare to be a security for the purposes of this Act.

Proof of representative title a condition precedent to recovery through the Courts of debts from debtors of deceased persons.

4. (1) No Court shall—

- (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,
- except on the production, by the person so claiming, of—

- (i) a probate or letters of administration evidencing the grant to him of administration to the estate of the deceased, or
- (ii) a certificate granted under section 36 or section 37 of the Administrator General's Act, 1874, and having the debt mentioned therein, or
- (iii) a certificate granted under this Act and having the debt specified therein, or
- (iv) a certificate granted under Act XXVII of 1860 or an enactment repealed by that Act, or
- (v) a certificate granted under the Regulation of the Bombay Code No. VIII of 1827 and, if granted after the commencement of this Act, having the debt specified therein.

(2) The word "debt" in sub-section (1) includes any debt except rent, revenue or profits payable in respect of land used for agricultural purposes.

5. 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.

6. (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:—

- (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 section 1, sub-section (4), or under any other provision of this Act or any other enactment, to the grant of the certificate or to the validity thereof if it were granted; and
- (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.

7. (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—

- (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.

II of 1874.

XIV of 1882

*The Succession Certificate Act, 1889.*

(Sections 8—13.)

8. 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—

- (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.

9. (1) The District Court shall in any case in which it proposes to proceed under section 7, 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.

10. (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.

(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 a bond or further bond or other security for the purposes mentioned in the last foregoing section may be required, in the same manner as upon the original grant of a certificate.

11. Certificates shall be granted and extensions of certificates shall be made, as nearly as circumstances admit, in the forms set forth in the second schedule.

12. 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 8, or by substituting any one for any other of those powers.

13. (1) For articles 11 and 12 of the first schedule to the Court-fees Act, 1870, the following shall be substituted, namely:—

Number.	Proper fee.
<p>“11. Probate of a will or letters of administration with or without annexed.</p>	<p>If the amount or value of the property in respect of which the grant of probate or letters is made exceeds one thousand rupees.</p> <p>Two per centum on such amount or value: provided that when, after the grant of a certificate under the Succession Certificate Act, 1889, or any enactment repealed by that Act, or under the Regulation of the Bombay Code No VIII of 1827, 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.</p>
<p>“12. Certificate under the Succession Certificate Act, 1889.</p>	<p>In any case. Two per centum on the amount or value of any debt or security specified in the certificate under section 8 of the Act, and three per centum on the amount or value of any debt or security to which the certificate is extended under section 10 of the Act</p> <p>NOTE.—(1) 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.</p> <p>(2) 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</p>

VII of 1870.

VII of 1889.

*The Succession Certificate Act, 1889.*  
(Sections 14—20.)

Number.	Proper fee.
<p>“12A. Certificate under the Regulation of the Bombay Code No. VIII of 1827.</p>	<p>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.</p> <p>(1) As regards debts and securities, the same fee as would be payable in respect of a certificate under the Succession Certificate Act, 1889, or in respect of an extension of such a certificate, as the case may be, and</p> <p>(2) as regards other property in respect of which the certificate is granted, two per centum on so much of the amount or value of such property as exceeds one thousand rupees.”</p>

VII of 1870.

(2) In the Court-fees Act, 1870, section 19, clause xiii, for the words and figures “and certificate mentioned in the First Schedule to this Act annexed, No. 12,” the words and figures “and, save as regards debts and securities, a certificate under Bombay Regulation VIII of 1827” shall be substituted.

14. (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 first schedule to the Court-fees Act, 1870, in respect of the certificate or extension applied for.

(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.

15. A certificate under this Act shall have effect throughout the whole of British India.

16. 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 contravention of section 1, sub-section (4), or other 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.

17. Where a certificate in the form, as nearly as circumstances admit, granted or extended by British representative in Foreign State, has been granted to a resident within a Foreign State by the British representative accredited to the State, or where a certificate so granted has been extended in such form by such representative, the certificate shall, when stamped in accordance with the provisions of the Court-fees Act, 1870, with respect to certificates under this Act, have the same effect in British India as a certificate granted or extended under this Act.

VII of 1870.

18. A certificate granted under this Act may be revoked for any of the following causes, namely:—

- (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;
- (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.

19. (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 XLVI and XLVII of the Code of Civil Procedure as applied by section 647 of that Code, an order of a District Court under this Act shall be final.

XIV of 1852.

20. 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

Effect on certificate of previous certificate, probate or letters of administration.



*The Succession Certificate Act, 1889.*

(Sections 21—26.)

grant of such a certificate or of probate or letters of administration in respect of the estate of the deceased person and if such previous grant is in force.

21. (1) A grant of probate or letters of administration under the Probate and Administration Act, 1881, in respect of an estate shall be deemed to supersede any certificate previously granted under this Act in respect of any debts or securities included in the estate.

(2) When at the time of the grant of the probate or letters any suit or other proceeding instituted by the holder of the certificate regarding any such debt or security is pending, the person to whom the grant is made shall, on applying to the Court in which the suit or proceeding is pending, be entitled to take the place of the holder of the certificate in the suit or proceeding.

22. Where a certificate under this Act has been superseded or is invalid by reason of the certificate having been revoked under section 18, or by reason of the grant of a certificate to a person named in an appellate order under section 19, or by reason of a certificate having been previously granted, or by reason of a grant of probate or letters of administration, or for any other cause, all payments made, or dealings had, as regards debts and securities specified in the superseded 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 or under the probate or letters of administration

23 (1) Where a certificate has been granted under this Act or Act XXVII of 1860, or a grant of probate or letters of administration has been made, a curator appointed under Act XIX of 1841 shall not exercise any authority lawfully belonging to the holder of the certificate or to the executor or administrator:

(2) But persons who have paid debts or rents to a curator authorised by a Court to receive them shall be indemnified, and the curator shall be responsible for the payment thereof to the person who has obtained the certificate, probate or letters of administration, as the case may be.

24. Any probate or letters of administration granted before the first day of April 1881, by any Supreme or High Court of Judicature, or by the Court of a Recorder in Burma, in any case in which the deceased person was not a British subject within the meaning of that expression as used in the charters of the Supreme Courts of Judicature, and in which any assets belonging to him were at the time of his death within the local limits of the jurisdiction of the Court shall, for the purpose of the recovery

of debts, the protection of persons paying debts, and the negotiation or transfer of securities included in the estate of the deceased, be deemed to have and to have had the effect which a grant of probate or letters of administration has under the Indian Succession Act, 1865:

Provided that nothing in this section shall be construed to validate any disposal of property by an executor or administrator which has before the commencement of this Act been declared by any competent Court to be invalid.

25. 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.

26. (1) The Local Government may, by notification in the official 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.

(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 an 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 19 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 XLVI and XLVII of the Code of Civil Procedure as applied by section 647 of that Code, be final.

(4) The District Court may withdraw any proceedings under this Act from an inferior Court and may either itself dispose of them or transfer them to another such Court established within the local limits of the jurisdiction of the District Court and having authority to dispose of the proceedings.

(5) A notification under sub-section (1) may specify any inferior Court specially or any class of such Courts in any local area.

X of 1865.

V of 1887.

Effect on certificate of subsequent probate or letters of administration.

Effect of decisions under this Act, and liability of holder of certificate thereunder.

Validation of certain payments made in good faith to holder of invalid certificate.

Investiture of inferior Courts with jurisdiction of District Court for purposes of this Act.

Prohibition of exercise of certain powers by curators.

Effect of certain probates and letters.

XIV of 1882.

*The Succession Certificate Act, 1889.*

*(Sections 27—28.)*

*(The First Schedule.—Enactments repealed.) (The Second Schedule.—Forms of certificate and extended certificate.)*

(6) 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.

27 (1) When a certificate under this Act has been superseded or is invalid from any of the causes mentioned in section 22, the holder thereof shall, on the requisition of the Court which granted it, deliver it up to that Court.

(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.

28. Notwithstanding anything in the Regulation of the Bombay Code No. VIII of 1827, the provisions of section 3, section 6, sub-section (1), clause (f), and sections 8, 9, 10, 11, 12, 14, 16, 18, 19, 25, 26 and 27 of this Act with respect to certificates under this Act and applications therefor, and of section 93 of the Probate and Administration Act, 1881, with respect to the exhibition of inventories and accounts by executors and administrators, shall, so far as they can be made applicable, apply, respectively, to certificates granted under that Regulation, and applications made for certificates thereunder, after the commencement of this Act, and to the exhibition of inventories and accounts by the holders of such certificates so granted.

**THE FIRST SCHEDULE.**

ENACTMENTS REPEALED.

*(See section 2.)*

Number and year.	Subject or title.	Extent of repeal.
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*Acts of the Governor General in Council.*

XXVII 1860.	Collection of debts on successions.	So much as has not been repealed.
XIV 1869.	Bombay Civil Courts Act, 1869.	In section 16, from and inclusive of the words and figures "Bombay Regulation VIII of 1827" down to and inclusive of the words "representatives of deceased persons) and."

Number and year.	Subject or title.	Extent of repeal.
<i>Acts of the Governor General in Council—contd.</i>		
XV of 1874.	Laws Local Extent Act, 1874.	So much as relates to Act XXVII of 1860
XIII 1879.	Oudh Civil Courts Act, 1879.	Section 25, clause (3), relating to applications for certificates under Act XXVII of 1860.
V of 1881.	Probate and Administration Act, 1881.	Sections 151 and 153
XVIII 1884.	Punjab Courts Act, 1884.	Section 29, sub-section (1), clause (a).
XII 1887.	Bengal, North-Western Provinces and Assam Civil Courts Act, 1887.	Section 23, sub-section (2), clause (c).

*Act of the Lieutenant-Governor of Bengal in Council.*

VII of 1880.	Public De- mands' Re- covery Act, 1880.	In section 7, clause (3), the words "and the note to paragraph 12 of Schedule I."
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**THE SECOND SCHEDULE.**

FORMS OF CERTIFICATE AND EXTENDED  
CERTIFICATE.

*(See section 11.)*

In the Court of

To A. B.

Whereas you applied on the \_\_\_\_\_ day of \_\_\_\_\_ for a certificate under the Succession Certificate Act, 1889, in respect of the following debts and securities, namely:—

*The Succession Certificate Act, 1889.**(The Second Schedule.—Forms of certificate and extended certificate.)**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

*District Judge.*

## In the Court of

On the application of *A. B.* made to me on the            day of           , I hereby extend this 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

*District Judge.*

S. HARVEY JAMES,  
Secretary to the Government of India.

THE



# Bombay Government Gazette

Published by Authority.

THURSDAY, 26<sup>TH</sup> MARCH 1889.

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

## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 22nd March 1889, and is hereby promulgated for general information:—

#### Act No. VIII of 1889.

*An Act to amend the Sea Customs Act, 1878, and the Indian Tariff Act, 1882.*

WHEREAS it is expedient to amend the Sea Customs Act, 1878, and the Indian Tariff Act, 1882; It is hereby enacted as follows:—

*Sea Customs Act, 1878.*

VIII of 1878: 1. For the provisos to section 37 of the Sea Customs Act, 1878, the following proviso shall be substituted, namely:—  
Amendment of section 37, Act VIII, 1878.

“Provided that, if such goods are warehoused 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 warehouse for home-consumption.”

2. In section 115 of the same Act, for the words and figures “the second proviso to section 37” the words “such alteration” shall be substituted.  
Amendment of section 115, Act VIII, 1878.

#### *Indian Tariff Act, 1882.*

3. In section 1 of the Indian Tariff Act, 1882, XI of 1882, Amendment of section 1, Act XI, 1882. the words “and Perim” shall be inserted after the word “Aden”.

4. The following section shall be added to the same Act, namely:—  
Addition of new section to Act XI, 1882.

“10. In the event of any duty of customs or excise on any article being imposed, increased, decreased or remitted after the making of any contract for the sale of such article without stipulation as to the payment of duty where duty was not chargeable at the time of the making of the contract, or for the sale of such article duty-paid where duty was chargeable at that time,—

(a) if such imposition or increase so takes effect that the duty or increased duty, as the case may be, is paid, the seller may add so much to the contract-price as will be equivalent to the duty or increase of duty, and he shall be entitled to be paid and to sue for and recover such addition, and

(b) if such decrease or remission so takes effect that the decreased duty only or no duty, as the case may be, is paid, the purchaser may deduct so

much from the contract-price as will be equivalent to the decrease of duty or remitted duty, and he shall not be liable to pay or be sued for or in respect of such deduction."

Amendment of the Second Schedule to Act XI, 1882. 5. In No. 1 of the Second Schedule to the same Act, for the following, namely:—

No.	Names of Articles.	Per	Tariff valuation	Rate of duty.
*	*	*	*	*
			Re. a.	
	Gunpowder, common.	lb.	0 5	} 10 per cent.
	Gunpowder, sporting.	lb.	1 0	
	All other sorts ...	...	<i>Ad valorem.</i>	

there shall be substituted the following, namely:—

No.	Names of Articles.	Per	Tariff valuation	Rate of duty
*	*	*	*	*
			Re. a.	
	Gunpowder, common,	lb.	0 5	} 10 per cent.
	Gunpowder, sporting.	lb.	1 0	
	All other sorts of Arms, Ammunition and Military Stores.	.	<i>Ad valorem.</i>	10 per cent.

*Explanation.*—The expression "Arms, Ammunition and Military Stores," as used in the foregoing part of this Schedule, includes, in addition to any article specifically mentioned in that part,—

- (a) all articles which are either "arms" or "ammunition" within the meaning of the Indian Arms Act, 1878, XI of 1878. and
- (b) any articles which the Governor General in Council may from time to time, by notification in the Gazette of India, declare to be "military stores" for the purposes of this Act.

S. HARVEY JAMES,  
Secretary to the Government of India.

## LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the Sea Customs Act, 1878, and the Indian Tariff Act, 1882, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 15th March 1889 :—

WE, the undersigned, Members of the Select Committee to which the Bill to amend the Sea

From Officiating Secretary to Chief Commissioner, Assam, No 383, dated 8th February 1889 [Paper No. 1].

From Chief Commissioner, Ajmere-Merwara, No. 128—690, dated 9th February 1889 [Paper No. 2].

From Junior Secretary to Government, Punjab, No. 177, dated 15th February 1889, and enclosure [Papers No. 3].

From Secretary to Chief Commissioner, Coorg, No. 259—119, dated 12th February 1889, [Paper No. 4].

From Officiating Secretary to Government, Bengal, No. C.—1A.—1-9, dated 16th February 1889, and enclosures [Papers No. 5].

From Registrar, High Court, Calcutta, No. 474, dated 22nd February 1889 [Paper No. 6].

From Chief Secretary to Government, Madras, No. 302, dated 18th February 1889, and enclosures [Papers No. 7].

From Secretary to Government, North-Western Provinces and Oudh, No. 69—XIII-80A., dated 26th February 1889 [Paper No. 8].

From Secretary for Berar to Resident, Hyderabad, No. 91G., dated 27th February 1889 [Paper No. 9].

From Chief Secretary to Government, Bombay, No. 1641, dated 27th February 1889, and enclosures [Papers No. 10].

From Under Secretary to Chief Commissioner, Central Provinces, No. 1342—60, dated 2nd March 1889 [Paper No. 11].

From Officiating Under Secretary to Chief Commissioner, Burma, No. 4—4L, dated 1st March 1889, and enclosures [Papers No. 12].

From Secretary, Bengal Chamber of Commerce, No. 212, dated 9th March 1889 [Paper No. 13].

Customs Act, 1878, and the Indian Tariff Act, 1882, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

2. Section 110 of the Sea Customs Act, 1878, is one of several interdependent sections, and it seems to us to be unnecessary to amend it for the purpose mentioned in the

Statement of Objects and Reasons. It is sufficiently clear from the new proviso to section 37 of the Act that where, after goods liable to duty have been assessed and warehoused, the duty is repealed, the goods may be cleared for home consumption free of duty.

3. We have slightly altered the proposed amendment of section 115 of the Sea Customs Act, 1878.

4. At the instance of the Government of Bombay we have expressly excluded Perim from the operation of the Indian Tariff Act, 1882.

5. The Bengal, Bombay and Rangoon Chambers of Commerce approve, and the Madras Chamber disapproves, the addition of the proposed section 10 to the Indian Tariff Act, 1882. We concur with the majority in thinking that the section should be added to the Act.

6. The publication ordered by the Council has been made as follows :—

*In English.*

<i>Gazette.</i>	<i>Date.</i>
Gazette of India ... ..	19th January 1889.
Fort Saint George Gazette . . . . .	5th February 1889.
Bombay Government Gazette ... ..	24th January 1889.
Calcutta Gazette ... ..	23rd January 1889.
North-Western Provinces and Oudh Government Gazette ... ..	26th January 1889.
Punjab Government Gazette ... ..	1st January 1889.
Central Provinces Gazette ... ..	26th January 1889.
Burma Gazette ... ..	2nd February 1889.
Assam Gazette ... ..	2nd February 1889.
Coorg District Gazette . . . . .	1st March 1889.
Sindh Official Gazette ... ..	7th February 1889.

*In the Vernaculars.*

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Bombay ... ..	Maráthi ... ..	7th February 1889.
	Gujaráthi ... ..	7th February 1889.
Bengal ... ..	Kánarese ... ..	7th February 1889.
	Bengali ... ..	5th February 1889.
	Uríya ... ..	14th February 1889.
Burma ... ..	Hindi ... ..	5th March 1889.
	Burmese ... ..	9th February 1889.
Assam ... ..	Bengali ... ..	23rd February 1889.
Sindh ... ..	Sindhi ... ..	7th February 1889.

7. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

D. BARBOUR.  
ANDREW R. SCOBLE.  
ROBT. STEEL.  
FRED. M. HALLIDAY.  
DINSHAW MANOCKJEE PETIT.  
DOORGA CHURN LAW.

The 13th March 1889.

S. HARVEY JAMES,

Secretary to the Government of India.



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## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 29th March 1889, and is hereby promulgated for general information:—

Act No. X of 1889.

#### THE INDIAN PORTS ACT. CONTENTS.

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###### SECTIONS.

1. Title, commencement and extent.
2. Repeal.
3. Definitions.

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###### POWERS OF THE LOCAL GOVERNMENT.

4. Power to extend or withdraw the Act or certain portions thereof.
5. Alteration of limits of ports.
6. Power to make port-rules.

##### CHAPTER III.

###### PORT-OFFICIALS AND THEIR POWERS AND DUTIES.

7. Appointment of conservator.
8. Power of conservator to give and enforce directions for certain specified purposes.
9. Power to cut warps and ropes.
10. Removal of obstructions within limits of port.
11. Recovery of expenses of removal.
12. Removal of lawful obstructions.

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13. Fouling of Government moorings.
14. Raising or removal of wreck impeding navigation within limits of port.
15. Power to board vessels and enter buildings.
16. Power to require crews to prevent or extinguish fire.
17. Appointment and powers of health-officer.
18. Indemnity to Government against act or default of port-official or pilot.

##### CHAPTER IV.

###### RULES FOR THE SAFETY OF SHIPPING AND THE CONSERVATION OF PORTS.

###### General Rules.

19. Injuring buoys, beacons and moorings.
20. Wilfully loosening vessel from moorings.
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22. Graving vessel within prohibited limits.
23. Boiling pitch on board vessel within prohibited limits.
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25. Warping.
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27. Discharge of fire-arms in port.
28. Penalty on master omitting to take order to extinguish fire.
29. Unauthorized person not to search for lost stores.
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32. Provision of certain vessels with fire-extinguishing apparatus.

*The Indian Ports Act, 1879.*

(Chapter I.—Preliminary.—Sections 1-2.)

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SECTIONS.

33. Levy of port-dues.
34. Variation of port-dues by Local Government.
35. Fees for pilotage and certain other services.
36. Receipt, expenditure and account of port-charges.
37. Grouping of ports.
38. Receipts for port-charges.
39. Master to report arrival.
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41. Ascertainment of tonnage of vessel liable to port-dues.
42. Distraint and sale on refusal to pay port-charges.
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44. Port-charges payable in one port recoverable at any other port.
45. Penalty for evading payment of port-charges.
46. Port-due on vessels in ballast.
47. Port-due on vessels not discharging or taking in cargo.
48. Port-dues not chargeable on pleasure-yachts or on vessels re-entering from stress of weather.
49. Power to impose hospital port-dues.
50. Application on account of hospital port-dues.

CHAPTER VI.

HOISTING SIGNALS.

51. Master to hoist number of vessel.
52. Pilot to require master to hoist number.
53. Penalty on pilot disobeying provisions of this Chapter.

CHAPTER VII.

PROVISIONS WITH RESPECT TO PENALTIES.

54. Penalty for disobedience to rules and orders of the Local Government.
55. Offences how triable, and penalties how recovered.
56. Costs of conviction.
57. Ascertainment and recovery of expenses and damages payable under this Act.
58. Costs of distress.
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CHAPTER VIII.

SUPPLEMENTAL PROVISIONS.

62. Hoisting unlawful colours in port.
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THE FIRST SCHEDULE.—PORTS, VESSELS CHARGEABLE, RATE OF PORT-DUES AND FREQUENCY OF PAYMENT.

THE SECOND SCHEDULE.—ENACTMENTS REPEALED.

*An Act to consolidate and amend the law relating to Ports and Port-charges.*

WHEREAS it is expedient to consolidate and amend the law relating to ports, and port-charges; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, commencement and extent. 1. (1) This Act may be called the Indian Ports Act, 1889; and

(2) It shall come into force on the first day of April 1889.

(3) It shall extend, save as otherwise appears from its subject or context,—

(a) to the ports mentioned in the first schedule, and to such parts of the navigable rivers and channels leading to such ports respectively as have been declared to be subject to Act XXII of 1855 (for the regulation of Ports and Port-dues) or to the Indian Ports Act, 1875;

XII of 1875.

(b) to the other ports or parts of navigable rivers or channels to which the Local Government, in exercise of the power hereinafter conferred, extends this Act;

(4) But nothing in this Act shall—

(i) apply to any vessel belonging to, or in the service of, Her Majesty or the Government of India, or to any vessel of war belonging to any Foreign Prince or State, 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;

(5) And 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 the Local Government.

2. (1) The enactments mentioned in the second schedule are hereby repealed to the extent specified in the third column of that schedule.

(2) All declarations, appointments, requisitions, orders and rules made, authorizations, directions and permissions given, prohibitions issued and notifications published under any of those enactments or under any enactment repealed by any of them shall, if in force at the commencement of this Act, be deemed, so far as may be, to have been made, given, issued and published under this Act: and

(3) Any enactment or document referring to any such repealed enactment shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.



*The Indian Ports Act, 1889.*

(Chapter I.—Preliminary.—Section 3. Chapter II.—Powers of the Local Government.—Sections 4-6.)

Definitions.

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

(1) "port" includes also any part of a river or channel in which this Act is for the time being in force;

(2) "port officer" is synonymous with master-attendant.

(3) "vessel" includes anything made for the conveyance by water of human beings or of property.

(4) "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;

(5) "pilot" means a person for the time being authorized by the Local Government to pilot vessels;

(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) "Magistrate" means a person exercising powers under the Code of Criminal Procedure, 1882, not less than those of a Magistrate of the second class, and includes, in the towns of Calcutta, Madras and Bombay, a Presidency Magistrate.

X of 1882.

CHAPTER II.

POWERS OF THE LOCAL GOVERNMENT.

4. (1) With the previous sanction of the Governor General in Council, the Local Government may, by notification in the official Gazette,—

(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 ordinary spring-tides at any season of the year.

5. (1) The Local Government may, with the previous sanction of the Governor General in Council and subject to any rights of private property, alter the limits of any port in which this Act is in force.

(2) When the Local Government alters the limits of a port under sub-section (1), it shall declare or describe, by notification in the official Gazette, and by such other means, if any, as it thinks fit, the precise extent of such limits.

6. (1) The Local Government may, in addition to any rules which it may make under any other enactment for the time being in force, make such rules, consistent with this Act, as it thinks necessary for any of the following purposes, namely:—

(a) for regulating the time at which, and the manner in which, vessels are to enter or leave 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 the Government, or of any boat, hawser or other thing belonging to the Government;

(k) for licensing and regulating catamarans plying for hire, and flats and cargo, passenger and other boats plying, whether for

## The Indian Ports Act, 1889.

## (Chapter III.—Port-officials and their Powers and Duties.—Sections 7-11.)

hire or not and whether regularly or only occasionally in, or partly within and partly without, any such port, and for determining the quantity of cargo, or number of passengers to be carried by any such vessel;

- (l) for regulating the use of fires and lights within any such port;
- (m) for enforcing, and regulating the use of signals or signal-lights by vessels by day or by night in any such port;
- (n) for regulating the number of the crew which must be on board any vessel afloat within the limits of any such port;
- (o) 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; and
- (p) for regulating the action to be taken by a master where there is disease or sickness, or a dead body, on board his vessel in any such port.

(2) The power to make rules under sub-section (1) is subject to the condition of the rules being made after previous publication:

Provided that nothing in this sub-section shall be construed to affect the validity of any rule in force immediately before the commencement of this Act and continued by section 2, sub-section (2).

## CHAPTER III.

## PORT-OFFICIALS AND THEIR POWERS AND DUTIES.

7. (1) The Local Government shall appoint some officer or body of persons to be conservator of every port subject to this Act, and may suspend or remove such officer or body.

(2) Subject to any direction by the Local 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 the Local Government, or of any intermediate authority which that 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.

(2) If any person wilfully and without lawful excuse refuses or neglects to obey any lawful direction of the conservator, after notice thereof has been given to him, he shall, for every such offence, be punished with fine which may extend to one hundred rupees, and with further fine which may extend to one hundred rupees for every day on which, after such notice as aforesaid, he wilfully and without lawful excuse continues 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, Power to cut warps and ropes. 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 punished 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 the official Gazette or in such other manner as the Local Government by general or special order directs, 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;

*The Indian Ports Act, 1889.**(Chapter III.—Port-officials and their Powers and Duties.—Sections 12-17.)*

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 the Local Government directs;

and may, if necessary, from time to time, realize 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 the Local Government, and shall, with the sanction of that 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 the Local 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 punished 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.

(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 and enter buildings, 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,

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 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 punished 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 punished 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 punished with fine which may extend to twenty-five rupees.

17. (1) The Local Government may appoint at any port subject to this Act an officer to be called the health-officer, and may suspend or remove from office any officer so appointed.

(2) A health-officer shall, subject to the control of the Local Government, have the following powers within the limits of the port for which he is appointed, namely:—

*The Indian Ports Act, 1889.*

(Chapter III.—Port-officials and their Powers and Duties.—Section 18. Chapter IV.—Rules for the Safety of Shipping and the Conservation of Ports.—Sections 19-25.)

- (a) with respect to any vessel, the powers conferred on a shipping-master by Act I of 1859, section 71;
- (b) power to enter on board any vessel and medically examine all or any of the seamen or apprentices on board the vessel;
- (c) 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;
- (d) 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;
- (e) power to require any person so questioned to make and subscribe a declaration of the truth of the statements made by him.

18. The Government shall not be responsible for any act or default of any conservator, port-officer or harbour-master of any port subject

Indemnity to Government against act or default of port-official or pilot.

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 the Government which may be used by the vessel:

Provided that nothing in this section shall protect the Secretary of State for India in Council from a suit in respect of any act done by or under the express order or sanction of the Government.

CHAPTER IV.

RULES FOR THE SAFETY OF SHIPPING AND THE CONSERVATION OF PORTS.

*General Rules.*

19. (1) 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, the Local Government in any port subject to this Act.

(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 punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to six months.

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.

(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 punished 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 authorized by the Local Government.

22. If any person graves, breams or smokes any vessel within any such port, contrary to the directions of the conservator, or at any time or within any limits at or within which such act is prohibited by the Local Government, he and the master of the vessel shall for every such offence be punished with fine which may extend to five hundred rupees each.

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 the Local Government, or contrary to the directions of the conservator, he and the master of the vessel shall for every such offence be punished with fine which may extend to two hundred rupees each.

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 punished with fine which may extend to two hundred rupees each.

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 the vessel for the purpose of warping any other vessel in the port, and shall not allow any such warp or hawser to be let go until required so to do.

*The Indian Ports Act, 1889.*

(Chapter IV.—Rules for the Safety of Shipping and the Conservation of Ports.—Sections 26-32.  
Chapter V.—Port-dues, Fees and other Charges.—Section 33.)

(2) A master offending against sub-section (1) shall be punished 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 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 punished for every such offence with fine which may extend to two hundred rupees.

27. If any person, without lawful excuse, discharges any fire-arm 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 the Local Government, he shall for every such offence be punished 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 punished 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 punished 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;

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 punished 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;

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.

(2) 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 punished 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.

(3) Nothing in sub-sections (1) and (2) shall apply to Native vessels when they are entering, leaving or being moved in the port of Bombay.

(4) If any question arises as to whether any vessel is a Native vessel within the meaning of this section, the decision thereon of such authority as the Governor of Bombay in Council may appoint in this behalf shall be conclusive.

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 and appurtenances, for the purpose of extinguishing any fire which may occur on board.

(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 punished 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 the local Government directs, shall be levied on vessels entering the port and described in the second column of the schedule,

*The Indian Ports Act, 1889.**(Chapter V.—Port-dues, Fees and other Charges.—Sections 34-36.)*

but not oftener than the time fixed for the port in the fourth column of the schedule.

(2) Whenever the Local Government, with the previous sanction of the Governor General in Council, declares any other port to be subject to this Act, it may, with the like sanction, 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 now leviable in any port shall continue to be so leviable 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 the local official Gazette.

**34.** The Local Government may exempt the 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, it thinks expedient, by reducing or raising the dues, or any of them :

Provided that the rates shall not in any case exceed the amount authorized 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 the Local Government may direct :

Provided that, in the case of fees for pilotage, the previous sanction of the Governor General in Council has been obtained.

(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) The Local Government shall appoint some officer or body of persons at every port at which any dues, fees or other charges are authorized to be taken by or under this Act to receive the same and, subject to the control of the Local Government, to expend the receipts on any of the objects authorized by this Act.

(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 the Local Government prescribes, the receipts and expenditure of the port, and shall publish annually as soon after the first day of April as may be practicable an abstract, in such form as that Government prescribes of the account for the past financial year.

(3) If, for any of the purposes of this Act, an advance of money has been or shall be made by the 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 the Governor General in Council may determine, shall be charged in the port fund account of the port.

(4) All moneys 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 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 ports and port-dues, or such portion of those pensions, allowances and gratuities as the Local Government may by rule determine,

(d) with the previous sanction of the Local Government, 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 vessels in the port, and

(e) with the like sanction, contributions towards sailors' homes, institutes, rest-houses and coffee-houses and for other purposes connected with the health, recreation and temporal well-being of sailors, shall be charged to the port fund account of the port.

(6) Subject to the provisions of any local law as to the disposal of any balance from time to time standing to the credit of a port fund account,

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any such balance may be temporarily invested in such manner as the Local Government may direct.

**37.** (1) The Local 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:

Provided, with respect to the ports of Calcutta, Madras, Bombay, Rangoon, Karáchi, Chittagong and Aden, that none of those ports may be grouped with any other port, and that the port fund account of each of those ports shall be kept separate from the port fund account of any other port.

(2) Where ports are grouped by or under this Act, the following consequences ensue, namely:—

- (a) the Local Government, in the exercise of its control over expenditure debitable to the common port fund account of the group, may, with the previous sanction of the Governor General in Council, 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 shall cause effect to be given to any directions which the Governor General in Council may deem it necessary to issue with respect to such expenditure; and
- (b) the Local Government may exercise its 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 authorized 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.

**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.

(2) A master failing without lawful excuse to make such report within the time aforesaid shall for every such offence be punished with fine which may extend to one hundred rupees.

(3) Nothing in this section applies to tug-steamers, ferry-steamers or river-steamers plying to and from any of the ports subject to this Act or to ballam-boats plying to and from the port of Chittagong.

IV.—20

**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

Conservator may in certain cases ascertain draught and charge expense to master.

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.

**41.** In order to ascertain the tonnage of any vessel liable to pay port-dues the following rules shall be observed:—

Ascertainment of tonnage of vessel liable to port-dues.

(1) (a) If the vessel is a British registered vessel, or a vessel registered under Act X of 1841 or Act XI of 1850 or under any other law for the time being in force for the registration of vessels in British India, 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 punished 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, according to the mode of measurement prescribed by the rules for the time being in force for regulating the measurement of British vessels, 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 is not a British registered vessel or a vessel registered under Act X of 1841 or Act XI of 1850, or under any other law for the time being in force for the registration of vessels in British India, and the owner or master thereof fails to satisfy the conservator as to what is her true tonnage according to the mode of measurement prescribed by the rules for the time being in force for regulating the measurement of British vessels, the conservator shall cause the vessel to be measured and the tonnage thereof to be ascertained, according to the mode aforesaid, and in such case the owner or master of the vessel shall be liable to pay the expenses of the measurement.

(3) If the vessel is a vessel of which the tonnage cannot be ascertained according to the mode of measurement mentioned in clauses (1) and (2), the tonnage of the vessel shall be determined by the conservator on such an estimate as may seem to him to be just.



*The Indian Ports Act, 1889.*

(Chapter V.—Port-dues, Fees and other Charges.—Sections 42-49.)

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 Government whose duty it is to grant a port-clearance for any vessel shall not grant such clearance—

(a) until her owner or master, or some other person, has paid or secured to 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;

(b) until all expenses, which by the Merchant Shipping Act, 1854, section 228, are to be borne by her owner, incurred since her arrival in the port from which he seeks clearance, have been paid.

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 British India 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 punished 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 (other than a port in Burma) in ballast and not carrying passengers shall be charged with a port-due at a rate to be determined by the Local 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 reshipment as may be necessary for purposes of repair), she shall be charged with a port-due at a rate to be determined by the Local Government and not exceeding half the rate with which she would otherwise be chargeable:

Provided that a vessel entering any of the ports within the territories administered by the Governor of Fort St. George in Council and leaving the same within forty-eight hours, without discharging or taking in any passengers or cargo, shall not be charged with any port-due.

48. No port-due shall be chargeable in respect of any pleasure-yacht, nor shall any such due be chargeable in respect of 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.

49. (1) The Local Government may, by notification in the official 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 the Local Government thinks fit.



*The Indian Ports Act, 1889.**(Chapter V.—Port-dues, Fees and other Charges—Section 50. Chapter VI.—Hoisting Signals.—Sections 51-53.)**(Chapter VII.—Provisions with respect to Penalties.—Sections 54-57.)*

(2) Such port-dues shall be called hospital port-dues, and the Local Government shall, in making any order under sub-section (1), have regard to any contributions made under section 36, sub-section (5), clause (d).

(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 the local official Gazette.

(4) Whenever the Local Government is 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, it may, by notification in the official Gazette, exempt such class of vessels from any payment under this section.

(5) The Local Government may, by notification in the official Gazette, cancel any order under sub-section (1) or withdraw any exemption under sub-section (4).

50. (1) Hospital port-dues shall be applied, as the Local 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.

(2) The Local Government shall publish annually in the official Gazette, as soon after the first day of April as may be, an account, for the past financial year, of the sums received as hospital port-dues at each port where such dues are payable, and of the expenditure charged against those receipts.

(3) Such account shall be published as a supplement to the abstract published under section 36, sub-section (2).

## CHAPTER VI.

## HOISTING SIGNALS.

51. (1) The master of every inward or outward bound vessel, on arriving within signal-distance of any signal-station established within the limits of the river Hooghly, 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 punished 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 punished 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 a pilot withdrawn.

## CHAPTER VII.

## PROVISIONS WITH RESPECT TO PENALTIES.

54. If any person disobeys any rule or order which a Local Government has 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 punished for every 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.

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.

(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.

*The Indian Ports Act, 1889.*

(Chapter VII.—Provisions with respect to Penalties.—Sections 58—61.)

(Chapter VIII.—Supplemental Provisions, Sections 62—64.)

(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.

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 paid on demand, shall be enforced as if they were a fine.

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.

(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 Her Majesty's subjects, or sailing under British colours, hoists, carries or wears, within the limits of any port subject to this Act, any flag, jack, pennant or colours, the use whereof on board such vessel has been prohibited by the Merchant Shipping Act, 1854, or any other statute now or hereafter to be in force, or by any proclamation made or to be made in pursuance of any such statute, or by any of Her Majesty's regulations in force for the time being, the master of the vessel shall, for every such offence, be punished 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, or any officer of Her Majesty's Navy or Indian Marine Service, 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 Consul of any Foreign Power, may, until a revocation of such Order in Council has been publicly notified, 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 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 the Local 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 sections 55 and 57.

*The Indian Ports Act, 1889.**(Chapter VIII.—Supplemental Provisions.—Sections 65—70.)*

(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 principal officer of customs at such port or by any other officer appointed in that behalf by the Local Government.

65. The port-due leviable under this Act in either of the ports of Maulmain and Bassein shall, to the extent of one anna and six pie per ton, be applicable in the first place to defray the expenses of maintaining the existing port-lights of Burma.

66. Any money contributed before the passing of this Act from any port fund for any purpose connected with the health, recreation and well-being of sailors shall be deemed to have been lawfully contributed from the fund.

67. Any local authority in which any immovable property in or near a port is vested may, with the previous sanction of the Local Government, appropriate, and either retain and apply, or transfer by way of gift or otherwise, the whole or any part of the property as a site for, or for use as, a sailors' home or other institution for the health, recreation and temporal well-being of sailors.

68. (1) All acts, orders or directions by this Act authorized to be done 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 authorized by this Act to do any act may call to his aid such assistance as may be necessary.

69. 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.

70. Every declaration, order and rule of a Local Government made in pursuance of this Act shall be published in the official Gazette, and a copy thereof shall be kept in the office of the conservator and at the custom-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.

*The Indian Ports Act, 1889.**(The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.)*

## THE FIRST SCHEDULE.

## PORTS, VESSELS CHARGEABLE, RATE OF PORT-DUES AND FREQUENCY OF PAYMENT.

*(See Sections 1 and 33.)*

## PART I.—BENGAL.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Calcutta ... ..	Sea-going vessels of twenty tons and upwards.	Not exceeding four annas per ton: provided that, in the case of <i>dhonis</i> and country vessels employed in the coasting trade, the rate shall be one-half the rate chargeable in respect of other vessels.	Whenever the vessel enters the port, except in the case of <i>dhonis</i> and country vessels employed in the coasting trade, which shall not be chargeable with port-dues at the same port more than once in sixty days.
	Tug-steamers and river-steamers.	Not exceeding four annas per ton.	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.
Chittagong ... ..	Sea-going vessels of ten tons and upwards, not being ballam-boats.	Not exceeding four and a half annas per ton.	Whenever the vessel enters the port, except in the case of mail-steamers and coasting vessels, which shall not be chargeable more than once in sixty days.
	Tug-steamers and river-steamers.	Ditto ... ..	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.
	Ballam-boats... ..	Not exceeding one anna per ton.	Whenever the vessel enters the port.
Cuttack Ports,— namely, False Point and Pooree.	Sea-going vessels of ten tons and upwards.	Not exceeding four annas per ton.	Whenever the vessel enters any one of the ports, except in the case of mail-steamers and coasting vessels, which shall not be chargeable more than once in sixty days.
Balasore Ports,— namely, Balasore, Chúrámán, Laich- hampur, Chánna, Sub- arnarekha, Dhamra (Chandbally) and Sartha.	Ditto ... ..	Ditto ... ..	Ditto.

## The Indian Ports Act, 1889.

(The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.)

## PART II.—MADRAS PRESIDENCY.

Name of port.		Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1		2	3	4
Madras ... ..		Sea-going vessels of fifteen tons and upwards.	<i>Foreign Vessels.</i>	
			(a) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, or Ceylon, calling at Madras, not exceeding four annas a ton.	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again.
			(b) In the case of any other foreign ship or steamer calling at Madras, not exceeding four annas a ton.	The due is payable on each entry into the port.
			<i>Coasting Vessels.</i>	
			(c) In the case of a coasting ship calling at Madras, not exceeding one and a half annas a ton.	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again.
			(d) In the case of a coasting steamer calling at Madras, not exceeding three annas a ton.	The due is payable once in thirty days.
<i>Eastern Group.</i>				
District.	Port.	Sea-going vessels of fifteen tons and upwards.	<i>Foreign Vessels.</i>	
Ganjam ...	1. Gopálpur.		(a) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at any one port in the Eastern group, not exceeding three annas a ton.	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that port.
	2. Sonnapuram.			
	3. Baruva.			
	4. Púndi.			
	5. Calingapatam.			
Vizagapatam.	6. Konada.		(b) In the case of any other foreign ship or steamer calling at any one port in the Eastern group, not exceeding three annas a ton.	The due is payable on each entry into the port.
	7. Bimlipatam.			
	8. Vizagapatam.			
	9. Pudimadaka.			
	10. Pentakota.			
Godávári ...	11. Uppada.		(c) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at more than one port in the Eastern group, not exceeding four and a half annas a ton.	The payment of the due at the first port called at in the group will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that or any other port in the group.
	12. Cocanada.			
	13. Coringa.			
	14. Bendamurlanka.			
	15. Narsápur.			
	16. Perupalem.			
Kistna ...	17. Masulipatam.	(d) In the case of any other foreign ship or steamer calling at more than one port in the Eastern group, not exceeding four and a half annas a ton.	The due is payable once for the voyage.	
	18. Penumudi.			
	19. Morutota.			
	20. Nagayalanka.			
	21. Kottapalera.			
	22. Gangadipalem.			
	23. Nizampatnam.			
	24. Ipurupalem.			
	25. Bocduvanipalem.			
	26. Motupalle.			
Nellore ...	27. Kanuparti.	(e) In the case of a coasting ship calling at any port, not exceeding one and a half annas a ton.	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again at that port.	
	28. Kottapatnam.			
	29. Itamukkala.			
	30. Pakala.			
	31. Karedu.			
	32. Ramayapatnam.			
	33. Chennayyapalem.			
	34. Tummalapenta.			
	35. Juvaladinne.			
		<i>Coasting Vessels.</i>		
		(f) In the case of a coasting steamer calling at one or more ports in the Eastern group, not exceeding three annas a ton.	The payment of the due at the first port called at in the group will exempt the steamer for a period of thirty days from liability to pay the due again at that or any other port in the group.	

## The Indian Ports Act, 1889.

(The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.)

## PART II.—MADRAS PRESIDENCY—continued.

Name of port.		Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.						
1		2	3	4						
<i>Eastern Group—continued.</i>										
District.	Port.		<i>Foreign Vessels.</i>							
Nellore—contd.	36. Iskapalle.	Sea-going vessels of fifteen tons and upwards.	(a) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at any one port in the Eastern group, not exceeding three annas a ton.	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that port.						
	37. Ponnepudi.									
	38. Maipadu.									
	39. Kistnapatam.									
	40. Pamanji.									
	41. Tupili.									
	42. Dugarazpatnam.									
43. Pudi.										
Chingleput...	44. Pulicat.					(b) In the case of any other foreign ship or steamer calling at any one port in the Eastern group, not exceeding three annas a ton.	The due is payable on each entry into the port.			
	45. Ennore.									
	46. Covelong.									
South Arcot.	47. Marakanam.		(c) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at more than one port in the Eastern group, not exceeding four and a half annas a ton.	The payment of the due at the first port called at in the group will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that or any other port in the group.						
	48. Cuddalore.									
	49. Porto Novo.									
Tanjore ...	50. Tirumalavasal.								(d) In the case of any other foreign ship or steamer calling at more than one port in the Eastern group, not exceeding four and a half annas a ton.	The due is payable once for the voyage.
	51. Kodyampalayam.									
	52. Tranquebar.									
	53. Nagore.									
	54. Negapatam.									
	55. Velankani.									
	56. Topputurai.									
	57. Point Calmère.									
	58. Mutupet.									
	59. Adirampatnam.									
	60. Gopalapatnam.									
61. Kattumavadi.										
Madura ...	62. Krishnajiapatnam.		(e) In the case of a coasting ship calling at any port, not exceeding one and a half annas a ton.	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again at that port.						
	63. Ammapatnam.									
	64. Kottapatnam.									
	65. Sundarapandiyapatnam.									
	66. Pasipatnam.									
	67. Damodarapatnam.									
	68. Tondi.									
	69. Nambitalai.									
	70. Pudukpatnam.									
	71. Karangadu.									
	72. Tiruppalankudi.									
	73. Devipatnam.									
	74. Mudiyanpatnam.									
	75. Attankarai.									
	76. Emanangundu.									
Tinnevely ...	77. Pillaimadam.		(f) In the case of a coasting steamer calling at one or more ports in the Eastern group, not exceeding three annas a ton.	The payment of the due at the first port called at in the group will exempt the steamer for a period of thirty days from liability to pay the due again at that or any other port in the group.						
	78. Pambam.									
	79. Ramesvaram.									
	80. Mandapam.									
	81. Vedalai.									
	82. Marakkayapatnam.									
	83. Muttupetta.									
	84. Kilakarai.									
	85. Ervadi.									
	86. Valinokkam.									
	87. Valppar.									
	88. Tuticorin.									
	89. Kayalpatnam.									
	90. Kulasekharapatnam.									

## The Indian Ports Act, 1889.

(The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.)

## PART II.—MADRAS PRESIDENCY—concluded.

Name of port.		Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1		2	3	4
<i>Western Group.</i>				
District.	Port.			
Malabar	91. Cochin.	Sea-going vessels of fifteen tons and upwards.	<p style="text-align: center;"><i>Foreign Vessels.</i></p> <p>(a) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at any one port in the Western group, not exceeding three annas a ton.</p> <p>(b) In the case of any other foreign ship or steamer calling at any one port in the Western group, not exceeding three annas a ton.</p> <p>(c) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at more than one port in the Western group, not exceeding four and a half annas a ton.</p> <p>(d) In the case of any other foreign ship or steamer calling at more than one port in the Western group, not exceeding four and a half annas a ton.</p>	<p>The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that port.</p> <p>The due is payable on each entry into the port.</p> <p>The payment of the due at the first port called at in the group will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that or any other port in the group.</p> <p>The due is payable once for the voyage.</p>
	92. Arrupuram.			
	93. Kukkuyi.			
	94. Madayi.			
	95. Attakuri.			
	96. Chavakád.			
	97. Veliyangod.			
	98. Ponáni.			
	99. Kuttayi.			
	100. Parapanna.			
	101. Tanur.			
	102. Parpanangádi.			
	103. Kadalvandi.			
	104. Beypere.			
	105. Molakkadava.			
	106. Calicut.			
	107. Pudiyangadi.			
	108. Elatturu.			
	109. Kappatta.			
	110. Quilandi.			
	111. Kollam.			
	112. Kadalura.			
	113. Trikodi.			
	114. Kottakkal.			
	115. Badagara.			
116. Muttankal.				
117. Chompayi.				
118. Kallayi.				
119. Talayi.				
120. Tellicherry.				
121. Dharmapatnam.				
122. Ezhara.				
123. Cannanore.				
124. Pudiyangadi.				
125. Palapatnam (Baliapatnam).				
126. Ettikulam.				
127. Kavyayi.				
128. Hosdrug.				
129. Baikál.				
130. Kásaragód.				
131. Kumbale.				
132. Manjesvara.				
133. Mangalore.				
134. Mulki.				
135. Padubidri.				
136. Ermala.				
137. Uchhula.				
138. Kaph.				
139. Udiyavara.				
140. Malpé.				
141. Barkur or Hangarhatta.				
142. Coondapoor.				
143. Njakinakatte (Nayakankottai).				
144. Baindur.				
145. Siruru.				
South Canara			<i>Coasting Vessels.</i>	
		(e) In the case of a coasting ship calling at any port, not exceeding one and a half annas a ton.	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again at that port.	
		(f) In the case of a coasting steamer calling at one or more ports in the Western group, not exceeding three annas a ton.	The payment of the due at the first port called at in the group will exempt the steamer for a period of thirty days from liability to pay the due again at that or any other port in the group.	

## Explanations to Part II of the First Schedule.

Explanation 1.—In this Part of the Schedule—

(a) "ship" means a sailing vessel, and "steamer" a steam-vessel:

(b) "coasting ship" or "coasting steamer" means respectively a ship or steamer which at any port discharges cargo exclusively from, or takes in cargo exclusively for, any port in the island of Ceylon or in any part of India between the westernmost part of Sind and the south-easternmost part of Burma; and "coasting steamer" includes a coasting steam-vessel having a general pass under section 164 of the Sea Customs Act, 1878:

(c) "foreign ship" or "foreign steamer" means respectively a ship or steamer not being a coasting ship or coasting steamer.

Explanation 2.—As regards the levy of port-dues, each of the following pairs of ports, namely, Coanada and Coringa, Nagore and Negapatam, Beypore and Calicut, is to be treated as if it were only one port; every vessel in respect of which such dues have been charged and taken at one of any of the said pairs being exempted from the dues on entering the other of the same pair immediately after leaving the one in which the dues were charged and taken.

*The Indian Ports Act, 1889.**(The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.)*

## PART III.—BOMBAY PRESIDENCY.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Bombay ...	Sea-going vessels of ten tons and upwards (except fishing-boats).  Tug-steamers, ferry-steamers and river-steamers.	Not exceeding four annas per ton.  Ditto	Once in the same month.  Once between the 1st January and the 30th June, and once between the 1st July and 31st December, in each year.
<i>Northern Group of Ports—</i>			
1. Gogha ...			
2. Dholerá ...			
3. Tankári ...			
4. Dehegám ...			
5. Dehej ...			
6. Broath ...			
7. Bhagwá ...			
8. Surat ...			
9. Matwád ...			
10. Bulsár ...			
11. Umarsádi ...	Sea-going vessels of	Not exceeding three annas	Once in thirty days at
12. Kolak ...	ten tons and upwards (except fishing-boats).	per ton: provided that a	the same port: pro-
13. Kálai ...		coasting steamer when-	vided that no coast-
14. Maroli ...		ever it enters any port	ing vessel or coast-
15. Umbargám ...		may be charged at a rate	ing steamer, having
16. Gholwad ...		to be determined by the	paid
17. Dáhánu Creek ...		Local Government and	port-dues at any port;
18. Tárápur ...		not exceeding the highest	shall be chargeable
19. Olivará Navápur ...		rate of port-dues leviable	with port-dues again
20. Sápáti Creek ...		at any port of the group	at the same time or
21. Máhím (Kélva) ...		to which such port be-	any other port of the
22. Kélva ...		longs and an addition of	same group within
23. Dántiora ...		one-half of such highest	thirty days.
24. Arnála ...		rate.	



## The Indian Ports Act, 1889.

(The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.)

## PART III.—BOMBAY PRESIDENCY—contd.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
<i>Southern Group of Ports—</i>			
1. Bāndra ...	Sea-going vessels of ten tons and upwards (except fishing-boats).	Not exceeding three annas per ton: provided that a coasting steamer whenever it enters any port may be charged at a rate to be determined by the Local Government and not exceeding the highest rate of port-dues leviable at any port of the group to which such port belongs, and an addition of one-half of such highest rate.	Once in thirty days at the same port: provided that no coasting vessel or coasting steamer, having paid port-dues at any port, shall be chargeable with port-dues again at the same or any other port of the same group within thirty days.
2. Vesāva ...			
3. Manori ...			
4. Utan ...			
5. Bassein ...			
6. Bhiwndī ...			
7. Kalyān ...			
8. Thāna ...			
9. Trombay ...			
10. Panvel ...			
11. Karanjā ...			
12. Rewas ...			
13. Nāgothna ...			
14. Thal ...			
15. Alibāg ...			
16. Revdānda ...			
17. Māndād ...			
18. Bānkot ...			
19. Kelsi ...			
20. Harnai ...			
21. Anjanwel ...			
22. Borya ...			
23. Jaygad ...			
24. Varavdā ...			
25. Ratnāgiri ...			
26. Purangad ...			
27. Jaytāpur ...			
28. Vijaydurg ...			
29. Devgad ...			
30. Achra ...			
31. Mālvān ...			
32. Nivti ...			
33. Vengurla ...			
34. Redi ...			
35. Terekhol ...			
36. Kārwār, including Baitkhol, ...			
37. Chendiya ...			
38. Ankolā ...			
39. Gangāvali ...			
40. Tadri ...			
41. Kumptā ...			
42. Honāvar ...			
43. Murdeshwar ...			
44. Shirāli ...			
45. Bhatkal ...			
Karāchi ...	Ditto ...	Not exceeding four annas per ton.	Once in three months.
	Tug-steamers and river-steamers.	Ditto ...	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.
Adeh ...	Sea-going vessels of ten tons and upwards.	Not exceeding three annas per ton.	Once a month.

*The Indian Ports Act, 1889.**(The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.)**(The Second Schedule.—Enactments repealed.)*

## PART IV.—BURMA.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Rangoon	Sea-going vessels of ten tons and upwards. Tug-steamers and river-steamers.	Not exceeding six annas per ton. Not exceeding four annas per ton.	Once in sixty days. Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.
Maulmain	Sea-going vessels of ten tons and upwards, but less than twenty-five tons.	Not exceeding four annas per ton.	Once in sixty days.
	Sea-going vessels of twenty-five tons and upwards.	Not exceeding five annas six pies per ton.	Ditto.
Kyauk-Phyu	Sea-going vessels of ten tons and upwards.	Not exceeding four annas per ton.	Ditto.
Akyab	Ditto	Ditto	Ditto.
Bassein	Sea-going vessels of ten tons and upwards, but less than twenty-five tons.	Ditto	Ditto.
	Sea-going vessels of twenty-five tons and upwards.	Not exceeding five annas six pies per ton.	Ditto.
Tavoy	Sea-going vessels of ten tons and upwards.	Not exceeding four annas per ton.	Ditto.
Mergui	Ditto	Ditto	Ditto.

## THE SECOND SCHEDULE.

## ENACTMENTS REPEALED.

*(See section 2.)*

Number and year.	Subject or title.	Extent of repeal.
<i>Acts of the Governor General in Council.</i>		
XII of 1875	Indian Ports Act, 1875	So much as has not been repealed.
IX of 1879	Burma Coast-lights Act, 1879	Section 17 and the preamble to that section.
VII of 1880	Indian Merchant Shipping Act, 1880.	The first paragraph of section 72, from and inclusive of the word "Chapter" down to and inclusive of the word "repealed."
IV of 1881	Madras Port-dues Act, 1881	The whole.
XVII of 1882	Indian Ports Act, 1882...	The whole.
V of 1883	Indian Merchant Shipping Act, 1883.	Section 31.
XI of 1883	Reduction of Port-dues in the Port of Bombay.	The whole.
IV of 1884	Indian Explosives Act, 1884	Section 3.
V of 1885	Amendment of the Indian Ports Act, 1875.	The whole.
<i>Act of the Governor of Fort St. George in Council.</i>		
II of 1872	Madras Port Rules	The whole.
<i>Act of the Lieutenant-Governor of Bengal in Council.</i>		
III of 1872	Calcutta Port Commissioners	The whole.

S. HARVEY JAMES,  
Secretary to the Government of India.

THE



# Bombay Government Gazette

Published by Authority.

THURSDAY, 12<sup>TH</sup> SEPTEMBER 1889.

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

## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 4th September 1889, and is hereby promulgated for general information:—

#### Act No. XII of 1889.

*An Act to amend the Indian Merchandise Marks Act, 1889.*

WHEREAS it is expedient to enable Local Governments to permit piece-goods to be imported at any time before the first day of November 1889, without having their length stamped thereon in standard yards, or in standard yards and a fraction of such a yard; It is hereby enacted as follows:—

1. (1) The Local Government may in its discretion, and either absolutely or subject to conditions, declare that the provisions of section 18 of the Sea Customs Act, VII of 1878, as amended by section 10, sub-section (2) of the Indian Merchandise Marks Act, 1889, IV of 1889, shall, as regards any piece-goods mentioned in the declaration, be deemed to be in abeyance up to, and inclusive of, the thirty-first day of October 1889.

(2) The Local Government may delegate to a Chief Customs-officer or other officer appointed by it in this behalf the power conferred upon it by sub-section (1).

S. HARVEY JAMES,  
Secretary to the Government of India.

THE



# Bombay Government Gazette.

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## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 11th October 1889, and is hereby promulgated for general information:—

Act No. XIII of 1889.

THE CANTONMENTS ACT, 1889.

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*The Cantonments Act, 1889.*

(Chapter I.—Preliminary—Sections 1-3. Chapter II.—Cantonments and Cantonment Authorities, Courts and Police—Sections 4-6.)

THE SCHEDULE—ENACTMENTS REPEALED.

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

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

CHAPTER I.

PRELIMINARY.

Title, extent and commencement. 1. (1) This Act may be called the Cantonments Act, 1889.

(2) It extends to the whole of British India, inclusive of Upper Burma; and

(3) It shall come into force on such day as the Governor General in Council, by notification in the Gazette of India, appoints in this behalf.

2. (1) On and from that day the enactments specified in the schedule are repealed to the extent mentioned in the third column thereof:

(2) But all orders, declarations, rules and regulations made, directions, licenses and permits given, taxes imposed and notifications published under any enactment repealed by this Act or under any enactment repealed by any enactment repealed by this Act, and all limits defined as the local limits of a cantonment with the approval of the Governor General in Council or a Local Government before the passing of this Act, shall be deemed to have been respectively made, given, imposed and published, and to have been defined, under this Act.

(3) Any enactment or document referring to any enactment repealed by this Act, or to any enactment repealed by any enactment repealed by this Act, or to any Regulation of the Bengal, Madras or Bombay Code respecting the fixing of the local limits of cantonments and military bazars, shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

3 (1) In this Act and in the rules thereunder, unless there is something repugnant in the subject or context,—

(a) "officer" means—

(i) a person who, being an officer within the meaning of the Army Act, 1881, is commissioned and in pay as an officer doing military duty with Her Majesty's regular forces as defined in that Act or as an officer doing such duty in any arm, branch or part of those forces, and

(ii) a person doing military duty as a warrant officer with those forces or with any arm, branch or part thereof, whether he is or is not an officer within the meaning of the Army Act, 1881:

(b) "soldier" means a person who is a soldier of Her Majesty's regular forces within the meaning of the Army Act, 1881, and is not an officer within the meaning of this Act:

(c) "spirituous liquor" means any fermented liquor, any wine, any alcoholic liquid obtained by distillation, and the sap of any kind of palm-tree, and includes any

other liquid consisting of or containing alcohol which the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, declare to be a spirituous liquor for the purposes of this Act:

(d) "intoxicating drug" means opium, ganja, bháng, charas and every preparation and admixture thereof, and includes any other intoxicating substance or liquid which the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, declare to be an intoxicating drug for the purposes of this Act; and

(e) "owner" includes the person who is receiving or entitled to receive the rent of any building or land, whether on his own account or on behalf of himself and others or as an agent or trustee, or who would so receive the rent or be entitled to receive it if the building or land were let to a tenant.

(2) The provisions of the General Clauses Acts, 1868 and 1887, shall, so far as they can be made applicable, apply to all rules which may be made under this Act by the Governor General in Council. I of 1866  
I of 1887.

CHAPTER II.

CANTONMENTS AND CANTONMENT AUTHORITIES, COURTS AND POLICE.

*Cantonments.*

4. (1) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, declare any place in which any of Her Majesty's regular forces are quartered within the territories administered by such Government to be a cantonment for the purposes of this Act and of all other enactments for the time being in force, and may withdraw any such declaration.

(2) The Local Government, with the like sanction, may also, by a like notification, define the limits of any cantonment for the like purposes.

*Cantonment Authorities and Magistrates.*

5. For every cantonment beyond the limits of a presidency-town there shall be a cantonment authority and a Cantonment Magistrate.

6. (1) The expression "cantonment authority" as used in this Act means a cantonment committee or, in the case of a cantonment for which such a committee has not been constituted, the commanding officer of the cantonment

(2) The Local Government shall determine, with respect to every cantonment in which troops are for the time being quartered, whether or not a cantonment committee is to be constituted.

(3) The cantonment authority shall be deemed to be a local authority as defined in the Local Authorities Loan Act, 1879, Act XVIII of 1883 (to amend the Cattle-trespass Act, 1871), the Indian Telegraph Act, 1885, and the General Clauses Act, 1887. XI of 1879.  
I of 1871  
XIII of 1885  
I of 1887.

*The Cantonments Act, 1889.*

(Chapter II—Cantonments and Cantonment Authorities, Courts and Police.—Sections 7-12. Chapter III.—Spirituous Liquors and Intoxicating Drugs.—Sections 13-14.)

X of 1882  
7. The Cantonment Magistrate shall be a  
Cantonment Magistrate. Magistrate appointed by  
the Local Government  
under section 12 of the Code of Criminal Pro-  
cedure, 1832, and, as such, subordinate to the  
District Magistrate, or to the District Magistrate  
and the Sub-divisional Magistrate, as the case  
may be, under section 17 of that Code.

*Cantonment Court of Small Causes.*

IX of 1887.  
8. (1) When the Local Government appoints  
the Cantonment Magis-  
trate to be the Judge of  
a Court of Small Causes  
established within a can-  
tonment under the Provincial Small Cause Courts  
Act, 1887, it shall, in its order appointing him  
to be such Judge, declare, and may by notifica-  
tion in the official Gazette vary, within a limit of  
five hundred rupees, the value of the suits which  
are to be cognizable by him under that Act.

(2) The provisions of section 15, sub-section  
(3), of the said Act shall not apply to a Court of  
Small Causes of which a Cantonment Magis-  
trate is the Judge.

IX of 1887.  
9. When the Local Government appoints  
an Additional Judge of  
a Court of Small Causes  
of which a Cantonment  
Magistrate is the Judge,  
it shall, in its order appointing him to be such  
Additional Judge, declare, and may by notifica-  
tion in the official Gazette vary, within a limit  
of fifty rupees, the value of the suits with re-  
spect to which the functions of the Judge of the  
Court may be assigned to, and discharged by,  
the Additional Judge under section 8 of the  
Provincial Small Cause Courts Act, 1887.

IX of 1887.  
10. Every Cantonment Magistrate presiding  
Judges of existing Can- over a Court of Small  
tonment Courts of Small Causes in a cantonment  
Causes at the commencement of  
this Act, and every Assistant Cantonment Magis-  
trate then having any of the powers of the Judge  
of such Court, shall be deemed to have been  
appointed Judge and Additional Judge, respec-  
tively, under section 6 and section 8 of the  
Provincial Small Cause Courts Act, 1887, and,  
in the absence of any order of the Local Govern-  
ment to the contrary, to have jurisdiction with  
respect to all suits which are cognizable by a  
Court of Small Causes under that Act and of  
which the value does not exceed, in the case of  
a Cantonment Magistrate, five hundred rupees  
and, in the case of an Assistant Cantonment  
Magistrate, fifty rupees.

IX of 1887.  
11. A Cantonment Magistrate as Judge of  
a Court of Small Causes  
may, whatever may be the  
value of the suits cogniz-  
able by him as such  
Judge, dispose of any  
suit which was within the  
pecuniary limits of the jurisdiction of the Judge  
presiding over the Court at the time of the in-  
stitution of the suit, and may entertain and  
dispose of any proceeding after decree in any  
such suit

*Cantonment Police.*

12. (1) The police-force employed in a can-  
tonment beyond the  
limits of a presidency-  
town shall, for the purposes of Act XXIV of  
1859 (for the better regulation of the Police with-  
in the territories subject to the Presidency of Fort  
St. George) or Act V of 1861 (for the regulation  
of Police) or the corresponding law for the time  
being in force in the territories administered by  
the Governor of Bombay in Council, as the case  
may be, be deemed to be part of the general  
police-establishment under the superintendence  
of the Local Government in whose territories the  
cantonment is situated.

(2) The area comprised within the limits of a  
cantonment shall be deemed to be a town for  
the purposes of section 34 of Act V of 1861.

CHAPTER III.

SPIRITUOUS LIQUORS AND INTOXICATING DRUGS.

13. If within a cantonment, or within such  
limits around a canton-  
ment as the Local Gov-  
ernment may, by notifi-  
cation in the official  
Gazette, prescribe in this behalf, any person not  
subject to military law or any person subject to  
military law otherwise than as an officer or  
soldier, knowingly barter, sells or supplies, or  
offers or attempts to barter, sell or supply, any  
spirituous liquor or intoxicating drug to or for  
the use of any European soldier, or to or for the  
use of any European or Eurasian being a follower  
or a soldier's wife, without the written permis-  
sion of the commanding officer of the cantonment  
or of some person authorised by the command-  
ing officer to grant such permission he shall be  
punished with fine which may extend to one  
hundred rupees or with imprisonment for a term  
which may extend to three months, or with both.

14. If within a cantonment, or within such  
limits around a canton-  
ment as the Local Gov-  
ernment may, by notifi-  
cation in the official Gazette, prescribe in this  
behalf,—

- (a) any person subject to military law other-  
wise than as an officer or soldier, or
- (b) the wife or servant of any such person, or  
of a soldier,

has in his or her possession except on behalf of  
the Government or for the private use of an  
officer more than one quart of any spirituous  
liquor other than fermented malt-liquor without  
the written permission of the commanding officer  
of the cantonment or of some person authorised  
by the commanding officer to grant such permis-  
sion, he or she shall be punished in the case of  
a first offence against this section with fine which  
may extend to fifty rupees, and in the case of a

*The Cantonments Act, 1889.*

(Chapter III.—*Spirituous Liquors and Intoxicating Drugs.*—Sections 15-16.  
Chapter IV.—*Taxation and Cantonment Fund.*—Sections 17-21.)

subsequent offence against this section with fine which may extend to one hundred rupees or with imprisonment for a term which may extend to three months.

15. (1) Any police-officer may, without an order from a Magistrate and without a warrant, arrest any person whom he finds committing an offence against either of the two last foregoing sections, and may seize and detain any spirituou liquor or intoxicating drug in respect of which such an offence has been committed, and any vessels or coverings in which the liquor or drug is contained.

(2) Where a person accused of an offence against section 13 has been previously convicted of an offence against that section, an officer in charge of a police-station may, with the written permission of a Magistrate, seize and detain any spirituou liquor or intoxicating drug within the cantonment, or within the limits prescribed under section 13, which at the time of the alleged commission of the subsequent offence belonged to, or was in the possession of, the person.

(3) The Court convicting a person of an offence against section 13 or section 14 may order the confiscation of the whole or any part of anything seized under sub-section (1) or sub-section (2).

(4) Subject to the provisions of Chapter XLIII of the Code of Criminal Procedure, 1882, anything seized under sub-section (1) or sub-section (2) and not confiscated under sub-section (3) shall be restored to the person from whom it was taken.

16. The foregoing provisions of this Chapter shall not apply to the sale or supply of any article for medicinal purposes by a medical practitioner, chemist or druggist.

CHAPTER IV.

TAXATION AND CANTONMENT FUND.

*Taxation.*

17. (1) With the previous sanction of the Governor General in Council, the Local Government may, by notification in the official Gazette,—

(a) impose in any cantonment which is not included in a municipality any tax which under any enactment in force at the date of the Notification, can be imposed in any municipality within the territories administered by such Government, and

(b) abolish or modify any tax so imposed.

(2) When any tax is leviable in a cantonment in pursuance of a notification under sub-section (1), the Local Government, with the like sanction, may, by a like notification, apply or adapt to the cantonment the provisions of any

enactment or rules in force at the date of the notification for the assessment and recovery of any tax in any municipality within the territories administered by such Government.

18. (1) The Local Government may, by notification in the official Gazette, extend the provisions of Act XX of 1856 (to make better provision for the appointment and maintenance of Police Chaukidars in Cities, Towns, Stations, Suburbs and Bazaris in the Presidency of Fort William in Bengal) to any cantonment which is not included in a municipality and which is situated in any part of British India in which that Act is in force, and the Cantonment Magistrate may exercise all the powers of the Magistrate under that Act, subject only to the control of the District Magistrate and the Local Government.

(2) The Local Government may order that a cantonment to which the provisions of Act XX of 1856 have been extended shall be divided into any number of cantonment divisions, and may determine the nature of the tax to be levied in each such division according to section 10 of that Act.

(3) The Local Government may, by notification in the official Gazette, cancel any notification under sub-section (1), and may revoke or vary any order under sub-section (2).

19. While a tax assessed according to the circumstances, and the property to be protected, of the persons liable thereto, or according to the annual value of houses and grounds, is levied under Act XX of 1856 in a cantonment, a tax on persons practising any profession or art or carrying on any trade or calling, or a tax on buildings and lands, as the case may be, shall not be imposed under section 17 of this Act in the cantonment.

20. (1) Notwithstanding anything in any enactment for the time being in force, the Governor General in Council may, by notification in the Gazette of India, prohibit the levy of the whole or any part of any tax imposed in a cantonment, or exempt any person by name or in virtue of his office or any class of persons, or any property or any class of property, from the operation of any such tax, and may, by a like notification, rescind any such prohibition or exemption.

(2) Where the area subject to the authority of a municipal committee as defined in section 2 of the Municipal Taxation Act, 1881, includes the whole or part of a cantonment, nothing in section 4 or section 5 of that Act or in any other like enactment for the time being in force shall apply to so much of that area as is comprised in the cantonment.

*Cantonment Fund.*

21. (1) There shall be formed for every cantonment which is not included in a municipality

*The Cantonments Act, 1889.**(Chapter IV.—Taxation and Cantonment Fund.—Sections 22-24. Chapter V.—Supplemental Provisions.—Sections 25-26.)*

a cantonment fund, and there shall be placed to the credit thereof, among other sums, the following, namely:—

X of 1882.

(a) subject to deductions under section 545 of the Code of Criminal Procedure, 1882, or under any other enactment for the time being in force or under any order of the Local Government, all fines recovered from persons convicted of offences committed within the cantonment against this Act or against any enactment extended or rule made thereunder, or against the provisions of section 34 of Act V of 1861 or the corresponding enactment for the time being in force in the territories administered by the Governor of Fort St. George in Council or by the Governor of Bombay in Council, or against the provisions of Chapter XIII or Chapter XIV of the Indian Penal Code or of section 156 of the Army Act, 1881;

(b) the proceeds of taxes imposed under section 17 or levied under Act XX of 1856 in the cantonment; and

(c) rents and profits accruing from property placed by the Government under the management of the cantonment authority.

(2) Notwithstanding anything in any enactment as to the purposes to which the proceeds of a tax are to be appropriated, the cantonment fund shall be applicable, subject to the rules under this Act, to the maintenance of the police-force employed in the cantonment and to the other purposes of this Act within the cantonment and, with the general or special sanction of the Local Government, to like objects, within or without British India, beyond the limits of the cantonment in cases in which, in the opinion of the Local Government, the application of the fund beyond those limits is for the benefit of the inhabitants of the cantonment or of any military force ordinarily quartered therein or of any detachment of any such force.

22. (1) Where, in or near a cantonment, there is a Government treasury fund, or sub-treasury or a bank to which the Government treasury business has been made over, the cantonment fund shall be kept in the treasury, sub-treasury or bank.

(2) Where there is no such treasury, sub-treasury or bank, the cantonment fund may be deposited with any banker or person acting as a banker who has given such security for the safe custody and repayment on demand of the fund so deposited as the District Magistrate may in each case think sufficient.

23. The cantonment fund shall be vested in Her Majesty, and subject to the provisions of this Act and of the rules thereunder and to the control of the Local Government, the management of the fund shall be entrusted to the cantonment authority.

Vesting and management of cantonment fund.

24. The cantonment fund shall be deemed to be "public revenues" within the meaning of the proviso to section 6 of the Land-acquisition Act, 1870, and any property acquired at the cost of the cantonment fund shall vest in Her Majesty.

Acquisition of immoveable property at cost of cantonment fund.

to be "public revenues" within the meaning of the proviso to section 6

X of 1870.

## CHAPTER V.

## SUPPLEMENTAL PROVISIONS.

25. The Governor General in Council may, by notification in the *Gazette of India*, extend to all cantonments or to any cantonment or to any part of any cantonment any enactment for the time being in force in any municipality in British India, and declare its extension to be subject to such restrictions and modifications, if any, as he thinks fit.

26. The Governor General in Council may make rules consistent with this Act to provide for all or any of the following matters, namely:—

- (1) the manner in which, and the authority to which, application for permission to occupy land belonging to the Government in a cantonment is to be made;
- (2) the conditions to be annexed to every such permission given in pursuance of such an application;
- (3) the preparation and maintenance of registers of immoveable property in cantonments;
- (4) the constitution of cantonment committees, the functions to be discharged by them, the conduct of, and the control to be exercised over, their proceedings, and the division of duties among the members of such committees;
- (5) the functions to be discharged by the commanding officer of a cantonment where a cantonment committee has not been constituted, or has in pursuance of an order of the Local Government ceased to exist, or for any reason cannot be convened;
- (6) the executive duties of the Cantonment Magistrate and his position in relation to the commanding officer of the cantonment;
- (7) the purposes to which the cantonment fund may be applied;
- (8) the authority on which money may be paid from the cantonment fund;
- (9) the investment of any balance of that fund;
- (10) the execution of contracts by, or on behalf of, the cantonment authority;
- (11) the accounts to be kept by the cantonment authority, and the manner in which those accounts are to be audited and published;

Matters respecting which rules may be made.

XLV of 1860.  
44 & 45 Vict.,  
a 58.



The Cantonments Act, 1889.

(Chapter V.—Supplemental Provisions—Sections 27-28.)

- (12) the definition and abatement of nuisances for which sufficient provision has not, in the opinion of the Governor General in Council, been made under section 25 ;
- (13) the requisitions which may be made on persons having the control of sewers, drains, latrines or other things creating, or likely to create, nuisances, and the mode of enforcing such requisitions ;
- (14) the prevention of the overcrowding of buildings and places in a cantonment ;
- (15) the construction and maintenance, to the satisfaction of the cantonment authority, of buildings and of boundary-walls, hedges and other fences ;
- (16) the regulation of the practice of agriculture and irrigation in a cantonment, the keeping of lands therein in proper order, and the felling, lopping and trimming of trees on such lands ;
- (17) the regulation of encamping-grounds, sarais, markets and slaughter-houses, of traffic on roads, and of processions and public assemblies ;
- (18) the use and management of burial and burning grounds ;
- (19) the supervision and the regulation of the use of public wells, tanks, rivers, streams, springs or other sources from which water is or may be made available for public use, and of the lands in the vicinity thereof ;
- (20) the parts of a cantonment in which persons practising any profession or carrying on any trade, calling or occupation may be required to reside for the purpose of practising the profession or carrying on the trade, calling or occupation, and the conditions, if any, to be observed by such persons ;
- (21) the prevention of the spread of infectious or contagious disorder, within a cantonment, and the appointment and regulation of hospitals or other places within or without a cantonment for the reception and treatment of persons suffering from any disease ;
- (22) the segregation in, or the removal and exclusion from, a cantonment, or the destruction, of animals suffering or supposed to be suffering from any infectious or contagious disease ;
- (23) the suppression of mendicancy and of loitering or importuning for the purpose of prostitution, and the removal and exclusion from a cantonment of disorderly persons, of persons who have been convicted of any offence against Chapter XVII of the Indian Penal Code or section 156 of the Army Act, 1881, or have been ordered under the Code of Criminal Procedure, 1882, to execute a bond for their good behaviour, and of persons whom the commanding officer deems it expedient to exclude from the cantonment with or without assigning any reason for excluding them therefrom ;
- (24) the prevention of cruelty to animals and the care of animals while grazing ;
- (25) the prevention and extinction of fires ;
- (26) the registration of births and deaths ;
- (27) the appointment by owners of buildings and lands in cantonments, who are absent from cantonments, of persons residing within or near cantonments to act as their agents for all or any of the purposes of this Act or any enactment extended or rule made thereunder ;
- (28) the powers of inspection, entry and search which may be exercised in carrying out any of those purposes, and the cases in which breaches of enactments extended or rules made under this Act are to be cognizable offences ;
- (29) the mode in which summonses, notices requisitions and other documents are to be served on the persons to whom they are addressed ;
- (30) the cases, authorities and conditions in, to and on which executive orders passed under this Act or any enactment extended or rule made thereunder may be appealed from ; and,
- (31) generally, the carrying out of the purposes of this Act.
27. (1) The power to make rules under the last foregoing section is subject to the condition of the rules being made after previous publication and of their not taking effect until they have been published in the *Gazette of India* and in such other manner as the Governor General in Council prescribes.
- (2) A rule under the last foregoing section may be general for all cantonments in British India or for all cantonments not expressly excepted from its operation, or may be special for the whole or any part of any one or more than one cantonment, as the Governor General in Council directs.
- (3) A copy of the rules for the time being in force in a cantonment shall be kept open to inspection free of charge at all reasonable times in the office of the Cantonment Magistrate.
- (4) In making any rule under clause (1) or any of the following clauses of the last foregoing section, the Governor General in Council may direct that a breach of it shall be punished with fine which may extend to fifty rupees, or with imprisonment for a term which may extend to eight days, and, when the breach is a continuing breach, with fine which, in addition to such fine or imprisonment as aforesaid, may extend to five rupees for every day after the first during which the breach continues.
28. The Local Government may, by notification in the official Gazette, and subject to any conditions as to compensation or otherwise which may see fit to impose, extend to any area beyond a cantonment and in the vicinity thereof—
- (a) any enactment which, with or without restriction or modification, has been extended to the cantonment or any part thereof under section 25 or

XLV of 1860.  
44 & 45 Vict.,  
c 58.  
X of 1882.

Supplemental provisions respecting rules.

Extension of certain enactments and rules to places beyond cantonments.

## The Cantonments Act, 1889.

(Chapter V.—Supplemental Provisions.—Sections 29-33. The Schedule.—Enactments repealed.)

(b) any rule in force in the cantonment or any part thereof under clause (12) or any of the following clauses of section 26, as well as any direction there in force under sub-section (4) of section 27;

and the enactment, rule or direction specified in the notification shall, so long as the notification remains uncanceled, apply to that area as if the area were included in the cantonment.

29. A Judge or Magistrate shall not be deemed within the meaning of section 555 of the Code of Criminal Procedure, 1882, to be a party to, or personally interested in, any prosecution for an offence against this Act, or against any enactment extended or rule made thereunder, because he is a member of the cantonment committee or, where there is no such committee, is the commanding officer of the cantonment, or because he has ordered or approved the prosecution.

30. Where a cantonment is situated within the limits of a presidency-town, the functions assigned to any authority by this Act or any enactment extended or rule made thereunder shall, subject to the provisions of any enactment for the time being in force, be discharged by such authority as the Local Government may appoint in this behalf.

31. A suit or prosecution shall not be entertained in any Court against any cantonment authority, authority appointed under the last foregoing section, Cantonment Magistrate or commanding officer for anything in good faith done or purporting to be done in pursuance of powers conferred by or under this Act on such authority, Magistrate or officer, whether the thing done was or was not authorized by the powers so conferred.

32. (1) Section 54, paragraphs two and three, and sections 59, 107 and 123 of the Transfer of Property Act, 1882, with respect to the transfer of property by registered instrument, shall, on and from the commencement of this Act, extend to every cantonment in British India.

(2) Where a cantonment has not been constituted a sub-district or district for the purposes of the Indian Registration Act, 1877, under section 9 of that Act, the Registrar of the district in which the cantonment is situated shall cause a copy of such entries in Indexes Nos. I and II as relate to immoveable property within the limits of the cantonment to be forwarded to the Cantonment Magistrate annually or at such shorter intervals as the Local Government may prescribe.

33. The Governor General in Council may, by notification in the *Gazette of India*, exclude from the operation of the whole or any part of this Act the whole or any part of any cantonment.

## THE SCHEDULE.

## ENACTMENTS REPEALED.

(See section 2.)

Number and year.	Subject or title.	Extent of repeal.
1	2	3

## Acts of the Governor General in Council.

Act XVIII of 1853	Sale of spirits in cantonments.	The whole, so far as it has not been repealed.
Act IV of 1854.	Sentences of superintendents of bázárs.	The whole, so far as it has not been repealed.
Act XLV of 1860.	Indian Penal Code.	The words "or before a Military Court of Request" in <i>Explanation 1</i> to section 193.
Act V of 1869.	Indian Articles of War.	Part III, clause (c); and for the last twenty-seven words of Part I, clause (f), the following shall be substituted, namely,— "and officers in charge of the Police in cantonments are defined and controlled."
Act VII of 1870.	Court-fees Act, 1870.	Section 19, clause iv, and in Schedule II, article 1, clause (a), the words "or to any Cantonment Magistrate sitting as a Court of Civil Judicature under Act No. III of 1859"
Act XV of 1874.	Laws Local Extent Act, 1874.	So much of the second schedule as relates to Madras Regulation XIV of 1832, so much of the third schedule as relates to sections 18, 19, 20, 45, 46 and 47 of Bombay Regulation XXII of 1827; and so much of the fourth and fifth schedules as relates to Bengal Regulation XX of 1810.
Act XX of 1875.	Central Provinces Laws Act, 1875.	So much as relates to Bengal Regulation XX of 1810.
Act XVIII of 1876.	Oudh Laws Act, 1876.	So much as relates to Bengal Regulation XX of 1810.
Act III of 1877.	Indian Registration Act, 1877.	The second paragraph of section 9, beginning with the word "Whenever" and ending with the word "thereof."
Act XIV of 1879.	Hackney-carriage Act, 1879.	Section 4, from and inclusive of the words "and the Governor General in Council may" down to and inclusive of the words "in which British troops are cantoned"

X of 1882.

Inapplicability of section 555, Act X, 1882, to trials of offences against this Act.

Cantonments in presidency-towns.

Protection of cantonment authority, Magistrate and commanding officer.

IV of 1882.

I of 1877.

*The Cantonments Act, 1889.**(The Schedule.—Enactments repealed.)*

Number and year.	Subject or title.	Extent of repeal.
1	2	3
Act III of 1880.	Cantonments Act, 1880.	So much as has not been repealed.
Act XXII of 1881.	Excise Act, 1881.	The proviso to section 53.
Act X of 1882.	Code of Criminal Procedure, 1882.	Clause (b) of section 1.
Act XIV of 1882.	Code of Civil Procedure.	Section 6, clause (a), the words "an officer or" in section 468, and the whole of section 469.
Act XX of 1886.	Upper Burma Laws Act, 1886.	In the First Part of the Second Schedule the words and figures "III of 1880, Cantonments."
<i>Regulation of the Bengal Code.</i>		
Regulation XX of 1810.	Military bázars.	So much as has not been repealed.
<i>Regulation of the Bombay Code.</i>		
Regulation XXII of 1827.	Military authority.	So much as has not been repealed, except sections 40, 41, 42 and 43.

Number and year.	Subject or title.	Extent of repeal.
1	2	3
<i>Acts of the Governor of Fort St. George in Council.</i>		
Act IV of 1865.	Madras Cantonments.	The whole, so far as it has not been repealed.
Act I of 1866...	Madras Cantonments.	So much as has not been repealed.
<i>Act of the Governor of Bombay in Council.</i>		
Act III of 1867.	Bombay Cantonment Act of 1867.	So much as has not been repealed.
<i>Act of the Lieutenant-Governor of Bengal in Council.</i>		
Act VII of 1878.	Bengal Excise Act, 1878.	The proviso to section 81.
<i>Regulation under the Statute 33 Victoria, Chapter 3.</i>		
III of 1877	Ajmere Laws Regulation, 1877.	Section 39 and so much as relates to Bengal Regulation XX of 1810.

S. HARVEY JAMES,  
Secretary to the Government of India.



# Bombay Government Gazette.

Published by Authority.

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

## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 17th October 1889, and is hereby promulgated for general information :—

#### Act No. XIV of 1889.

##### *An Act to indemnify certain witnesses.*

WHEREAS by an order, dated the sixteenth day of October 1888, a Commission was appointed by the Governor of Bombay in Council under Act XXXVII of 1850 (*for regulating Inquiries into the behaviour of Public Servants*) for the purpose of enquiring into certain imputations of misbehaviour by a public servant ;

And whereas in the course of the proceedings before the said Commission, and of certain enquiries preliminary to or connected with the said proceedings and undertaken by direction of the said Governor in Council, and in the investigation and trial of certain criminal charges against one Hunmuntrao Raghavendra, statements were made and evidence given by public servants and other persons, by reason of which statements

or evidence the said public servants and other persons became or might become liable to suits, prosecutions or penalties under the Statute 49 Geo. III, Chapter 126, or the Indian Penal Code, or otherwise ;

And whereas it is expedient to free the said public servants and other persons from all liability to civil or criminal proceedings in respect of any cause of action or charge arising out of any admission of an offence in any statements made or evidence given as aforesaid ;

It is hereby enacted as follows :—

1. No suit, prosecution or other proceeding shall be commenced or continued against any person in respect of any cause of action or charge arising out of any offence admitted by him in any statement made or evidence given before the said Commission, or in any enquiry undertaken by direction of the said Governor in Council preliminary to or in connection with the proceedings of the said Commission or in the course of the said investigation and trial.

J. M. MACPHERSON,

Offg. Secretary to the Government of India.

*The Cantonments Act, 1889.**(The Schedule.—Enactments repealed.)*

Number and year.	Subject or title.	Extent of repeal.
1	2	3
Act III of 1880.	Cantonments Act, 1880.	So much as has not been repealed.
Act XXII of 1881.	Excise Act, 1881.	The proviso to section 53.
Act X of 1882.	Code of Criminal Procedure, 1882.	Clause (b) of section 1.
Act XIV of 1882.	Code of Civil Procedure.	Section 6, clause (a), the words "an officer or" in section 468, and the whole of section 469.
Act XX of 1886.	Upper Burma Laws Act, 1886.	In the First Part of the Second Schedule the words and figures "III of 1880, Cantonments."
<i>Regulation of the Bengal Code.</i>		
Regulation XX of 1810.	Military barracks.	So much as has not been repealed.
<i>Regulation of the Bombay Code.</i>		
Regulation XXII of 1827.	Military authority.	So much as has not been repealed, except sections 40, 41, 42 and 43.

Number and year.	Subject or title.	Extent of repeal.
1	2	3
<i>Acts of the Governor of Fort St. George in Council.</i>		
Act IV of 1865.	Madras Cantonments.	The whole, so far as it has not been repealed.
Act I of 1866...	Madras Cantonments.	So much as has not been repealed.
<i>Act of the Governor of Bombay in Council.</i>		
Act III of 1867.	Bombay Cantonment Act of 1867.	So much as has not been repealed.
<i>Act of the Lieutenant-Governor of Bengal in Council.</i>		
Act VII of 1878.	Bengal Excise Act, 1878.	The proviso to section 81.
<i>Regulation under the Statute 33 Victoria, Chapter 3.</i>		
III of 1877 ...	Ajmere Laws Regulation, 1877.	Section 39 and so much as relates to Bengal Regulation XX of 1810.

S. HARVEY JAMES,  
Secretary to the Government of India.



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And whereas in the course of the proceedings before the said Commission, and of certain enquiries preliminary to or connected with the said proceedings and undertaken by direction of the said Governor in Council, and in the investigation and trial of certain criminal charges against one Hunmuntrao Raghavendra, statements were made and evidence given by public servants and other persons, by reason of which statements

or evidence the said public servants and other persons became or might become liable to suits, prosecutions or penalties under the Statute 49 Geo. III, Chapter 126, or the Indian Penal Code, or otherwise;

And whereas it is expedient to free the said public servants and other persons from all liability to civil or criminal proceedings in respect of any cause of action or charge arising out of any admission of an offence in any statements made or evidence given as aforesaid;

It is hereby enacted as follows:—

1. No suit, prosecution or other proceeding shall be commenced or continued against any person in respect of any cause of action or charge arising out of any offence admitted by him in any statement made or evidence given before the said Commission, or in any enquiry undertaken by direction of the said Governor in Council preliminary to or in connection with the proceedings of the said Commission or in the course of the said investigation and trial.

J. M. MACPHERSON,

Offg. Secretary to the Government of India.

## LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 17th October 1889, and is hereby promulgated for general information:—

## Act No. XV of 1889.

*An Act to prevent the Disclosure of Official Documents and Information.*

WHEREAS it is expedient to prevent the disclosure of official documents and information; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Title, extent and appli- Official Secrets Act, cation. 1889; and

(2) It extends to the whole of British India, and applies—

(a) to all subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty; and

(b) to all Native Indian subjects of Her Majesty without and beyond British India.

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

(1) any reference to a place belonging to Her Majesty includes a place belonging to any department of the Government, whether the place is or is not actually vested in Her Majesty;

(2) expressions referring to communications include any communication, whether in whole or in part, and whether the document, sketch, plan, model or information itself or the substance or effect thereof only be communicated;

(3) "document" includes part of a document;

(4) "model" includes design, pattern and specimen;

(5) "sketch" includes any photograph or other mode of representation of any place or thing; and

(6) "office under Her Majesty" includes any office or employment in or under any department of the Government.

3. (1) (a) Where a person for the purpose of Disclosure of inform- wrongfully obtaining in- ation. formation—

(i) enters or is in any part of a place belonging to Her Majesty, being a fortress, arsenal, factory, dockyard, camp, ship, office or other like place, in which part he is not entitled to be, or;

(ii) when lawfully or unlawfully in any such place as aforesaid, either obtains any document, sketch, plan, model or knowledge of anything which he is not entitled to obtain, or takes without lawful authority any sketch or plan, or,

(iii) when outside any fortress, arsenal, factory, dockyard or camp belonging to Her Majesty, takes or attempts to take without authority given by or on behalf of Her Majesty any sketch or plan of that fortress, arsenal, factory, dockyard or camp, or

(b) where a person knowingly having possession of, or control over, any such document, sketch, plan, model or knowledge as has been obtained or taken by means of any act which constitutes an offence against this Act at any time wilfully and without lawful authority communicates or attempts to communicate the same to any person to whom the same ought not, in the interest of the State, to be communicated at that time, or

(c) where a person after having been entrusted in confidence by some officer under Her Majesty with any document, sketch, plan, model or information relating to any such place as aforesaid, or to the naval or military affairs of Her Majesty, wilfully and in breach of such confidence communicates the same when, in the interest of the State, it ought not to be communicated,

he shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

(2) Where a person having possession of any document, sketch, plan, model or information relating to any fortress, arsenal, factory, dockyard, camp, ship, office or other like place belonging to Her Majesty, or to the naval or military affairs of Her Majesty, in whatever manner the same has been obtained or taken, at any time wilfully communicates the same to any person to whom he knows the same ought not, in the interest of the State, to be communicated at that time, he shall be liable to the same punishment as if he committed an offence under the foregoing provisions of this section.

(3) Where a person commits any act declared by this section to be an offence, he shall, if he intended to communicate to a foreign State any information, document, sketch, plan, model or knowledge obtained or taken by him, or entrusted to him as aforesaid, or if he communicates the same to any agent of a foreign State, be punished with transportation for life or for any term not less than five years, or with imprisonment for a term which may extend to two years.

4. (1) Where a person, by means of his holding or having held an office under Her Majesty, has lawfully or unlawfully either obtained possession of or control over any document, sketch, plan or model, or acquired any information, and at any time corruptly or contrary to his official

duty communicates or attempts to communicate that document, sketch, plan, model or information to any person to whom the same ought not, in the interest of the State, or otherwise in the public interest, to be communicated at that time, he shall be guilty of a breach of official trust.

(2) A person guilty of a breach of official trust shall—

(a) if the communication was made or attempted to be made to a foreign State, be punished with transportation for life or for any term not less than five years, or with imprisonment for a term which may extend to two years, and

(b) in any other case be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

(3) This section shall apply to a person holding a contract with any department of the Government, or with the holder of any office under Her Majesty as such holder, where such contract involves an obligation of secrecy, and to any person employed by any person or body of persons holding such a contract, who is under a like obligation of secrecy, as if the person holding the contract and the person so employed were respectively holders of an office under Her Majesty.

5. A prosecution for an offence against this Act shall not be instituted except by or with the consent of the Local Government or of the Governor-General in Council.

J. M. MACPHERSON,  
Offg. Secretary to the Government of India.



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## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 13th November 1889, and is hereby promulgated for general information:—

#### Act No. XX of 1889.

*An Act to amend Act XXXVI of 1858.*

WHEREAS it is expedient to extend the authority of the Governor General in Council with respect to the appointment of asylums for the reception and detention of lunatics and with respect to the transfer of any lunatic from any one to any other lunatic asylum in British India; it is hereby enacted as follows:—

1. For section 17A of Act XXXVI of 1858 (an Act relating to Lunatic Asylums), as amended by Act XVIII of 1886 (an Act to amend Act XXXVI of 1858), the following shall be substituted, namely:—

Provision for provinces having insufficient or no asylums. "17A. In either of the following cases, namely:—

- (a) when an Executive Government has not established within its limits a public asylum for the reception and detention of lunatics,
- (b) when it appears to the Governor General in Council that a public asylum estab-

lished within such limits is not conveniently situated with respect to any part of the territories administered by such Government or does not afford sufficient or, in the case of any class of lunatics, suitable accommodation,

the Governor General in Council may from time to time appoint an asylum in any part of British India beyond the limits of such Government to be an asylum to which any Magistrate or Judge exercising jurisdiction within those limits may send lunatics or any class of lunatics as to an asylum established under this Act for the division in which his jurisdiction is situate."

2. After section 17B of the said Act XXXVI of 1858 the following section shall be added, namely:—

"17C. Any lunatic may be removed from any lunatic asylum established or licensed under this Act, by order of an Executive Government, to any other such asylum within the limits of such Government, and, by order of the Governor General in Council, to any other asylum in any part of British India."

3. Section 11 of the said Act XXXVI of 1858 is hereby repealed.

S. HARVEY JAMES,  
Secretary to the Government of India