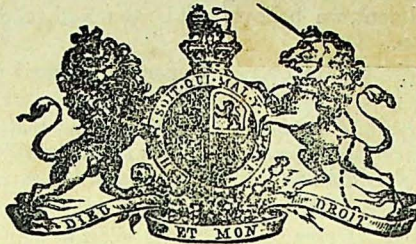


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Separate paging is given to this Part, in order that it may be filed as a separate compilation.

PART VI.

BILLS OF THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to consolidate and amend the law relating to Stamps and Court-fees was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 15th January, 1879.

REPORT.

WE, the undersigned Members of the Select Committee to which the Bill to consolidate and amend the law relating to Stamps and Court-fees was referred, have the honour to report that we have further considered the Bill in connection with the papers noted in the margin.

2. We have, at the instance of some of the Authorities consulted, restored the definitions of "banker," "bottomrybond," "letter of credit," "protest" "protest of the master of a ship" and "respondentia bond," placing the five last in the schedule, where only the terms are found.

3. We have enlarged the definition of "settlement" so as to include under it dispositions of property for charitable and religious purposes.

From Babú Káli Prasad, Vakíl, Judicial Commissioner's Court, Oudh, dated 9th July, 1878, and enclosure.
 ,, Secretary to Government, North Western Provinces and Oudh, No. 241 A. dated 5th July 1878.
 ,, Secretary to Chief Commissioner, Mysore, No. 5245—9 J, dated 10th October, 1878, and enclosure.
 Office memorandum from Financial Department, No. 3661, dated 28th October 1878.
 From Secretary, Puna Sarvajanak Sabha, No. 408, dated 1st November, 1878.
 ,, Chief Secretary to Government, Bombay, No. 5678, dated 6th November, 1878, and enclosure.
 ,, Chief Secretary to Government, Bombay, No. 5796, dated 11th November, 1878, and enclosure.
 ,, Secretary for Birár, to Resident, Haidarábád, No. 109, G.—B., dated 8th November, 1878, and enclosure.
 ,, Chief Secretary to Government, Bombay, No. 5377, dated 21st October, 1878, and enclosure.
 ,, Chief Commissioner, Ajmer and Mahirwára, No. 775, dated 14th November, 1878.
 ,, Officiating Secretary to Government of Bengal, No. 5163, dated 19th November, 1878, and enclosure.
 ,, Secretary to Government, North-Western Provinces and Oudh, No. 405 A, dated 18th November, 1878, and enclosure.
 ,, Honorary Secretary, British Indian Association, dated 23rd November, 1878, and enclosure.
 ,, Babú Opendro Nath Mitter, Pleader, High Court, Calcutta, dated 25th November, 1878.
 ,, Secretary, Calcutta Trades Association, dated 3rd December, 1878.
 ,, Girisá Chandra Set, dated 19th November, 1878.
 ,, Certain Articled Clerks to Vakils, High Court, Calcutta, dated—December, 1878, and enclosure.
 ,, Secretary to Government, Bombay, No. 6259, dated 4th December, 1878.
 ,, Secretary to Government, North-Western Provinces and Oudh, No. 428A, dated 3rd December, 1878, and enclosure.
 ,, Secretary to Chief Commissioner, British Burma, No. 1425—352, dated 30th November, 1878, and enclosure.
 ,, Secretary to Government of Bengal, No. 3056, dated 11th December, 1878.
 ,, Honorary Secretary, Calcutta, Attorney's Association, High Court, dated 12th December, 1878.
 ,, Secretary to Government, Punjab, No. 4082, dated 2nd December, 1878, and enclosure.
 ,, Secretary to Chief Commissioner, Assam, No. 2297, dated 10th December, 1878, and enclosure.
 ,, Secretary to Government, North-Western Provinces and Oudh, No. 441A, dated 13th December, and enclosure.
 ,, Acting Chief Secretary to Government, Fort St. George, No. 2508, dated 12th December, 1878, and enclosure.

4. We have amended section 6 relating to the case of several instruments employed to effect a single transaction, by providing that each of the subordinate instruments shall bear a fixed duty of one rupee. The result of this amendment, we believe, will be to afford relief in all but an insignificant number of the transactions in question.

5. We have, in section 8, given the Governor General in Council power to exempt from stamp-duty retrospectively as well as prospectively.

6. We have added to the list of documents in section 10 for which adhesive stamps may be used, "entry as an advocate, vakil, or attorney on the roll of any High Court" and "Notarial Acts." The former manifestly could be stamped only with an adhesive stamp, [and it was represented to us that the present mode of stamping the latter is inconvenient in practice.

7. We have modified section 11 regarding the cancellation of adhesive stamps so as to meet the cases in which the stamp is affixed before the instrument is executed or (as in the case of the cheques contained in the cheque books issued by some banks to their customers) before the instrument is completely drawn up. We have provided that in such cases the person first executing the instrument shall cancel the stamp.

8. We have confined section 12 to impressed stamps, as it has been represented to us that inconvenience would arise from its being applied to cheques, which are very commonly stamped by affixing an adhesive stamp to the back.

9. We have excepted certain receipts endorsed on instruments from the operation of the rule of section 13, which prohibits a second instrument being written on one piece of stamped paper.

10. We have omitted sections 14 and 15 of the Bill as last settled by us and marked No. II, which provided for the number of impressed stamps to be used for the stamping of any instrument, and have, by an addition to section 9, given power to the Governor General in Council to provide for the matter by rules.

11. To remove a doubt which might otherwise have been felt, we have added a section (14) providing that "Every instrument written in contravention of section 12 or 13 shall be deemed to be unstamped." Any hardship which might otherwise arise from this, we think, will be effectually prevented by the provisions of chapter IV empowering the Collector to remit the penalty in such cases, and by the provision for an allowance of the value of the stamp which we have now inserted in section 52.

12. We have, at the instance of some of the Authorities consulted, extended from two to three months the period within which, under section 17, an instrument executed abroad and brought into British India may be stamped.

13. We have, in section 29, added a clause (d) providing that the cost of the stamp for a counterpart of a lease shall be borne by the lessor, and a clause (e) empowering a Revenue-authority making a partition to direct in what proportion the stamp chargeable in respect of such partition shall be borne by the co-owners.

14. A question having been raised as to whether a public officer would be bound by section 34 of the Bill No. II to institute any inquiry regarding an instrument produced before him with a view to ascertaining whether such instrument was duly stamped, we have made it clear in section 33 of the amended Bill that all that he is bound to do is to examine such an instrument with a view to ascertaining whether it bears a stamp of the proper value and description. If, however, it should happen that the instrument was not duly stamped owing to some circumstance which did not appear on the face of it, as, *e. g.*, if a stamp had been illegally affixed after execution, and this fact should appear incidentally in the course of some proceeding before the officer, it would of course be his duty to impound it and proceed in regard to it in the manner prescribed by the Act.

15. We have in section 35 provided that any person receiving a document in evidence under section 34 on payment of duty shall send the amount of such duty and of the penalty levied with it to the Collector.

16. Exception having been taken to the proviso to section 40 of Bill No. II, we have recast it (see section 39 of the amended Bill) and it now runs as follows:—

"Provided that no instrument which has been admitted in evidence upon payment of duty and a penalty under section 34 shall be so delivered before the expiration of one month from the date of such impounding, or if the Collector has certified that its further detention is necessary and has not cancelled such certificate."

17. We have added a provision in section 49 requiring references made by a Revenue Court under that section to be made through the Court immediately superior to it.

18. We have rendered Revenue Court subject to the power of revision conferred by section 50.

19. We have omitted the latter portion of clause (a) of section 53 of the Bill No. II (now section 51) and clause (c) of the first proviso to the same section, as unnecessary in this country.

20. We have made the period of six months within which, under the second proviso to the same section, certain applications for allowances for spoiled stamps must be made, to run from the date on which the stamp is spoiled, instead of from the date of purchase.

21. We have transferred the power of making rules regarding the sale of stamps from the Governor General in Council to the Local Government.

22. We have inserted a section (59) like section 17 of the present Stamp Act, saving the provisions of the law relating to Court-fees.

23. We have raised the penalty in section 66 from five hundred to one thousand rupees, and restored in section 67 the penalty for post-dating bills and notes imposed by section 13 of Act X of 1862.

24. It having been represented to us that the permission accorded to private persons by section 66 of the Bill No. II to sell stamps purchased in good faith for their own private use and no longer required would facilitate a practice which prevails in some parts of the country of keeping stocks of old stamps, for sale to persons desiring to forge instruments of old date, we have in section 68 of the amended Bill withdrawn that permission and have substituted for it (in section 54) a provision borrowed from the English Act of 1870 requiring the Collector to purchase back stamps held by private persons and no longer required by them.

25. The provision of the Bill No. II relating to the jurisdiction to try offences against the stamp law having been objected to on the ground that it seemed to deprive the Court of Session of power to try such offences, we have now simply provided (in section 70) that no Magistrate whose powers are less than those of a Magistrate of the second class shall try such offences. Subject to this, the ordinary provisions of the law defining the jurisdiction of the Criminal Courts will apply.

26. Proceeding next to the schedules, it will be observed that we have, with reference to the opinions expressed by many of the Authorities consulted, and to the dissents appended to our preliminary report, recast (in article 1 of the first schedule as now settled) the 46th article of the same schedule in the Bill No. II. That article now stands as follows:—

“1. Acknowledgment of a debt exceeding twenty rupees in amount or value written or signed by or on behalf of a debtor in order to supply evidence of such debt in any book (other than a banker's pass-book, or on a separate piece of paper when such book or paper is left in the creditor's possession.”

27. We have on considering the representations made by certain articulated clerks who have already paid a fee of Rs. 500 under the present stamp-law on being bound, and who urge that article 27 of the first schedule would operate unfairly in their case, introduced an exemption in their favour in article 11 of the second schedule.

28. We have re-drawn the article of the first schedule relating to certified copies and extracts. It now runs as follows:—

<p>“22. Copy or extract, certified to be a true copy or extract, by or by order of any public officer and not charge- able under the Court fees Act, 1870.</p>	<p>{ (a). If the original was not chargeable with stamp-duty, or if the duty with which it was charge- able does not exceed one rupee Eight annas. (b). In any other case One rupee.”</p>
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This involves a slight advance on the duties imposed by Bill No. II, but still gives a considerable reduction as compared with the present law.

29. We have relieved the brokers' and agents' notes referred to in article 46 of the first schedule (as now settled) from all duty in cases where the goods or securities comprised therein do not exceed twenty rupees in value.

30. We have, in article 50 of the first schedule, made the duty chargeable on a power-of-attorney depend on the number of persons appointed by it to act. It seems to us only reasonable that the powers so commonly executed in Bengal in favour of a large number of persons should bear a higher duty than an ordinary power in favour of two or three persons or the members of a single firm.

31. We have again, at the request of the Bengal Government, considered the proposal made by the Board of Revenue to tax a blank transfer of shares each time it passes from hand to hand; but we see no reason for altering our opinion regarding it. Indeed, it is not easy to see how the Board's proposal could be given effect to, inasmuch as there is but one transaction (contract or conveyance) in writing on which to impose a duty, namely, that between the first seller and the last purchaser. The intermediate steps, we understand, are effected simply by oral communication, and we are not prepared to recommend the enactment of a law altering the course of business in this respect.

32. We have in Schedule II, No. 15 (g), included among the instruments exempted from duty receipts given by headmen and lambar্দárs for land-revenue and taxes collected by them.

33. We have afforded some additional relief in the exemption-schedule besides that just referred to, and have made several amendments in the drafting of the Bill which it seems unnecessary to notice in detail.

34. The Bill has been published in English in the *Gazette of India* and in all the local Gazettes except those of Assam and Ajmer, in which there are practical difficulties about publishing a Bill of this size. We recommend that it be passed with the amendments we have now made.

F. R. COCKERELL.
WHITLEY STOKES.
B. W. COLVIN.
JOTINDRA MOHAN TAGORE.
T. H. THORNTON.
G. H. P. EVANS.
E. C. MORGAN.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 15th January, 1879, and was referred to a Select Committee.

Bill No. 1 of 1879.

A Bill to amend the law relating to Coast-lights in the eastern part of the Bay of Bengal.

WHEREAS it is expedient to increase the Coast-light dues paid under the provisions of Act No. XIII of 1867 (*An Act to provide for the establishment and maintenance of Coast-lights in the eastern part of the Bay of Bengal*) and to render chargeable with such dues certain vessels which are not now so chargeable; It is hereby enacted as follows:—

Preliminary.

1. This Act may be called the "Burma Coast-lights Act, 1879;"

It extends to the territories respectively administered by the Governors of Fort St. George and Bombay in Council, the Lieutenant-Governor of Bengal and the Chief Commissioners of British Burma and the Andamans.

But nothing herein contained shall 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.

2. Act No. XIII of 1867 (*An Act to provide for the establishment and maintenance of Coast-lights in the eastern part of the Bay of Bengal*) and section 77 of the Indian Ports Act, 1875, are hereby repealed.

But any appointment made under the said Act No. XIII of 1867 shall be deemed to have been made under this Act.

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

"Customs-Collector" means a Customs-Collector appointed under the Sea Customs Act, 1878, and includes any person appointed by the Local Government by name or in virtue of his office to discharge the functions of a Customs-Collector under this Act at any port:

"Vessel" includes anything made for the conveyance by water of human beings or of property:

"Master," when used in relation to any vessel, means any person (except a Pilot or Harbour Master) having for the time being the charge or control of such vessel:

"Voyage" means the whole distance between a vessel's place of departure and her final place of arrival; but the return of a vessel from any place shall, notwithstanding the terms of any charter party, be deemed a distinct voyage.

Coast-light Dues.

4. A toll, hereinafter called "Coast-light dues" shall be paid in respect of every vessel of the burden of fifty tons and upwards making any voyage mentioned in the schedule hereto annexed, at the rate of one anna six pie per ton of burden:

Provided that such vessel sails from or enters during the course of, or at the termination of, any such voyage a port in British India.

When dues payable. 5. The said toll shall become due and payable—

(a) in the case of a vessel clearing out of a port in British India upon any such voyage, previous to the grant of any port clearance;

(b) in the case of a vessel entering a port in British India in the course, or at the termination, of any such voyage, immediately upon her entering such port:

Provided that the said toll shall not be levied more than once on any vessel in the course of the same voyage.

6. The Governor General in Council may from time to time, by notification in the *Gazette of India*, reduce or raise the rate of Coast-light dues, in respect of all vessels or any particular class of vessels:

Provided that such rate shall not in any case exceed the rate fixed by section four.

7. The Customs-Collector shall collect the Coast-light-dues;

and shall grant to the person paying the same a proper voucher in writing under his hand, setting forth the name of his office, the port at which the Coast-light dues are paid, and the name, tonnage and other proper description of the vessel in respect of which such payment is made.

8. Within twenty-four hours after the arrival within a port of any vessel chargeable with Coast-light dues, the master of such vessel shall give notice of such arrival to the Customs-Collector.

9. In order to ascertain the tonnage of any vessel chargeable with Coast-light dues, the following rules shall be observed:—

(a.)—If such vessel be a British registered vessel, or a vessel registered under Act No. X. of 1841, or Act No. XI of 1850, or under any other law for the time being in force for the registration of vessels in India, the Customs-Collector may require the owner or Master of such vessel, or any person having possession of her register, to produce such register for inspection. If any such owner, Master or other person neglects or refuses to produce such register, or otherwise to satisfy the Customs-Collector as to what is the true tonnage of the vessel in respect of which such Coast-light dues are payable, he

shall be punished with fine which may extend to one hundred rupees, and the Customs-Collector may cause such vessel to be measured and the tonnage thereof to be ascertained; and in such case the owner or Master of such vessel shall also be liable to pay the expenses of such measurement.

(b)—If such vessel be not a British registered vessel, or a vessel registered under Act No. X of 1841, or Act No. XI of 1850, or under any other law for the time being in force for the registration of vessels in India, and the owner or Master thereof fails to satisfy the Customs-Collector as to what is her true tonnage according to the mode of measurement prescribed by the law in force for the time being for regulating the measurement of British registered vessels, the Customs-Collector shall cause such vessel to be measured and the tonnage thereof, according to the mode aforesaid, to be ascertained; and in such case the owner or Master of such vessel shall be liable to pay the expenses of such measurement.

Explanation.—In this section "owner" includes any agent to whom the vessel referred to is consigned.

10. If the Master of any vessel refuses or neglects to pay to the Customs-Collector on demand by him the amount of any dues or expenses payable in respect of such vessel under this Act, the Customs-Collector may distrain or arrest such vessel, and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount of such dues or expenses is paid;

and in case any part of such dues or expenses, or of the cost of the distress or arrest, or of the keeping of the same, remains unpaid for the space of five days next after any such distress or arrest so made, the Customs-Collector may cause the vessel or other thing so distrained or arrested to be sold, and with the proceeds of such sale may satisfy such dues, expenses and costs, including the costs of sale remaining unpaid, and shall render the surplus (if any) to the Master of such vessel upon demand.

11. The officer of Government whose duty it is to grant a port-clearance for any vessel shall not grant such port-clearance until her Master, or some other person, has paid, or secured to the satisfaction of such officer, the amount of all dues, expenses and costs with which such vessel is chargeable under this Act, and of any fine to which any person is liable for anything done by him in contravention of this Act.

12. The Master of any vessel departing from or entering any port in British India upon, or in the course of, or at the termination of, any voyage, shall, upon the demand of the Customs-Collector, specify upon what voyage he is or has been bound.

13. If the Master of any vessel evades, or attempts to evade, the payment of any Coast-light dues, expenses or costs payable in respect of such vessel under this Act, he shall be punished with fine which may extend to two hundred rupees.

Determination of Disputes under Act.

14. If any dispute arises as to whether any vessel is chargeable with any Coast-light dues, expenses or costs under this Act, or as to the amount of such dues, expenses or costs, such dispute shall, upon application made in that behalf by either of the disputing parties, be heard and determined by any Magistrate exercising powers under the Code of Criminal Procedure not less than those of a Magistrate of the second class, or in the towns of Calcutta, Madras and Bombay by a Presidency Magistrate; and the decision of such Magistrate shall be final.

Maulmain and Bassein Port-dues.

15. The port-due leviable under the Indian Ports Act, 1875, in either of the ports of Maulmain and Bassein, shall, to the extent of one anna six pie, be applicable in the first place to defray the expenses of maintaining the existing port-lights of British Burma.

Saving of Prosecutions under other Laws.

16. Nothing herein contained shall prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act: provided that no person shall be punished twice for the same act or omission.

SCHEDULE.

(See section 4.)

1. A voyage to or from Chittagong or any place west of the longitude of Chittagong—

(a) from or to any port in British Burma; or
(b) from or to Port Blair, or any place east of the longitude of Mergui, by a route passing between the northern extremity of the Andaman Islands and the coast of British Burma.

2. A voyage to or from any port in British Burma—

Except voyages to or from Maulmain from or to Tavoy or Mergui, or to or from Tavoy from or to Mergui.

3. A voyage to or from Rangoon and any port in British Burma west of the longitude of Rangoon.—

from or to any place east of Mergui.

4. A voyage to or from any port in British Burma other than Tavoy and Mergui.

from or to Port Blair.

STATEMENT OF OBJECTS AND REASONS.

THE present coast-light dues of one anna per ton levied under section 3 of Act XIII of 1867 (*An Act to provide for the establishment and maintenance of coast lights in the eastern part of the Bay of Bengal*) have been found insufficient to pay a fair rate of interest on the capital expended on the lights which at present exist on the coast of British Burma and provide for their maintenance. Moreover, the recent total destruction of the Krishna Shoal Light-house will immediately entail a large expenditure. It has therefore been determined to raise the present coast-light dues from one anna per ton to one anna six pie and to subject to the dues vessels making certain voyages not mentioned in the Act but in the course of which they benefit by the lights. These voyages are—

- (a) voyages from ports in British Burma to Chittagong and places west of Chittagong ;

- (b) voyages from Chittagong to ports in British Burma ;
- (c) voyages by certain routes to or from Chittagong and places west of Chittagong (except Calcutta) from or to Port Blair and places east of Mergui ;
- (d) voyages from places east of Mergui to Rangoon and from Itangoon and ports in British Burma west of Rangoon to places east of Mergui ;
- (e) voyages to or from any port in British Burma other than Tavoy and Mergui from or to Port Blair.

2. The Bill repeals Act XIII of 1867 (which has already been amended) and re-enacts it in a simpler form, with the requisite alterations, in respect of the coast-light dues and with some changes in wording and arrangements.

WHITLEY STOKES,

The 14th January, 1879.