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## PART VI.

### BILLS OF THE GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 12th October 1888:—

Bill No. 17 of 1888.

#### THE CANTONMENTS BILL.

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*A Bill to consolidate and amend the law relating to Cantonments.*

WHEREAS it is expedient to consolidate and 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; 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 (1) On and from that day the enactments specified in the first schedule are repealed to the extent mentioned in the third column thereof.

(2) Any enactment or document referring to any enactment repealed by this Act, or to any enactment repealed by any enactment repealed by this Act, shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.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) "officer" means—

(a) 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

(b) 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 :

(2) "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 : [I. L. R. 3 All. 214.]

(3) "spirituous liquor" means any fermented liquor, 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 may, by notification in the official Gazette, declare to be a spirituous liquor for the purposes of this Act : [New: Mad. H. C. R. Ap. 15: I. L. R. 15 Cal. 452.]

(4) "intoxicating drug" means opium, ganja, bhāng, charas and every preparation and admixture thereof, and includes any other intoxicating substance or liquid which the local Government may, by notification in the official Gazette, declare to be an intoxicating drug for the purposes of this Act; and

(5) "owner" includes the person who is receiving the rent of any building, whether on his own account or as an agent or trustee, or who would so receive the rent if the building were let to a tenant. [New.]

CHAPTER II.

CANTONMENT MAGISTRATE, COURT OF SMALL CAUSES AND POLICE.

*Cantonment Magistrate.*

4. (1) Every cantonment beyond the limits of a presidency-town shall, for the purposes of the Code of Criminal Procedure, 1882, be deemed to be a subdivision of the district in which it is situated, and there shall be placed in charge thereof, a Subdivisional Magistrate, a Magistrate of the first or second class who shall be called the Cantonment Magistrate. [Act III, 1880, s. 3: Mad. Act I, 1866, s. 3 and 4: and Bom. Act III, 1867, ss. 4 and 5.] X of 1892.

(2) Every Cantonment Magistrate holding office in a cantonment at the commencement of this Act shall be deemed to have been appointed under section 12 of the Code of Criminal Procedure, 1882, and to have been placed in charge of the cantonment under section 13 of that Code.

*Cantonment Court of Small Causes.*

5. (1) The Local Government shall appoint the Cantonment Magistrate as Judge of any Court of Small Causes which may be established within a cantonment under the Provincial Small Cause Courts Act, 1887. [Act III, 1880, s. 5 and Mad. Act I, 1866, s. 7.] IX of 1887.



*The Cantonments Bill.**(Chapter II.—Cantonment Magistrate, Court of Small Causes and Police.—Sections 6-8.)**(Chapter III.—Spiritous Liquors and Intoxicating Drugs.—Sections 9-11.)*

(2) The Local Government shall, in its order appointing the Cantonment Magistrate to be the Judge of such a Court, declare, and may by notification 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 the Provincial Small Cause Courts Act, 1887.

(3) The provisions of section 15, sub-section (3), of that Act shall not apply to a Court of Small Causes of which a Cantonment Magistrate is the Judge.

[Act III, 1880, s. 7; and Mad. Act I, 1866, s. 3.]

6. Every Cantonment Magistrate presiding over a Court of Small Causes in a cantonment at the commencement of this Act shall be deemed to have been appointed under section 6 of the Provincial Small Cause Courts Act, 1887, and in the absence of any order of the Local Government 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 five hundred rupees.

IX of 1887.

Continuance of jurisdiction of Cantonment Court of Small Causes in certain cases notwithstanding reduction of jurisdiction of Judge.

[New.]

7. Notwithstanding any reduction of the value of the suits which are to be cognizable by a Cantonment Magistrate as Judge of a Court of Small Causes, the Cantonment Magistrate may, as such Judge, dispose of any suit which was within the pecuniary limits of the jurisdiction of the Judge presiding in the Court at the time of the institution of the suit, and may entertain and dispose of any proceeding after decree in any such suit.

*Cantonment Police.*

[Act III, 1880, ss. 9 and 10; Mad. Act I, 1866, ss. 12 and 13; and Bom. Act III, 1867, s. 7.]

8. (1) The police-force employed in a cantonment beyond the limits of a presidency-town shall, for the purposes of Act XXIV of 1859 (for the better regulation of the Police within the territories subject to the Presidency of Fort St. George), Act V of 1861 (for the Regulation of Police) or the Bombay District Police Act, 1867, 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.

Bom. Act VII of 1867.

(2) Section 48 of Act XXIV of 1859, section 34 of Act V of 1861 and section 31 of the Bombay District Police Act, 1867, may be extended by the Local Government to any cantonment within the territories to which those enactments respectively apply.

## CHAPTER III.

## SPIRITOUS LIQUORS AND INTOXICATING DRUGS.

Act III, 1880, s. 14; Mad. Act I, 1866, s. 30; Bom. Act III, 1867, s. 21; and Act XVIII, 1853, s. 1.]

9. If within a cantonment, or within such limits around a cantonment as the Local Government may by notification 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 permission of the commanding officer of the cantonment or of some person authorised by the commanding 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 whipping.

10. If within a cantonment, or within such limits around a cantonment as the Local Government may, by notification in the official Gazette, prescribe in this behalf, any person subject to military law otherwise than as an officer or soldier, or the wife 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 permission, 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 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.

[Act III, 1880, s. 16; Mad. Act I, 1866, s. 32; Bom. Act III, 1867, s. 23; and Act XVIII, 1853, ss. 3 and 4.]

11. (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 spirituous 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.

[Act III, 1880, s. 17; Mad. Act I, 1866, s. 33; Bom. Act III, 1867, s. 24; and Act XVIII, 1853, s. 5.]

(2) Where a person accused of an offence against section 9 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 spirituous liquor or intoxicating drug within the cantonment or within the limits prescribed under section 9, which at the time of the alleged commission of the subsequent offence belonged to or was in the possession of the person.

[Act III, 1880, s. 15; Mad. Act I, 1866, s. 31; Bom. Act III, 1867, s. 22; and Act XVIII, 1853, s. 2.]

(3) The Court convicting a person of an offence against section 9 or section 10 may order the confiscation of the whole or any part of anything seized under sub-section (1) or sub-section (2).

[Act III, 1880, s. 18; Mad. Act I, 1866, s. 34; Bom. Act II, 1867, s. 25; and Act XVIII, 1853, s. 9.]

(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

[Act III, 1880, s. 19; Mad. Act I, 1866, s. 35; Bom. Act III,



The Cantonments Bill.

(Chapter III.—Spiritous Liquors and Intoxicating Drugs.—Section 12.)

(Chapter IV.—Taxation, Cantonment Fund and Cantonment Authority.—Sections 13-18.)

1867, s. 26 :  
and Act  
XVIII, 1853,  
s. 10.]  
[Act III,  
1880, s. 20 :  
Mad. Act I,  
1866, s. 36 :  
Bom. Act III,  
1867, s. 27 :  
and Act  
XVIII,  
1863, s. 14.]

tion (3) shall be restored to the person from whom it was taken.

12. The foregoing provisions of this Chapter shall not apply to the sale or supply of any article for medicinal purposes by medical practitioners, chemists or druggists.

CHAPTER IV.

TAXATION, CANTONMENT FUND AND CANTONMENT AUTHORITY.

Taxation.

[Act III,  
1880, s. 21.]

13. (1) With the previous sanction of the Governor General in Council, the Local Government, by notification

in the official Gazette, may impose in a cantonment any tax which is specified in any enactment in force at the date of the notification as a tax imposable in any municipality within the territories administered by such Government, and may abolish any tax so imposed.

C R. No.  
6478 of 1881.]

(2) When any tax is leviable in a cantonment in pursuance of a notification under subsection (1), the Local Government may, with the like sanction and 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.

[Act III,  
1880, s. 22.]

14. (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 Bazaras in the Presidency of Fort William in Bengal) to any cantonment 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.

[Act III,  
1880, s. 13.]

15. 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 in a cantonment under Act XX of 1856, 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 in the cantonment under section 13 of this Act.

Registration of power of taxation in cantonments in which Act XX of 1856 is in force.

[Act III,  
1880, s. 24.]

16. (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.

[C. R. No.  
3145 of 1880  
and U. O.  
Reg. No. 25 of  
1884.]

(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 and Cantonment Authority.

[New.]

[Act III,  
1880, s. 21.]

17. (1) There shall be formed for each cantonment a cantonment fund, and there shall be placed to the credit thereof, among other sums, the following, namely:—

[New: U. O.  
Reg. No. 34 92  
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 any order of the Local Government, all fines recovered in cases in which prosecutions in respect of offences committed within the cantonment are instituted under this Act or any rule thereunder or any enactment applied by any such rule or under section 48 of Act XXIV of 1859, section 34 of Act V of 1861 or section 31 of the Bombay District Police Act, 1867, or under Chapter XIII or Chapter XIV of the Indian Penal Code or section 156 of the Army Act, 1881, or under the Cattle-Trespass Act, 1871; and

X of 1882.

Bom. Act VII  
of 1867.  
XLV of 1860.  
44 & 45 Vict.  
c. 58.  
I of 1871.

(b) the proceeds of taxes levied in the cantonment under section 13 or section 14.

(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 purposes, 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 cantoned therein or of any detachment of any such force.

[Act III,  
1880, s. 23 :  
U. O. Nos.  
3776 and  
3785 of 1882 :  
B. Pros., May,  
1882, Nos.  
78 to 80 :  
and C. R. No.  
9955 of 1882.

[New.]

18. (1) Where, in or near a cantonment, there is a Government treasury or sub-treasury or a bank to which the Government

Custody of cantonment fund.

[Act XV,  
1883, s. 48.]



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(Chapter IV.—Taxation, Cantonment Fund and Cantonment Authority.—Sections 19-21.

Chapter V.—Immoveable Property in Cantonments.—Sections 22 and 23.)

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.

[New.]

19. 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.

20. (1) The expression "cantonment authority" as used in this Act or in any enactment in force at the commencement of 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 cantoned, whether or not a cantonment committee is to be constituted as the cantonment authority.

[New: U. O. Reg. No. 3505 of 1882.]

XI of 1879.

XIII of 1885.

I of 1887.

X of 1870.

21. The cantonment authority shall be deemed to be a local authority as defined in the local Authorities Loan Act, 1879, the Indian Telegraph Act, 1885, and the General Clauses Act, 1887, and the cantonment fund 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.

CHAPTER V.

IMMOVEABLE PROPERTY IN CANTONMENTS.

[New: cf. Army Regulations.]

22. Subject to the other provisions of this Chapter and to the rules under this Act, the following provisions shall apply to land included within the limits of a cantonment, namely:—

- (a) the land shall be presumed, until the contrary is proved, to have been granted by the Government, and to have been and to be held, subject to the conditions, rules, regulations and orders which, at the time when the grant was made, were applicable to the cantonment; and
- (b) the several conditions, rules, regulations and orders set forth in Section XVII (Cantonments) of the second volume (Discipline) of the Army Regulations, India, which were published by the Government of India in the Military Department in the year 1887, and of which extracts are reprinted in the

second schedule to this Act, shall, until the contrary is proved, be presumed to be the conditions, rules, regulations and orders which were applicable to the cantonment at the time when the land was granted and subject to which the land has been and is held.

23. (1) If the commanding officer of a cantonment certifies in writing, with the previous sanction of the general officer commanding the district where he is not himself such general officer, that an officer doing military duty within the cantonment ought to reside within the limits thereof, and either that a house suitable, in the opinion of the commanding officer, for the residence of the officer is vacant within those limits or that, such a house not being vacant within those limits, there is within those limits a house occupied by a person not subject to military law which, in the opinion of the commanding officer, is suitable for the residence of the officer and, with reference to the place where the duty of the officer lies, is more conveniently situated than any other house suitable for his residence and so occupied, the Cantonment Magistrate shall, on the presentation of the certificate of the commanding officer and on the written application of the officer, serve—

[New: cf. Army Regulations.]

(a) where the house specified in the certificate is vacant, on the owner of the house, or

(b) where the house specified in the certificate is occupied by a person not subject to military law, on that person and on the owner of the house,

a notice requiring the house to be placed at the disposal of the officer within seven days from the date of the service of the notice where the house is vacant, or within thirty days from that date where the house is occupied.

(2) The officer shall, in his application to the Cantonment Magistrate under the last foregoing sub-section, state the amount of the monthly rent which, with the approval of the cantonment authority, he offers to pay for the house and the Cantonment Magistrate shall cause that amount to be stated in the notice served on the owner of the house under that sub-section.

(3) At any time within fifteen days from the date of the service of the notice under sub-section (1), the owner of the house may apply to the commanding officer of the cantonment to convene a committee of arbitration to determine the amount of the monthly rent to be paid, and the commanding officer shall thereupon convene such a committee, consisting of—

- (a) the District Magistrate or a Magistrate of the first class appointed by him in this behalf;
- (b) a person to be nominated by the officer for whose occupation the house is required, and
- (c) a person to be nominated by the owner of the house or, in default of his nominating



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*(Chapter V.—Immoveable Property in Cantonments.—Sections 23 (4)—25.)*

a person within one week from the date of his being called upon to make a nomination, a person to be nominated by the commanding officer of the cantonment.

(4) The District Magistrate or the Magistrate appointed by him to act in his stead shall be president of the committee.

(5) The decision of the committee shall be determined by the majority of the votes of the members present at a meeting of which notice of the time and place therefor has been served on each of the members of the committee, and the president shall have a second or casting vote in the event of there being an equality of votes with respect to the monthly rent to be paid.

(6) If the owner is aggrieved by the decision of the committee, he may appeal from it, within one month from the date thereof, to the Local Government, and the decision of the Local Government on the appeal shall be conclusive.

(7) If within the time limited by sub-section (3) the owner does not apply to the commanding officer of the cantonment to convene a committee of arbitration under that sub-section, he shall be deemed to have accepted the monthly rent referred to in sub-section (2).

(8) Where the house was vacant, the officer for whose occupation it is required shall be entitled to obtain possession thereof, to the exclusion of any other person, on the expiration of seven days from the date of the service of the notice on the owner under sub-section (1), but, if he so obtains possession of the house and a committee of arbitration is convened under sub-section (3), he shall, for the term for which he may occupy the house, be bound by the decision of the committee or, if that decision is appealed from, by the decision of the Local Government on the appeal.

(9) Where the house was occupied, the officer for whose occupation it is required shall be entitled to obtain possession thereof, to the exclusion of any other person,—

(a) on the expiration of thirty days from the date of the service of the notice on the owner under sub-section (1) if a committee of arbitration has not been applied for under sub-section (3) or, having been so applied for, has announced its decision on or before the expiration of that period, or

(b) on the announcement of the decision of the committee if a committee of arbitration has been applied for under sub-section (3) and has not announced its decision on or before the expiration of thirty days from the date of the service of the notice on the owner under sub-section (1).

(10) Where the officer obtains possession on the announcement of the decision of the committee and an appeal is preferred to the Local Government, he shall, for the term for which he may occupy the house, be bound by the decision of the Local Government on the appeal.

(11) When the officer is entitled to obtain possession of the house, the Cantonment Mag-

istrate shall, on the written application of the officer, enforce the surrender of the house to him.

(12) The owner of a house shall not be liable to pay compensation to any person for anything done in compliance with a notice served on him under sub-section (1).

(13) A house shall not be specified in a certificate under sub-section (1) if it is occupied as a bank, or is appropriated by the Government to the use of a public officer, or is owned by or is under the control of a railway administration, or is occupied as a hotel or shop and has been so occupied continuously during the three years immediately preceding the time when the occasion for making the certificate arises.

(14) For the purposes of this section the word "house" includes the land and buildings appurtenant to the house, and, if a question arises whether any land or building is appurtenant to the house, it shall be decided by the Cantonment Magistrate, and, subject to revision by the Local Government, his decision shall be conclusive.

24. (1) Subject to the terms of any agreement between the owner of a house and an officer occupying it, and to the provisions of this section, a lease of a house in a cantonment to an officer shall be deemed to be a lease from month to month terminable without notice in the case of the transfer of the officer from the cantonment in the course of his service, or by fifteen days' notice to the owner in any other case.

(2) A notice under sub-section (1) must be in writing signed by or on behalf of the officer, and the Cantonment Magistrate shall, if the officer so desires, cause it to be served on the owner free of charge.

(3) An officer shall be liable for the whole of the monthly rent of a house in a cantonment for any month, beginning with the first day of the month and ending with the last day thereof, during which he occupies the house for fifteen days or any longer period, and for half the monthly rent for any such month during which he occupies the house for a shorter period than fifteen days.

(4) Sub-sections (8) and (10) of the last foregoing section, with respect to the liability of officers for rent, shall be read subject\* to the foregoing provisions of this section.

25. (1) If an officer, being a tenant of a house in a cantonment, is unable to induce the owner of the house to execute any repairs which such officer considers necessary, he may apply to the commanding officer of the cantonment to convene a committee of arbitration to decide whether any and, if so, what repairs are necessary, and the commanding officer may, after such inquiry as he thinks fit, convene such a committee, consisting of—

(a) a person to be nominated by the officer occupying the house;

(b) a person to be nominated by the owner of the house or, in default of his nominat-

Repairs of houses occupied by officers in cantonments.

[New: cf. Army Regulations.]

[New: cf. Army Regulations.]

[New: cf. Army Regulations.]



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*(Chapter V.—Immoveable Property in Cantonments.—Sections 25—26.)*

ing a person within one week from the date of his being called upon to make a nomination, a person to be nominated by the commanding officer of the cantonment; and

- (c) a third person to be appointed by the persons nominated under clauses (a) and (b) of this sub-section or, in default of those persons appointing a person within one week from the date of their being called upon to make the appointment, a third person appointed by the commanding officer of the cantonment.

(2) The person appointed under clause (c) of the last foregoing sub-section shall be president of the committee.

(3) The decision of the committee shall be determined by the majority of the votes of the members present at a meeting of which notice of the time and place therefor has been served on each of the members of the committee, and the president shall have a second or casting vote in the event of there being an equality of votes with respect to the repairs, if any, which may be necessary.

(4) The decision of the committee shall be conclusive, and within twelve months from the date thereof the commanding officer of the cantonment shall not, without the sanction of the officer immediately superior to him, convene another committee of arbitration for the purpose of considering whether the house requires repairs.

(5) If the committee decides that repairs are necessary, it shall define their extent, and, if the owner of the house fails to commence them immediately and carry them out in such manner and with such expedition as, in the opinion of the Cantonment Magistrate, is reasonable, the tenant may cause them to be executed at rates not exceeding those paid in the cantonment by the Government, and may deduct the cost thereof from any rent due from him, then or afterwards, in respect of the house.

(6) If from any cause the tenant cannot recover, in manner mentioned in the last foregoing sub-section, the cost incurred by him in the execution of any repairs under that sub-section, he may institute a suit against the owner of the house for the cost or any balance thereof remaining unrecovered.

26. (1) Where a building is so dilapidated as, in the opinion of the cantonment authority, to

be unfit for the purpose for which it was constructed or has been used, that authority may, with the previous sanction of the Local Government, cause a notice to be served on the owner of the building, calling upon him either to make it fit for one or other of those purposes within a time to be specified in the notice, or to comply with whichever of the following requisitions the cantonment authority, with such sanction as aforesaid, may see fit to make, namely:—

- (a) where the land on which the building is situated was granted by the Govern-

ment, to remove the materials of the building and of any building appurtenant thereto and surrender such land granted by the Government as is occupied by or appurtenant to any such building;

- (b) whether the land was or was not granted by the Government, to remove the materials of the building.

(2) If the owner is aggrieved by the notice, he may apply to the commanding officer of the cantonment to convene a committee of arbitration to decide whether the building is unfit for the purpose for which it was constructed or has been used, and the commanding officer shall thereupon convene such a committee, consisting of—

- (a) a person to be nominated by the cantonment authority;

- (b) a person to be nominated by the owner or, in default of his nominating a person within one week from the date of his being called upon to make a nomination, a person to be nominated by the commanding officer of the cantonment; and

- (c) a third person to be appointed by the persons nominated under clauses (a) and (b) of this sub-section or, in default of those persons appointing a person within one week from the date of their being called upon to make the appointment, a third person appointed by the commanding officer of the cantonment.

(3) The person appointed under clause (c) of the last foregoing sub-section shall be president of the committee.

(4) The decision of the committee shall be determined by the majority of the votes of the members present at a meeting of which notice of the time and place therefor has been served on each of the members of the committee, and the president shall have a second or casting vote in the event of there being an equality of votes with respect to the condition of the building.

(5) If the committee decides that the building is unfit for the purpose for which it was constructed or has been used, the cantonment authority shall cause to be served on the owner a further notice appointing a time, not earlier than that fixed in the notice served under sub-section (1), by which, in default of the building being made fit for one or other of those purposes to the satisfaction of the cantonment authority, the materials and the land, if any, mentioned in the notice served under that sub-section are to be respectively removed and surrendered.

(6) In either of the following cases, namely:—

- (a) if the owner does not apply to the commanding officer of the cantonment to convene a committee of arbitration under sub-section (2) and does not comply, to the satisfaction of the cantonment authority, with the notice served under sub-section (1),

- (b) if the owner applies for such a committee and the committee decides that the



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(Chapter V.—Immoveable Property in Cantonments.—Sections 27-28.)

Chapter VI.—Rules and Supplemental Provisions.—Section 29.)

building is unfit for the purpose for which it was constructed or has been used, and the owner does not comply, to the satisfaction of the cantonment authority, with the further notice served under sub-section (5),

the Cantonment Magistrate shall, on the application of the commanding officer of the cantonment, cause the materials to be sold by public auction and, where the owner was required to surrender any land, enforce the surrender thereof to the Government.

(7) After deducting the expenses of the sale of the materials, the Cantonment Magistrate shall notify, by notice posted in his office, the balance of the sale-proceeds payable to the late owner.

(8) If a question arises whether any building or land is appurtenant to a building within the meaning of this section, it shall be decided by the Cantonment Magistrate, and, subject to revision by the Local Government, his decision shall be conclusive.

27. A person to be nominated or appointed a

Qualification of nominated and appointed members of arbitration committees.

member of a committee of arbitration under the foregoing sections of this chapter must be a person whose services are immediately available for the purposes of the committee, and the nomination or appointment of a person whose services are not so available shall be deemed within the intendment of those sections to constitute a failure to make a nomination or appointment, as the case may be.

28. (1) For section 9 of the Indian Registration

Registration.

“Notwithstanding anything in the foregoing sections, every cantonment shall be a sub-district, and the Cantonment Magistrate the Sub-Registrar thereof.”

(2) Section 54, paragraphs two and three, and sections 59, 107 and 123, of the Transfer of Property Act, 1882, shall, on and from the commencement of this Act, extend to every cantonment in British India.

CHAPTER VI.

RULES AND SUPPLEMENTAL PROVISIONS.

29. The Governor General in Council may

Matters respecting which rules may be made. 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 in a cantonment is to be made;

(2) the conditions which, whether expressed or not, are to be held to be annexed to every such permission given in pursuance of such an application;

(3) the manner in which any such condition, or any condition annexed to a grant made of land in a cantonment before the commencement of this Act, is to be enforced, and the powers which the Cantonment Magistrate may, on the application of the cantonment authority, exercise for the purpose of enforcing the condition;

(4) the settlement of disputes with respect to the boundaries of land in a cantonment and the exclusion of the jurisdiction of Civil Courts with respect to such disputes;

(5) the constitution and procedure of committees of arbitration, their authority to require the production of documents and attendance of witnesses, and the relations of the Cantonment Magistrate and the commanding officer of a cantonment to such committees;

(6) 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;

(7) 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;

(8) the duties of the Cantonment Magistrate or of any Special Magistrate having jurisdiction in a cantonment, and his position in relation to the commanding officer of the cantonment;

(9) the purposes to which the cantonment fund may, after defraying the cost of the police-force employed in the cantonment, be applied;

(10) the authority on which money may be paid from the cantonment fund;

(11) the investment of any balance of that fund;

(12) the execution of contracts by, or on behalf of, the cantonment authority;

(13) the accounts to be kept by the cantonment authority, and the manner in which those accounts are to be audited and published;

(14) the application, to a cantonment which is not included in a municipality, of any enactment for the time being in force in any municipality in British India, subject to such restrictions and modifications, if any, as the circumstances of the cantonment may appear to the Governor General in Council to require;

[Act III, 1887, s. 9 and Mad. Act I, 1886, s. II.]  
III of 1887.

IV of 1882.

[Act III, 1880, ss. 25 & 27; Mad. Act I, 1866, ss. 17 & 19; and Bom. Act III, 1867, ss. 9 & 11.]  
[U. O. Reg. No. 593 of 1884.]



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*(Chapter VI.—Rules and Supplemental Provisions.—Sections 30, 31.)*

- (15) the definition and abatement of nuisances for which sufficient provision has not, in the opinion of the Governor General in Council, been made under the last foregoing clause;
- (16) the requisitions which may be made on persons having the control of sewers, drains or other things creating, or likely to create, nuisances, and the mode of enforcing such requisitions;
- (17) the prevention of the overcrowding of buildings and places in a cantonment;
- (18) the construction and maintenance, to the satisfaction of the cantonment authority, of buildings and of boundary walls, hedges and other fences;
- (19) the regulation of the practice of agriculture and irrigation in a cantonment, the keeping in proper order of lands appurtenant to buildings, and the felling, lopping and trimming of trees on such lands;
- (20) the regulation of encamping-grounds, pounds, sarais, markets and slaughter-houses, and of traffic on roads;
- (21) the use and management of burial and burning grounds;
- (22) 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;
- (23) the parts of a cantonment in which persons practising any profession or carrying on any trade or calling may be required to reside for the purpose of practising the profession or carrying on the trade or calling, and the conditions, if any, to be observed by such persons;
- (24) the removal and exclusion from a cantonment of persons suffering or suspected to be suffering from any infectious or contagious disorder, and the appointment and regulation of hospitals or other places within or without the cantonment for the reception and treatment of persons suffering from any disease;
- (25) the removal and exclusion from a cantonment, or the destruction, of animals suffering or suspected to be suffering from any infectious or contagious disease;
- (26) 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;
- (27) the prevention of cruelty to animals;
- (28) the prevention and extinction of fires;
- (29) the registration of births and deaths;
- (30) the appointment by house-owners who are absent from cantonments of persons residing within cantonments to act as their agents for all or any of the purposes of this Act or any rule thereunder or any enactment applied by any such rule;
- (31) the powers of inspection, entry and search which may be exercised in carrying out any of the purposes referred to in the last foregoing clause, and the cases in which breaches of rules under this section are to be cognizable offences;
- (32) the mode in which summonses, notices, requisitions and other documents are to be served on the persons to whom they are addressed;
- (33) the cases, authorities and conditions in, to and on which orders passed under this Act or any rule thereunder or any enactment applied by any such rule may be appealed from; and
- (34) generally, the carrying out of the purposes of this Act.
30. (1) The power to make rules under the last foregoing section is [New: Act I, 1887, s. 6.] 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. [Act III, 1880, s. 25; Mad. Act I, 1866, s. 17; and Bom. Act III, 1867, s. 9.]
- (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 and of every Special Magistrate for the time being having jurisdiction in the cantonment. [Act III, 1880, s. 26; Mad. Act I, 1866, s. 18; and Bom. Act III, 1867, s. 10.]
- (4) In making any rule under clause (14) 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. [Pros. Leg. Dept., Nos. 92 to 95, July 1871.]
31. The Local Government may, by notification in the official Gazette, extend to any area beyond the cantonment and in the vicinity thereof all or any of
- Extension of certain rules to places beyond cantonments.
- [Act III, 1880, ss. 31 and 32; Mad. Act I, 1886, ss. 26 and 27; and Bom. Act III, 1867, ss. 17 and 18.]

[U. O. Reg. No. 3926 of 1882.]

[10 & 11 Vict., c. 89, s. 23.]

XLV of 1860. 44 & 45 Vict., c. 58. X of 1882.



## The Cantonments Bill.

## (Chapter VI.—Rules and Supplemental Provisions.—Sections 32-35.)

the rules in force in the cantonment under clause (14) or any of the following clauses of section 29, and all or any of the directions in force therein under sub-section (4) of the last foregoing section, and the rules and directions specified in the notification shall, so long as the notification remains uncancelled, apply to that area as if the area were included in the cantonment.

[Act III, 1880, s. 28; Mad. Act I, 1866, s. 20; and Bom. Act III, 1867, s. 12.]  
X of 1882.

32. Subject to the provisions of Chapter XXXII of the Code of Criminal Procedure, 1882, the judgment of a Magistrate trying a breach of a rule under section 29 or of any enactment applied by a rule under that section shall be final.

[Act XIII, 1884, s. 157.]  
X of 1882.

33. 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 any rule thereunder or any enactment applied by any such rule 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.

ew.]

34. Where a cantonment is situated within the limits of a presidency-town, the functions assigned to any authority by this Act or any rule thereunder or any enactment applied by any such rule 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.

New.]

35. 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 FIRST SCHEDULE.

## ENACTMENTS REPEALED.

(See section 2.)

Number and year.	Subject or title.	Extent of repeal.
<i>Acts of the Governor General in Council.</i>		
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.

Number and year.	Subject or title.	Extent of repeal.
Act V of 1869.	Indian Articles of War.	Part III, clause (c), and for the last twenty-five 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 a 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 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."



*The Cantonments Bill.**(The First Schedule.—Enactments repealed.)**(The Second Schedule.—Extracts from Section XVII (Cantonments), Volume II (Discipline), Army Regulations, India.)*

Number and year.	Subject or title.	Extent of repeal.
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.

*Regulation of the Bengal Code.*

Regulation XX of 1810.	Military barracks.	So much as has not been repealed.
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*Regulation of the Bombay Code.*

Regulation XXII of 1827.	Military authority.	So much as has not been repealed, except sections 40, 41, 42 and 43.
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*Acts of the Governor of Fort St. George in Council.*

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.

*Act of the Governor of Bombay in Council.*

Act III of 1867.	Bombay Cantonment Act of 1867.	So much as has not been repealed.
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*Act of the Lieutenant-Governor of Bengal in Council.*

Act VII of 1878.	Bengal Excise Act, 1878.	The proviso to section 81.
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*Regulation under the Statute 33 Victoria, Chapter 3.*

[Reg. No. 317 III of 1877 of 1878.]	Ajmere Regulation, 1877.	Section 39 and so much as relates to Bengal Regulation XX of 1810.
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## THE SECOND SCHEDULE.

EXTRACTS FROM SECTION XVII (CANTONMENTS), VOLUME II (DISCIPLINE), ARMY REGULATIONS, INDIA.

*(See section 22.)*

## DISCIPLINE.

## SECTION XVII.—CANTONMENTS.

I.—General Rules. | II.—Grant of Land.

\* \* \* \* \*

## I.—General Rules.

(BENGAL AND BOMBAY.)

1919. The rules and regulations laid down by Government for the administration of military cantonments are to be strictly enforced in the cantonment to which they are applicable. A copy of all such rules and regulations in English and in the vernacular language chiefly in use is to be hung up in some conspicuous part of the office of the Cantonment Magistrate, or in such place as the Local Government or the Commanding Officer may direct.

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1921. The limits of all military cantonments are to be defined by pillars of masonry, erected at each angle of the boundary line, and which are to be replaced whenever they have been destroyed or are not forthcoming.

1922. The boundaries of sadr, station and regimental bázárs, and of any villages within the limits of cantonments, are also to be defined by pillars of masonry; and all houses, walls or enclosures improperly built beyond the authorized boundaries are to be thrown down and the ruins and fences removed at the expense of the proprietor or persons by whom they were erected.

1923. No deviation from the fixed limits of a cantonment is permitted without the sanction of Government, to be applied for through the Quartermaster General's department; no alteration of the limits of lines, bázárs or compounds can be made without the authority of the Commander-in-Chief.

1924. In Bengal, when from any cause any portion of land which has been taken up for military purposes is found to be no longer required for such, a report to that effect is to be made by the Commanding Officer to the Quartermaster General in order that it may be made over to the civil authorities.

\* \* \* \* \*

1927. Officers commanding stations have authority to direct that houses or compounds in cantonments, the expense being borne by the owner or by the cantonment fund, and not by Government, save for



*The Cantonments Bill.*

*(The Second Schedule—Extracts from Section XVII (Cantonments), Volume II (Discipline), Army Regulations, India.)*

buildings actually used for public purposes or the property of Government. Residents may

Residents to affix their names. also be directed to affix their names and designations on their houses, compound walls or gateways.

1928. Residents in military cantonments are prohibited from making excavations on any ground within the boundaries, except those made by permission to furnish materials for building, which are to be filled up again, when no longer required, at the expense of the individual concerned.

\* \* \* \* \*

1935 All matters connected with cantonment lands and boundaries will be conducted, under the orders of the Commanding Officer, by the officer of the Quartermaster General's department at the station, or, in his absence, by the Cantonment Magistrate or the Staff Officer of the station, assisted, if necessary, by the Executive Engineer. Questions requiring the decision of higher authority are to be referred to head-quarters through the Quartermaster General (paragraph 2505, section XXII).

*Rent or Sale of Private Buildings.*

1936. A military cantonment is, as its designation implies, a locality set apart primarily for military and medical officers, chaplains, soldiers, subordinates attached to the troops, and the officers and subordinates of all departments connected with the housing and supplies of the troops, for whom houses situated within such limits are by priority of right available. Regimental officers are required ordinarily to live near the barracks or lines of their respective corps.

1937. Civil and political officers of Government and officials belonging to the Public Works Department and railways are permitted to reside within the limits of military cantonments whenever the public interest may require that they should so reside, or whenever special grounds may exist for granting the indulgence, such as the want of other available shelter, or the necessity of ensuring their personal safety; but these exceptions are not ordinarily to interfere with the priority of right possessed by military officers or others on duty at the station to the houses within its boundaries.

1938. In the event of a house in cantonments occupied by a non-military resident being required for an officer, a formal notice should be served on the occupant requiring him to vacate by a certain date and warning him that, in the event of his declining or failing to comply, legal proceedings will be taken to enforce compliance. Should the notice

(which should be personally served if possible) fail of effect, intimation of the same should be forwarded to the Local Government in order that the necessary steps may be taken in the matter. Commanding Officers should not, however, have recourse to this measure except under

Ejection not to be resorted to excepting under most unavoidable circumstances.

the most unavoidable circumstances, when houses are legally claimable and absolutely necessary for the accommodation of officers whose services are actually required in the station, and for whom shelter is not available within a fairly reasonable distance of their duty. In the case of officials mentioned in paragraph 1937, applications for their removal are to be made to the Commander-in-Chief through the Quartermaster General for submission to Government.

1939. The owner of any house in a military cantonment not occupied by a person belonging to the army on duty at the station, or by a person directed or authorised by

Committees of arbitration to be assembled when disputes arise regarding rent or sale of houses.

Government to reside therein (paragraph 1937), may be required to rent the same to any military officer belonging to the station who may require it to reside in if the Officer Commanding the station is satisfied that there is no other suitable house available with due regard to the rank of the claimant and to the duties he may have to perform. In every such case, however, if the owner may have formerly intimated to the officer who has so obtained the house his desire to sell rather than to let it and the offer has not been accepted, the officer may at any time be required to vacate it within a week of his receiving notice through the Staff Officer of the station that the house has, with the consent of the Commanding Officer of the station, been sold to another military officer on duty at the station who requires it for his own residence. The rent to be paid in such cases, or the price to be paid for the house when the claimant accedes to the owner's desire that he shall purchase it, is to be fixed, in the event of the parties disagreeing as to the amount, by a committee of arbitration to be assembled by order of the Officer Commanding the division or district, after he has fully satisfied himself as to the necessity for the same, and that the application for the committee is not opposed to the orders of Government (paragraph 1947).

1940. In all cases of dispute, the owner should be called upon, previous to the assembly of the committee of arbitration, to elect whether he will rent or sell his house; should he elect to rent the house, the committee cannot compel him to sell it.

1941. Houses situated within the limits of military cantonments that may be declared to be for hire can only, according

Houses to be let by the mouth only.



*The Cantonments Bill.**(The Second Schedule—Extracts from Section XVII (Cantonments), Volume II (Discipline), Army Regulations, India.)*

to these Regulations and customs, be let by the month.

1942. A tenant who has once taken possession of a house, or who is occupying it, cannot appeal for any reduction of rent which he may have agreed to pay, nor can a committee be assembled to arbitrate on this point.

1943. Committees of arbitration are to be composed of a civil officer (the principal one, if practicable, at or in the vicinity of the station), the Commanding Officer of the cantonment, and any other individual (who need not belong to either the civil and military services) whom the proprietor of the house may please to nominate. When the Commanding Officer of the station is an interested party, the next senior officer is to be nominated one of the committee in his stead.

1944. When a house is transferred from one officer to another on the occasion of a relief and a difference arises as to terms, the price or rent is to be fixed by a committee constituted as above, with an additional member to be nominated by the intending occupant or purchaser.

1945. In the case referred to in paragraph 1939 the decision of the committee of arbitration is to be conclusive, unless it be reversed by Government, for whose orders the proceedings are to be submitted through the regular channel whenever the proprietor of the premises is dissatisfied with the award; but in the case referred to in paragraph 1944 there is no appeal from the decision of the committee, which is to be final.

1946. Due notice must in every instance be given to proprietors of premises, or to their agents, by the Commanding Officer of the cantonment, of the intention to hold a committee thereon; and, in the event of the owner or agent neglecting to nominate a member of such committee after having received the notice,—which, if the owner or agent be a non-resident in the cantonment or its vicinity, is to be taken to mean an official notification dated one month prior to the day on which the committee is to assemble,—the Commanding Officer will, under the orders of the Officer Commanding the division or district, nominate a member of the committee to represent such proprietor, and the committee will thereupon proceed to arbitration.

1947. When an officer to whom a house in cantonments has been specially allotted under these Regulations may choose on going away on leave or on temporary duty, to give it up, he has no right to claim the

special allotment of a house on his return, under the provisions of paragraph 1939, should a suitable one not be at the time available for rent. In the event of any special circumstances rendering a departure from this rule necessary, the case should be referred to the Quartermaster General for the decision of the Commander-in-Chief.

1948. In the event of the tenant of a house considering that the house requires repairs and of his being unable to induce the owner to execute them, he should call on his landlord to join with him in appointing a committee of arbitration to decide the question. If the cantonment rules are in force, the committee will be composed of one civilian, the Officer Commanding the station and two officers or European residents, to be appointed, one by the landlord and the other by the occupant; otherwise the landlord should be called on to name an arbitrator to act with one to be named by the occupant, who are together to appoint a third in case of difference. In either case, the landlord should be informed that, unless within a named time he either executes the necessary repairs or joins in the reference, the occupant will have the repairs done on the landlord's account and risk at the Public Works Departmental rates, and that the costs will be set off against the rent.

1949. In stations where there are no cantonment committees, Commanding Officers are to obtain the sanction of the Commander-in-Chief previous to convening committees of arbitration for the valuation of ruined buildings which, for sanitary or other purposes, it may be considered advisable to demolish and remove.

1950. In cases where buildings in cantonments are required for public purposes, the officer of the Public Works Department in executive charge will, under the authority of the Officer Commanding the division or district, settle for the valuation and purchase of the same according to the rules of the Public Works Department, and recourse is only to be had to committees of arbitration in the event of any disagreement, and on the application of the Executive Engineer or of the proprietor of the premises.

1951. Whenever it may be necessary to rent buildings for public purposes, the officer of the Public Works Department on the spot is in all cases to arrange for the hiring of such buildings and to obtain sanction for the arrangements in communication with, and assisted by, the local military authorities; and Officers Commanding stations are to bear in mind that they are bound to direct the officer of the Public Works Department to make all necessary provision for accommodating the troops in any emergency,



*The Cantonments Bill.**(The Second Schedule—Extracts from Section XVII (Cantonments), Volume II  
(Discipline), Army Regulations, India.)*

whenever this is possible, rather than to act themselves, and thus accept a grave pecuniary responsibility in the event of their action being disapproved of. When, however, the local military authorities have been obliged to act themselves, owing to the absence of the Executive Engineer from the station, it is the duty of such officer on his return to suggest to them any modification of the arrangements which his knowledge and experience might suggest as better for the soldier or more for the interest of Government, and also to submit the arrangements for sanction as if originally made by himself.

1952. Officers Commanding stations are required, in cases of disputes to be reported. Disputes relative to houses or lands in cantonments, before taking action thereon, to submit the same with their opinion for the consideration and approval of the General Officer in local command, who will transmit them to the Quartermaster General if he is unable to decide them himself.

1953. On no account is any church, chapel, Mosques, &c., not to be occupied. Mosque, temple, tomb or other building devoted to religious use to be occupied as a dwelling-house or for any other purpose without the full and free consent of the persons interested in it and the sanction of the principal civil or political authority on the spot.

*(BOMBAY.)*

1954. The limits of cantonments or bázárs shall be marked by the local Magistrate or Political Agent and Commanding Officer in conjunction; in marking out the limits of new cantonments private property is not to be included therein.

1955. When the local Magistrate and Commanding Officer shall, in conjunction, have marked the limits, a report and plan thereof are to be signed by both these officers and submitted through the Quartermaster General for the approval of Government and for publication. When approved in General Orders, the limits are then to be marked by pillars or in some other equally permanent manner.

1956. A plan of every cantonment so marked and signed will be kept in the Quartermaster General's office, where it will be duly registered, and a copy thereof, with a register of enclosures, will be furnished by the Divisional or District Assistant Quartermaster General to each Brigadier or Station Commanding Officer, who is to report to divisional headquarters all changes in boundaries or occupations as they occur. All such changes are to be reported by the Divisional Assistant to the Quartermaster General, to enable him to correct the registers and standard plans in his office.

1957. Whenever an alteration may be required in any part of the limits of a cantonment

which have been regularly marked out and published, the Magistrate and Commanding Officer are to draw up and sign a report and plan of the entire limits, as proposed after alteration, and a new description will then be published in General Orders, which will be considered to supersede and cancel the previous plans and register.

1958. When an extension of cantonment limits or the acquisition of ground for other military purposes is proposed the General Officer commanding the division concerned will prepare (in communication with the civil authorities) a sketch plan exhibiting the ground asked for, together with a description of the same. This plan and description, accompanied by a detail of the reasons for which the acquisition of the land is urged, and a statement of the probable cost of obtaining possession, will be submitted for the information of His Excellency the Commander-in-Chief, who, should the object to be attained by the proposed acquisition warrant the proceeding, will forward the same for the sanction of Government.

1959. The preservation of cleanliness is of the first importance, and to this end the encroachment of huts or shops, temporary or otherwise, beyond the space already marked out for that purpose, or extending enclosures or courtyards, without the sanction of Government, is to be particularly prevented; any person erecting such buildings without this necessary sanction will be liable to have them demolished and to be required to remove the materials at his own cost.

1960. All persons residing within military cantonments are required to keep all drains and water-channels in and about their premises free from obstruction; to remove all causes of malaria; to keep their hedges, inner and outer, cut to the height of four feet from the level of the road, and not more than two feet in breadth, and branches of trees lopped off to the height of six feet from the ground.

1961. Civil officers residing or having their offices in a military cantonment shall conform to the general cantonment rules in regard to cleanliness, order and safety from fire in houses and grounds as laid down for all other residents.

1962. Unoccupied houses and grounds in cantonments must be kept in a proper state of order and repair by the owners. Whenever, after due warning, such houses or grounds are left unrepared to such extent as to be prejudicial to health or to the appearance of the cantonment, application will be made to Government to direct the former to be sold and cleared away and the latter resumed: the proceeds of sale, after paying for the expenses of clearing, to be paid to the owner.



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*(The Second Schedule—Extracts from Section XVII (Cantonments), Volume II  
(Discipline), Army Regulations, India.)*

1963. No thatched or grass or mat out-houses are to be built in the officers' lines in cantonments.
- Out-houses.
1964. The regimental and departmental lines, and all unoccupied ground in military cantonments, are to be guarded from the intrusion of persons unconnected with the corps or departments for whom the lines are intended.
- Regimental and departmental lines.
1965. A registry is to be made and kept of the inhabitants of every sadr and regimental bazar above referred to, as a means of preventing unauthorised intrusion, and also with a view to facilitate statistical inquiries (*vide* Division VI).
- Registry of inhabitants.
1966. Trees standing in the compounds of houses within cantonment limits are not private property. When for sanitary or other reasons it is desirable to lop or cut down any such trees, the timber is to be considered the property of the house-owner. Owners or occupants are prohibited from cutting down or lopping any trees within the compounds without the consent of the cantonment committee.
- Preservation of trees.
1967. The use of private lands for military purposes should be obtained through the Quartermaster General.
- Private lands for military purposes.
1968. On the 1st of January of each year, periodical reports, in duplicate, on Bombay Form No. 211, are to be submitted, showing for each cantonment whether any buildings, houses, &c., have been newly erected during the period, whether any have been pulled down, and what property has changed hands. These documents should be signed by the Officer Commanding the cantonment and the Cantonment Magistrate or Staff Officer in charge of the register, who will be held responsible that the details are full and complete in every particular.
- Periodical reports of changes.
- (MADRAS.)
1969. Cantonments occupied by troops of the Madras Presidency are under rules as follows:—
- |  |   |
|--|---|
| Secunderabad ...                         | } Under rules laid down in Bengal Act III of 1880, formerly Bengal Act XXII of 1861.              |
| Kamptee ...                              |   |
| Raipur ...                               |   |
| Cuttack ...                              |   |
| Rangoon ...                              |   |
| Tonghoo ...                              |   |
| Thyetnyo ...                             | } Under rules laid down in Bombay Act III of 1867, held to be rules under Bengal Act III of 1880. |
| Moulmein ...                             |   |
| Belgaum—                                 | } Under rules laid down in Madras Act I of 1866.  |
| St. Thos.' Mount ...                     |   |
| Poonamallee ...                          |   |
| Wellington ...                           |   |
| Palaveram ...                            |   |
| Cananore ...                             | } Chapters V and VI only of the above applicable.   |
| Bellary ...                              |   |
| Trichinopoly—                            | } Chapter VI only of the above applicable.  |
| Chapter VI only of the above applicable. |   |

The above Acts have not been made applicable to the cantonments not entered.

1970. The rules contained in these Acts have reference particularly to subjects connected with public health, safety, decency, &c. In addition, the following military rules are laid down for guidance.

Additional military regulations.

1971. A military cantonment is, as its designation implies, a locality the military limits of which have been defined under the authority of Government, and which is set apart primarily for military and medical officers, chaplains, soldiers, European and East Indian subordinates and their families; for whom houses situated within such limits are by priority of right available. This rule, however, is not to interfere with gentlemen of the covenanted civil service, as regards the houses usually occupied by them in military cantonments.

Definition of a military cantonment.

1972. Regimental officers are required to live as near their lines or barracks as is practicable.

Officers' residences.

A certain number of houses for each regiment will, therefore, be set apart in each cantonment by local Commanding Officers, and every opportunity should be taken advantage of to adjust the present inconvenient distribution of officers in cantonments so as to bring all stations under the above arrangement in course of time. Staff officers may be allowed to live in any part of a cantonment.

1973. Other claims for house accommodation noted in the margin\* for gentlemen and others will be considered and adjusted by the Officer Commanding the station, with due respect to their rank and position, and with regard to the availability of houses in the cantonment for their use. But these gentlemen cannot retain any house that may be absolutely required for an officer of the military force at the station.

Accommodation for others.

\*Officers, Public Works and other Departments.

European and East Indian subordinates, &c., in the Civil or Public Works Department.

Missionaries and other residents.

1974. Houses within the limits of a cantonment, built on ground the property of Government, whether held on lease or not, are liable to be occupied as above, under the control of the Officer Commanding the station. Houses built on land not the property of Government, or held on freehold tenure or occupied as shops, are exempt from this liability.

Tenure of houses.

1975. In the case of necessity arising, requiring the removal of a non-military tenant to make way for an officer, not less than one month's notice in writing must be given to the owner as well as the tenant of the house that the house in question is required. No summary ejection is ever to be permitted, and the greatest consideration should be shown to the occupant whose removal on public grounds

Removal of non-military tenants.



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is rendered necessary. The Officer Commanding the cantonment may, however, extend the period of such notice when circumstances will admit of it, and other quarters should be provided for the person if removed as above, whenever practicable.

1976. The limits of every military cantonment

Plans of cantonments. are to be clearly defined, boundary stones or pillars being erected where there are no well-marked natural boundaries. A plan of each cantonment, on a scale sufficiently large to show every building in it, is to be kept in the office of the Quartermaster General and that of the Divisional Quartermaster General or Station Staff Officer.

1977. The boundaries of *sadr*, station and boundaries of *bázárs* to be defined. regional *bázárs*, and of any villages within the limits of cantonments, are also to be defined by pillars of masonry; and all buildings erected beyond the proper boundaries or assigned limits are to be thrown down, and the ruins removed at the expense of the proprietor.

1978. No deviation from the fixed limits of a cantonment, or from those of the lines, *bázárs* or enclosures surrounding Government buildings is permitted without the sanction of Government, to be applied for through the Quartermaster General's department.

1979. When from any cause any portion of Disposal of useless cantonment is found to be no longer required for military purposes, a report to that effect is to be made by the Commanding Officer to the Quartermaster General, in order that it may be made over to the civil authorities.

1980. A register of houses occupied and vacant, showing the rent of each, is to be kept in the station staff office, alterations being made in it from time to time, and no house is to be taken by any non-military officer unless with the concurrence of the Officer Commanding the station, whose duty it will be to see that such occupancy of the house will not interfere with public convenience.

1981. In order that the number of dwelling-houses in a cantonment available for civil and military officers, and officers of public departments, missionaries and others, may not be unduly diminished, no house, built on Government land or land leased from Government, or assigned to Government, for its own use, hitherto occupied as above, shall be converted into a shop, or otherwise rendered unsuitable as a residence, except under the sanction of the Officer Commanding the station; but any houses occupied as shops will not be liable to be registered as dwelling-houses, unless the owners wish it, or His Excellency the Commander-in-chief may consider it absolutely necessary.

1982. At stations such as Secunderabad, where the ground is foreign territory but assigned by the *Nizám's* Government to Her Majesty's Government for military purposes, the above rules, as regards the rental of houses and allotment of officers in the cantonment, are to have equal effect. Bangalore is specially exempted from the operation of these rules. *Kamptee* and *Cuttack* are under the Bengal Cantonment Rules.

1983. In ordinary cases the decision of the Station Commanding Officer should be considered final, but appeals may be heard and decided by the Officer Commanding the division or district, and, if necessary, they may be submitted for the orders of the Commander-in-chief, those submitted by gentlemen of the civil service being forwarded with the observations of His Excellency for final disposal by Government.

1986. Officers Commanding stations have authority to direct that houses to be numbered. numbers shall be affixed to houses or compounds in cantonments; the expense being borne by the owner or by the cantonment fund, and not by Government, save for buildings actually used for public purposes or the property of Government. Residents may also be directed to affix their names and designations on their houses, compound walls or gateways.

1987. Residents in military cantonments are prohibited from making excavations on any ground within the boundaries except those made by permission to furnish materials for buildings, which are to be filled up again when no longer required at the expense of the individuals concerned.

1993. All matters connected with cantonment lands and boundaries Officers to perform duties connected with cantonments. will be conducted, under the orders of the Commanding Officer, by the officer of the Quartermaster General's department at the station, or, in his absence, by the Cantonment Magistrate or the Staff Officer of the station, assisted, if necessary, by the Executive Engineer. Questions requiring the decision of higher authority are to be referred to head-quarters through the Quartermaster General.

## II.—Grants of Land.

### (BENGAL AND BOMBAY.)

1994. In no case is any cantonment land to be enclosed or occupied without the sanction of the Commander-in-chief, and Commanding Officers are strictly prohibited from allowing any one to occupy a site, under any circumstances whatever, until such sanction has been officially received; nor are the boundaries



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of compounds to be changed, old roads closed or new ones opened, without similar authority. Building-sites granted to officers in military cantonments should be no larger than is absolutely necessary, conforming as far as possible to the dimensions laid down in the Public Works Code.

1995. All applications for unoccupied ground for the purpose of being enclosed, built upon or any way appropriated to private purposes, are to be forwarded, for transmission to the Officer Commanding the station, through the officer of the Quartermaster General's department at the station, or, in his absence, through the Cantonment Magistrate or Staff Officer of the station, as the case may be.

1996. The health and comfort of the troops are paramount considerations to which all others must give way, and the Commanding Officer will be held responsible that no ground is occupied in any way calculated to be injurious to either or to the appearance of the cantonment. In forwarding to the Quartermaster General any application for a grant, he must certify that it is not objectionable in these or any other respects.

1997. All such applications are to be made on Bengal Form No. 85 and must Bombay Form No. 212, and must be accompanied by a sketch or rough plan of the site applied for, embracing the portion of the cantonment adjacent to it, and exhibiting the roads, public buildings or private estates by which it is bounded; also any line of railway proposed or actually passing through the cantonment; and, where the line of railway does not immediately abut on the ground applied for, the direction and distance are to be shown. This plan is to be authenticated by an officer of the Quartermaster General's department at the station, or, when no such officer is present, by the Executive Engineer of the division, to the effect that no departmental objection is known to the application, and that the grant, if made, does not seem likely to interfere with any building existing or likely to be required.

1998. All grants are to be registered (Public Works Code,\* paragraph 142, page 201) by the Cantonment Magistrate where one is allowed, or otherwise by the Staff Officer of the station; and all grants are to be immediately noted in the plan of the cantonment in the Quartermaster General's office.

1999. No ground will be granted except on the following conditions, which are to be subscribed to by every grantee as well as by those to whom his grant may subsequently be transferred:—

- (a) Government to retain the power of resumption at any time, on giving one month's notice and paying the value of

such buildings as may have been authorised to be erected.

- (b) The ground, being in every case the property of Government, cannot be sold by the grantee; but houses or other property thereon situated may be transferred by one military or medical officer or chaplain to another on a joint report being made to the Staff Officer, who will make the requisite entry in the register, except in the case of relief, when, if required, the terms of the sale or transfer are to be adjusted by a committee of arbitration.
- (c) If the ground has been built upon the buildings are not to be disposed of to any person who does not belong to the army, until the consent of the Officer Commanding the station has been previously obtained under his hand.
- (d) When it is proposed with the consent of the Commanding Officer to transfer possession to a native, the procedure prescribed in section VII, paragraph 724, is to be adhered to. This rule applies to officers and others in the service of Government only, but the sale or transfer of any house in cantonments must first receive the sanction of the local military authorities.
- (e) The Commanding Officer has power to cancel the grant if the ground be not brought into use for the purpose specified within twelve months.

(MADRAS.)

2000. Applications for grants of land within the limits of cantonments or fortresses will be made in the first instance to the Officer Commanding the station in the following form. No grants of land will be made except for the purpose of erecting thereon officers' quarters or shops for the convenience of residents. It will be the duty of the Officer Commanding the station to see that this purpose is fulfilled.

To THE OFFICER COMMANDING (STATION).

SIR,

I request you will have the goodness to take the necessary steps for my obtaining a Government grant for the ground herein described.

Situation of the ground. Since when enclosed.	Title under which it is held, and whether the property of Government or of individuals.	EXTENT OF THE GRANT. Square yards.	Nature of the soil.	How laid out and whether buildings upon it.	BOUNDED ON THE			
					North by	South by	East by	West by

[Here enter certificate of the Commanding Officer of the station that the ground does not interfere with any parade or military work.]

I am,

Sir,

Your most obedient servant,

\* Edition of 1878.



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2001. The Officer Commanding the station having satisfied himself that there is no objection in a military point of view to the occupation of the ground by the applicant, as also that it does not encroach on or interfere with any public road, parade or military work, will ascertain from the Collector of the district how the land, if the property of Government, is entered in his accounts, and what rent has hitherto been assessed on it; he will then submit the Collector's reply, and a sketch showing the boundaries of the ground and its vicinity, accompanied by the application previously made to him, through the Officer Commanding the division, district or force, to the Quartermaster General, by whom it will be submitted for the consideration of the Commander-in-chief. In the event of its being sanctioned, a lease will be prepared by the Quartermaster General containing the following conditions:—

i.—To hold the lease for fifty years, renewable at the end of every ten years, at the option of Government.

ii.—To pay a yearly ground-rent as per Collector's valuation. To well and sufficiently repair, maintain, amend and keep the premises and appurtenances in such good and substantial repair as is necessary for the occupation of a tenant at rack-rent. To scour and cleanse all drains and water-courses belonging to the premises and keep the same free from obstruction. To remove from the premises and keep the same free from prickly-pear and aloe, and all causes of malaria. Hedges to be of a height not exceeding four feet from the level of the public road in front of, or leading to, the premises. To lop, and keep lopped, the branches of all trees, present and future, which shall grow lower than six feet from the ground.\*

iii.—The premises, although maintained in the above order, to be given to Government at any time if required.

iv.—The premises to be open to the Government authorities, to take plans and examine the condition thereof.

v.—All or parts of requirements if found necessary to be supplied, notice of which in writing to be left at the premises, to be attended to by the lessee within three calendar months.

vi.—Not to do, or willingly cause or suffer any act or thing to be done, in or upon the premises to the annoyance, grievance, damage or disturbance of Government or their tenants.

vii.—On assigning the premises to another, a notice in writing of the assignment to be given to the Officer Commanding the cantonment, with full particulars, within three calendar months.

viii.—The monthly rent should be limited to a sum equal to one-twelfth part of a sum equivalent to rupees fifteen per cent. per annum on the *bonâ fide* value of the building, to be certified by the local Engineer officer.

ix.—To officers the monthly rent to be limited to, and in no case to exceed, either the said sum or the sum of one hundred rupees, whichever of the said sums shall be least in amount; the meaning being that no more than one hundred rupees a month as rent can be demanded, although the *bonâ fide* value of the building may be more.

x.—If at any time the tenant, being a military officer shall tend to do away with the rent of the assembly of a house to exceed the amount mentioned in the foregoing clause, and if the Engineer certify to that effect, the lessee should reduce the rent to what the Engineer shall fix.

xi.—If at any time it is desired to let or sell, the preference should be given to military officers of the cantonment over any body else.

xii.—If the house is required for the residence of any of the officers of the cantonment notice in writing to be given to the owner; and after thirty days the house should be vacated for occupation by such officer.

xiii.—If the Government require the land at any time, it should be restored on payment of the fair value of the buildings, to be fixed by the Engineer. If dissatisfied with this value, the amount to be fixed by Government, which decision will be final.

xiv.—The lessee to conform to and obey all present and prospective orders and regulations of Government.

xv.—If the annual rent to Government is not paid within thirty days after the due date, or if the lessee become bankrupt or insolvent, and if there is any execution out against the lessee where the lease shall be seized, or in case of the breach or non-performance of any of the conditions contained in the lease, it shall be lawful for the Government to obtain re-possession of the premises on payment of their value.

xvi.—If the ground is not built upon or brought into use for the purpose specified within twelve months, the lease may be cancelled under the orders of His Excellency the Commander-in-chief.

2002. The grant in perpetuity of any piece of ground within the precincts of any fort or cantonment shall not here-

Grants not to be in perpetuity.

after be recorded to any individual. It is of course sufficient to reject any application for ground if it be ascertained that to grant it would interfere with the public convenience in any

\* Quit-rent is not charged in Rangoon, Tongho and Thyetmo, but in Moulmein this yearly payment is levied by the civil authorities under the denomination either of quit-rent or house-tax.



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manner whatever. With respect to land not the property of Government within fortresses or cantonments, application shall be made through the Collector and Board of Revenue to Government, a certificate from the Commanding Officer being at the same time produced to the effect that the occupation of the land in the manner proposed is free from objection in a military point of view.

2003. All grants of land made by Government

Proportions of land allowed. under the above provisions shall be entered in the office of the registrar

of Government grants, who is to return them without delay, with his countersignature attached in acknowledgment of their having been recorded in his office. No charge is to be made for this duty. The proportion of land allowed to officers of the army requiring it is as follows—

Field Officers ...	22,500 square yards.
Captains ...	12,000 do.
Subalterns ...	7,000 do.

Although the above is to be considered the usual scale, yet it may occasionally happen that, from the inequality of ground or other local causes, there may be no objection to an extension of the scale.

2004. Officers occupying houses built upon

House board. ground for which a grant has been made, considering

that they are overcharged for rent, are at liberty to apply to the Officer Commanding the division for a house board; should the house board be of the same opinion, the Engineer of the division will be called on to prepare an estimate of the value of the house or buildings agreeably to the terms of the grant. The Engineer will be guided by his departmental rules in making the estimate, taking into consideration the valuation of the materials composing each building,\* its state of repair, accommodation

\* That is, value of materials and labour at the time such building was erected.

and general convenience. Should the rent charged be found to exceed fifteen per cent. of the *bond fide* value of the buildings, it shall be reduced to that standard. It is to be understood that this percentage includes the cost of all annual and necessary repairs, &c., which the house-owner is bound to make. The proceedings of the board and estimate of the Engineer will be forwarded through the channel above prescribed to the Quartermaster General, and eventually, if necessary, to Government.

2005. In the event of the house-owner refusing to lower his rent according to the terms of his lease he will be liable to have it cancelled. Should he decline to make the repairs required, a house board will be assembled to decide upon what is really required and what expense is to be incurred; the house will be repaired agreeably to its decision and the *bond fide* cost deducted from the rent.

2006. In the case of parties possessing buildings on land for which no grant has been issued, the above stipulations are equally binding; but should they refuse to conform to them, they will be obliged to have the buildings removed from off the ground, within six months from the date of the receipt of the order to do so.

2007. No building of any kind is to be erected in a cantonment without the sanction of the Commander-in-chief which must be applied for, through the station and divisional authorities, to the Quartermaster General. This applies to public departmental buildings as well as all others. Every application should state clearly the description and size of the building it is proposed to erect, and the purpose for which it is required, and should be accompanied by a sketch of the proposed site showing the buildings and roads, &c., in its immediate vicinity.

## STATEMENT OF OBJECTS AND REASONS.

THE primary object of this Bill is to overcome the great and increasing difficulty which military officers experience in obtaining houses near their lines or other place of duty, or even within the limits of cantonments. This matter is dealt with in Chapter V of the Bill which, while insisting generally on the prior claim of military officers to occupy houses in cantonments, specially provides that the claim is not to extend to houses which are occupied as banks or have been occupied for three years as hotels or shops, and that disputes respecting the amount of rent to be paid for houses claimed by military officers are to be settled by committees of arbitration in which the civilian element will be predominant if houseowners so desire. Such privileges with respect to residence in cantonments as members of the Civil Service and other civilians enjoy in some parts of India are to cease, the only houses which are not to be subject to the prior claim of military officers being those already mentioned and houses owned by or under the control of railway administrations or appropriated by the Government to the use of such officials as postmasters and telegraph-officers whose residence in cantonments is necessary for the public convenience.

Nearly all land occupied by houses in cantonments has been granted to houseowners, or their predecessors in interest, by the Government under the rules for the time being applicable to the cantonments and identical with or similar to those set forth in the second schedule to the Bill. Local Governments have been asked to state, for the purposes of Chapter V and section 35, what the exceptions, if any, are within the territories which they respectively administer.



2. Of the other portions of the Bill the following only appear to call for remark :—

- (1) *Section 2.*—It is proposed to repeal all existing Cantonment Acts in force in British India and several obsolete enactments relating to cantonments and other military matters.
- (2) *Section 3.*—The words “officer” and “soldier” are defined for the purposes of Chapters V and III, respectively; and the definition of the expression “spirituous liquor” is designed to remove difficulties which have arisen in the construction of that expression in existing enactments.
- (3) *Sections 4-7.*—It is proposed that every cantonment be a subdivision of the district in which it is situated, and that the Subdivisional Magistrate be called the Cantonment Magistrate. If, as a Magistrate, the Cantonment Magistrate requires assistance, it can be given by the appointment of a Special Magistrate under section 14 of the Code of Criminal Procedure, 1882. If, as Judge of a Court of Small Causes, he requires assistance, it can be given to him under section 8 of the Provincial Small Cause Courts Act, 1887. Officers who are now invested with power to try breaches of rules, not as Magistrates but in pursuance of an order of the Local Government under section 28, Act III of 1880, section 20, Madras Act I of 1866, or section 12, Bombay Act III of 1867, must be appointed Special Magistrates and, as such, observe the few rules prescribed in Chapter XX of the Code of Criminal Procedure, 1882, for the trial of summons-cases.
- (4) *Section 8.*—This section vests the administration of the cantonment police in the District Superintendent under the general control and direction of the District Magistrate. Commanding officers of cantonments are to be relieved of the duty, which is now unnecessarily imposed upon them, of serving processes issued by the Courts for execution in cantonments.
- (5) *Sections 17-21.*—These sections give a legal status to cantonment funds and cantonment committees. The want of such a status has been a not infrequent cause of inconvenience.
- (6) *Section 23.*—This section, which would make every cantonment a sub-district for the purposes of the Indian Registration Act, III of 1877, and the Cantonment Magistrate the Sub-Registrar of the sub-district, and require the provisions of the Transfer of Property Act, 1882, with respect to the registration of documents, to be observed in every cantonment, is designed to reduce the difficulties which now occur in the maintenance of registers of immoveable property in cantonments.
- (7) *Section 29.*—Several of the powers which it is proposed to take for making rules are not given by enactments now in force.

The 12th October, 1888.

G. CHESNEY.

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



## LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 18th October 1888—

## Bill No. 19 of 1888.

*A Bill 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 commencement. Merchandise Marks Act, 1889.

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

(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 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 copy-right.

and the use of any figure, 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.

*Amendment 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 and Property Marks."*

"478. A mark used for denoting that goods have been made or manufactured by a particular person or at a particular time or place, or that they are of a particular quality 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 calculated to cause it to be believed that the goods so marked, or any goods contained in any such receptacle so marked, were made or manufactured by a person by whom they were not made or manufactured, or that they were made or manufactured at a time or place at which they were not made or manufactured, or that they are of a particular quality of which 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 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.

XLV of 1860.

[50 & 51 Vict., c. 28, s. 3 (1).]

[50 & 51 Vict., c. 28, s. 3 (1).]



"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 were made or manufactured by a particular person or firm by whom they were not made or at a time or place at which they were not made or that they are of a particular quality of which 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 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 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 the manner last aforesaid shall, unless he proves that he acted without intent to defraud, be punished as if he had committed an offence against the last foregoing section.

"489. Whoever removes, destroys or defaces 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 shall extend to the application to goods of any such figures, words or marks, or arrangement, or combination thereof, whether including a trade mark or not, as are 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.

(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 connexion 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 to the goods themselves, or

[New.]

[50 & 51  
Vict., c. 28,  
s. 3(3).]

[50 & 51  
Vict., c. 28,  
s. 3(3).]



(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 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.

[50 & 51 Vict.,  
c. 28, s. 2 (1).]

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 two years or with fine which may extend to five hundred rupees.

[50 & 51 Vict.,  
c. 28, s. 2 (2).]

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 two years or with fine which may extend to five hundred rupees.

*Unintentional Contravention of the Law relating to Marks and Descriptions.*

[50 & 51 Vict.,  
c. 28, s. 6.]  
XLV of 1860.

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.*

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 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 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) Nothing in sub-section (1) shall be construed to affect the provisions of Chapter XLIII of the Code of Criminal Procedure, 1882.

(3) Courts in the exercise of their discretion with respect to the direction of forfeiture under this section shall observe any instructions which the Governor General in Council may issue for their guidance.



*Amendment of the Sea Customs Act, 1878.*

10. For clause (d) of section 18 of the Sea Customs Act, 1878, 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:

(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."

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, revoke and vary 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 pur-

poses 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 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 the 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."

*Supplemental Provisions.*

12. 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.

(1) This Act shall not exempt any person for any suit or other proceeding which might, but for the provisions of 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 prosecution for an offence against this Act.

(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.

## STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to bring the law of India relating to fraudulent marks on merchandise into accord, as far as local circumstances admit with the law of England as enacted in the Merchandise Marks Act, 1887. The Bill adopts the provisions of that Act with respect to false trade descriptions and recasts on the lines of that Act that part of the Indian Penal Code which relates to trade marks and property marks and that part of the Sea Customs Act, 1878, which relates to the prohibition of the importation into British India of goods bearing false descriptions or marks.

(Signed) ANDREW R. SCOBLE.

S. HARVEY JAMES,

Secretary to the Government of India.

The 17th October, 1888.