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PART VI.

BILLS OF THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to consolidate and amend the law relating to Cantonments was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 14th August, 1889 :—

We, the undersigned, Members of the Select Committee to which the Bill to consolidate and amend the law relating to Cantonments was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

Memorandum from Government of India, Military Department, No. 2257C., dated 12th October 1888, and enclosures [Papers No. 1].

From Officiating Secretary to Chief Commissioner, Assam, No. 3280, dated 10th November 1888 [Paper No. 2].

From Officiating Secretary to Chief Commissioner, Burma, No. 579—84M., dated 23rd November 1888, and enclosures [Papers No. 3].

From Mr. P. R. Desai, Pleader, District Court, Tanna, dated 20th November 1888 [Paper No. 4].

From Officiating Secretary to Chief Commissioner, Burma, No. 794—84M., dated 30th November 1888, and enclosures [Papers No. 5].

From President, Landlords' Association, Mhow Cantonment, dated 1st December 1888, and enclosure [Papers No. 6].

From Chief Commissioner, Ajmere-Merwara, No. 54C., dated 3rd December 1888 [Paper No. 7].

From Secretary to Chief Commissioner, Coorg, No. 2132—2138, dated 6th December 1888 [Paper No. 9].

From J. MacNeil, Esq., Peshawar, dated 12th December 1888, and enclosure [Papers No. 10].

From certain house-owners of Sialkot, dated 15th December 1888 [Paper No. 11].

From Messrs. S. J. Leslie & Son, Attorneys-at-Law, Calcutta, dated 3rd January 1889, and enclosure [Papers No. 12].

Endorsement by Joint Private Secretary to His Excellency the Viceroy, dated 26th December 1888, and enclosures [Papers No. 13].

Endorsement by Under-Secretary to Government of India, Home Department, No. 3A., dated 11th January 1889, and enclosures [Papers No. 14].

Endorsement by Assistant Secretary to Government of India, Military Department, No. 2775C., dated 31st December 1888, and enclosures [Papers No. 15].

Endorsement by Assistant Secretary to Government of India, Military Department, No. 141C., dated 19th January 1889, and enclosure [Papers No. 16].

From Messrs. Sykes & Co., Calcutta, No. 261, dated 11th January 1889, and enclosures [Papers No. 17].

Memorial of house-owners of Ferozepore, dated 4th January 1889 [Paper No. 18].

Office Memorandum from Government of India, Military Department, No. 89C., dated 14th January 1889, and enclosures [Papers No. 19].

From Registrar, High Court, Calcutta, No. 251, dated 31st January 1889 [Paper No. 20].

Endorsement by Chief Secretary to Government, Madras, No. 81, dated 22nd January 1889, and enclosures [Papers No. 21].

From Honorary Secretary, House-owners' Defence Association, Meerut Cantonment, dated 30th January 1889, and enclosures [Papers No. 22].

Endorsement by Under-Secretary to Government of India, Foreign Department, No. 891L., dated 26th February 1889, and enclosures [Papers No. 23].

Memorandum from Government of India, Military Department, No. 413C., dated 22nd February 1889, and enclosure [Papers No. 24].

amend the law relating to Cantonments was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

2. The Bill, as originally framed, divided itself naturally into two parts—the first relating to the general administration

From Secretary to Government, North-Western Provinces and Oudh, No. 237—IXI-466B, dated 11th February 1889, and enclosures [Papers No. 25].

From Secretary, British Indian Association, dated 6th March 1889 [Paper No. 26].

From Secretary to Government, Bombay, No. 1214, dated 4th March 1889, and enclosure [Papers No. 27].

From Chief Secretary to Government, Bengal, No. 1123 J., dated 8th March 1889, and enclosures [Papers No. 28].

Endorsement by Assistant Secretary to Government of India, Military Department, No. 815C., dated 29th April 1889, and enclosure [Papers No. 29].

Endorsement by Assistant Secretary to Government of India, Military Department, No. 816C., dated 29th April 1889, and enclosures [Papers No. 30].

Endorsement by Assistant Secretary to Government of India, Military Department, No. 817C., dated 29th April 1889, and enclosures [Papers No. 31].

Endorsement by Assistant Secretary to Government of India, Military Department, No. 642C., dated 27th March 1889, and enclosures [Papers No. 32].

Endorsement by Assistant Secretary to Government of India, Military Department, No. 841C., dated 2nd May 1889, and enclosures [Papers No. 33].

Memorial of the house-owners and residents of the Poona Cantonment, dated 5th February 1889 [Paper No. 34].

Endorsement by Assistant Secretary to Government of India, Military Department, No. 1156C., dated 18th June 1889, and enclosures [Papers No. 35].

Endorsement by Assistant Secretary to Government of India, Military Department, No. 982C., dated 23rd May 1889, and enclosures [Papers No. 36].

From Officiating Secretary to Government, Punjab, No. 36, dated 12th January 1889, and enclosures; from ditto, No. 174S., dated 2nd July 1889, and enclosure [Papers No. 37].

of cantonments as regards police, conservancy, taxation and so forth: the second relating to immoveable property. There has been a general concurrence of opinion in favour of the provisions of the first part of the Bill, while the second has provoked considerable discussion and opposition. Our present Report relates only to the first part of the Bill, for the speedy enactment of which cogent reasons exist. As regards the second part, we consider that Chapter V of the Bill as introduced in October last should, in such form as may be approved by the Government after consideration of the representations which its proposals have elicited, be treated as a separate measure and be considered by a Select Committee and the Council in Calcutta.

3. In the rest of the Bill as introduced we have made several alterations of which the following only need be mentioned, the sections hereafter cited being those of the Bill as revised by us and annexed to this Report:—

- (1) By section 2 we have proposed to save existing rules for the present and to continue the validity of limits defined under enactments which are now to be, or have long since been, repealed.
- (2) We have inserted a section (section 4) enabling Local Governments, with the previous sanction of the Governor-General in Council, to declare any place occupied by troops to be a cantonment for the purposes of the proposed Act and of all other enactments affecting cantonments.
- (3) Sections 7, 8 and 32, relating to Cantonment Magistrates, Cantonment Courts of Small Causes and Cantonment Sub-Registrars, have been modified so as to meet the objections which were taken to the corresponding sections of the original Bill on the ground of their want of elasticity.
- (4) The Assistant Cantonment Magistrate, in the few places where there is such an officer, either is, or, if the exercise of his office is limited to the cantonment, should be appointed to be, a Special Magistrate under section 14 of the Code of Criminal Procedure, 1882. Where he has been invested under a Cantonments Act with any of the powers of a Judge of a Cantonment Court of Small Causes, he will under sections 9 and 10 of the Bill become an Additional Judge of the Court with like powers.
- (5) From section 12 we have omitted the references to section 48 of the Madras Police Act and section 31 of the Bombay Police Act, because local legislation now pending will render them inappropriate.
- (6) In sections 17, 18, 20 and 21 we have recognised the practice, which still obtains in some parts of India, of suffering cantonments to be included within the limits of municipalities.
- (7) Under section 25 it will be practicable to apply to cantonments the substance of Chapters VI and VII of the Punjab Municipal Act, 1884, which have already been adopted for all municipalities in Ajmere and Berar and have recently been reproduced in the Central Provinces Municipal Bill.
- (8) By section 31 we have proposed to extend to cantonment authorities acting in good faith such protection as is given by Act XVIII of 1850 and the Indian Penal Code to judicial officers so acting.

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

| <i>Gazette.</i> | <i>In English.</i> | <i>Date.</i> |
|---|--------------------|--------------------|
| Gazette of India | ... | 13th October 1888. |
| Fort Saint George Gazette | ... | 30th October 1888. |
| Bombay Government Gazette | ... | 25th October 1888. |
| Calcutta Gazette | ... | 24th October 1888. |
| North-Western Provinces and Oudh Government Gazette | ... | 20th October 1888. |
| Punjab Government Gazette | ... | 18th October 1888. |
| Central Provinces Gazette | ... | 20th October 1888. |
| Burma Gazette | ... | 3rd November 1888. |
| Assam Gazette | ... | 3rd November 1888. |
| Coorg District Gazette | ... | 1st November 1888. |

| Province. | In the Vernaculars. | | | Date. |
|--------------------------------------|---------------------|-----|-----|---------------------|
| | Language. | | | |
| Madras ... | Kanarese ... | ... | ... | 15th January 1889. |
| | Telugu ... | ... | ... | 12th February 1889. |
| | Malayalam ... | ... | ... | 12th February 1889. |
| | Tamil ... | ... | ... | 26th February 1889. |
| Bombay ... | Hindustani ... | ... | ... | 20th May 1889. |
| | Maráthi ... | ... | ... | 14th February 1889. |
| | Gujaráthi ... | ... | ... | 14th February 1889. |
| Bengal ... | Kanarese ... | ... | ... | 14th February 1889. |
| | Bengali ... | ... | ... | 4th December 1888. |
| | Uriya ... | ... | ... | 20th December 1888. |
| North-Western Provinces and Oudh ... | Hindi ... | ... | ... | 26th December 1888. |
| | Urdu... .. | ... | ... | 1st December 1888. |
| Punjab ... | Urdu... .. | ... | ... | 29th November 1888. |
| Central Provinces ... | Hindi ... | ... | ... | 20th December 1888. |
| | Maráthi ... | ... | ... | 20th February 1889. |
| Burma ... | Burmese ... | ... | ... | 15th December 1888. |
| Assam ... | Bengali ... | ... | ... | 2nd December 1888. |
| Coorg ... | Kanarese ... | ... | ... | 1st April 1889. |

5. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

(Signed) G. CHESNEY.
 " ANDREW R. SCOBLE.
 " PHIL. P. HUTCHINS.
 " R. J. CROSTHWAITE.

The 6th August 1889.

NO. II.

THE CANTONMENTS BILL.

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THE SCHEDULE—ENACTMENTS REPEALED.

No. II.

A Bill to amend the law relating to Cantonments.

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

CHAPTER.

PRELIMINARY.

Title, extent and commencement. 1. (1) This Act may be called the Cantonments Act, 1889.

The Cantonments Bill.

(Chapter I.—Preliminary—Sections 1 (2)-3. Chapter II.—Cantonments and Cantonment Authorities, Courts and Police -- Sections 4-7.)

(2) It extends to the whole of British India, inclusive of Upper Burma; and

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

2. (1) On and from that day the enactments specified in the schedule are repealed to the extent mentioned in the third column thereof:

(2) But all orders, declarations, rules and regulations made, directions, licenses and permits given, taxes imposed and notifications published under any enactment repealed by this Act or under any enactment repealed by any enactment repealed by this Act, and all limits defined as the local limits of a cantonment with the approval of the Governor General in Council or a Local Government before the passing of this Act, shall be deemed to have been respectively made, given, imposed and published, and to have been defined, under this Act.

(3) Any enactment or document referring to any enactment repealed by this Act, or to any enactment repealed by any enactment repealed by this Act, or to any Regulation of the Bengal, Madras or Bombay Code respecting the fixing of the local limits of cantonments and military bazars, shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

3. (1) In this Act and in the rules thereunder, unless there is something repugnant in the subject or context,—

(a) "officer" means—

(i) a person who, being an officer within the meaning of the Army Act, 1881, is commissioned and in pay as an officer doing military duty with Her Majesty's regular forces as defined in that Act or as an officer doing such duty in any arm, branch or part of those forces, and

(ii) a person doing military duty as a warrant officer with those forces or with any arm, branch or part thereof, whether he is or is not an officer within the meaning of the Army Act, 1881:

(b) "soldier" means a person who is a soldier of Her Majesty's regular forces within the meaning of the Army Act, 1881, and is not an officer within the meaning of this Act:

(c) "spirituous liquor" means any fermented liquor, any wine, any alcoholic liquid obtained by distillation, and the sap of any kind of palm-tree, and includes any other liquid consisting of or containing alcohol which the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, declare to be a spirituous liquor for the purposes of this Act:

(d) "intoxicating drug" means opium, gánja, bháng, charas and every preparation and

admixture thereof, and includes any other intoxicating substance or liquid which the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, declare to be an intoxicating drug for the purposes of this Act; and

(e) "owner" includes the person who is receiving or entitled to receive the rent of any building or land, whether on his own account or on behalf of himself and others or as an agent or trustee, or who would so receive the rent or be entitled to receive it if the building or land were let to a tenant.

(2) The provisions of the General Clauses Acts, 1868 and 1887 shall, so far as they can be made applicable, apply to all rules which may be made under this Act by the Governor General in Council. I of 1868.
I of 1887.

CHAPTER II.

CANTONMENTS AND CANTONMENT AUTHORITIES,
COURTS AND POLICE.

Cantonments.

4. (1) The Local Government, with the previous sanction of the Governor General in Council, may by notification in the official Gazette, declare any place in which any of Her Majesty's regular forces are quartered within the territories administered by such Government to be a cantonment for the purposes of this Act and of all other enactments for the time being in force, and may withdraw any such declaration.

(2) The Local Government, with the like sanction, may also, by a like notification, define the limits of any cantonment for the like purposes.

Cantonment Authorities and Magistrates.

5. For every cantonment beyond the limits of a presidency-town there shall be a cantonment authority and a Cantonment Magistrate.

6. (1) The expression "cantonment authority" as used in this Act means a cantonment committee or, in the case of a cantonment for which such a committee has not been constituted, the commanding officer of the cantonment.

(2) The Local Government shall determine, with respect to every cantonment in which troops are for the time being quartered, whether or not a cantonment committee is to be constituted.

(3) The cantonment authority shall be deemed to be a local authority as defined in the Local Authorities Loan Act, 1879, Act XVIII of 1883 (to amend the Cattle-trespass Act, 1871), the Indian Telegraph Act, 1885, and the General Clauses Act, 1887. XI of 1879.
XIII of 1885.
I of 1887.

7. The Cantonment Magistrate shall be a Cantonment Magistrate. Magistrate appointed by the Local Government under section 12 of the Code of Criminal Pro- I of 1887.

The Cantonments Bill.

(Chapter II—Cantonments and Cantonment Authorities, Courts and Police.—Sections 8-12. Chapter III.—Spirituos Liqueurs and Intoxicating Drugs.—Sections 13-14.)

cedure, 1882, and, as such, subordinate to the District Magistrate, or to the District Magistrate and the Sub-divisional Magistrate, as the case may be, under section 17 of that Code.

Cantonment Court of Small Causes.

8. (1) When the Local Government appoints

Appointment of Cantonment Magistrate as Judge of Cantonment Court of Small Causes.

the Cantonment Magistrate to be the Judge of a Court of Small Causes established without a cantonment under the Provincial Small Cause Courts Act, 1887, it shall, in its order appointing him to be such Judge, 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 that Act.

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

9. When the Local Government appoints

Appointment of Additional Judge of Cantonment Court of Small Causes.

an Additional Judge of a Court of Small Causes of which a Cantonment Magistrate is the Judge,

it shall, in its order appointing him to be such Additional Judge, declare, and may by notification in the official Gazette vary, within a limit of fifty rupees, the value of the suits with respect to which the functions of the Judge of the Court may be assigned to, and discharged by, the Additional Judge under section 8 of the Provincial Small Cause Courts Act, 1887.

10. Every Cantonment Magistrate presiding

Judges of existing Cantonment Courts of Small Causes.

over a Court of Small Causes in a cantonment at the commencement of this Act, and every Assistant Cantonment Magistrate then having any of the powers of the Judge of such Court, shall be deemed to have been appointed Judge and Additional Judge, respectively, under section 6 and section 8 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, in the case of a Cantonment Magistrate, five hundred rupees and, in the case of an Assistant Cantonment Magistrate, fifty rupees.

11. A Cantonment Magistrate as Judge of

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

a Court of Small Causes may, whatever may be the value of the suits cognizable by him as such Judge, dispose of any suit which was within the pecuniary limits of the jurisdiction of the Judge presiding over the Court at the time of the institution of the suit, and may entertain and dispose of any proceeding after decree in any such suit.

Cantonment Police.

12. (1) The police-force employed in a 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) or Act V of 1861 (for the regulation of Police) or the corresponding law for the time being in force in the territories administered by the Governor of Bombay in Council, as the case may be, be deemed to be part of the general police-establishment under the superintendence of the Local Government in whose territories the cantonment is situated.

(2) The area comprised within the limits of a cantonment shall be deemed to be a town for the purposes of section 34 of Act V of 1861.

CHAPTER III.

SPIRITUOUS LIQUORS AND INTOXICATING DRUGS.

13. If within a cantonment, or within such

Unauthorised sale of spirituous liquor or intoxicating drug.

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 both.

14. If within a cantonment, or within such

Unauthorised possession of spirituous liquor.

limits around a cantonment as the Local Government may, by notification in the official Gazette, prescribe in this behalf,—

(a) any person subject to military law otherwise than as an officer or soldier, or

(b) the wife or servant of any such person or of a soldier,

has in his or her possession except on behalf of the Government or for the private use of an officer more than one quart of any spirituous liquor other than fermented malt-liquor without the written permission of the commanding officer of the cantonment or of some person authorised by the commanding officer to grant such 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

IX of 1887.

IX of 1887.

IX of 1887.

The Cantonments Bill.

(*Chapter III.—Spirituos Liquors and Intoxicating Drugs.—Sections 15-16.*
Chapter IV.—Taxation and Cantonment Fund.—Sections 17-21.)

subsequent offence against this section with fine which may extend to one hundred rupees or with imprisonment for a term which may extend to three months.

15. (1) Any police-officer may, without an order from a Magistrate and without a warrant, arrest any person whom he finds committing an offence against either of the two last foregoing sections, and may seize and detain any 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.

(2) Where a person accused of an offence against section 13 has been previously convicted of an offence against that section, an officer in charge of a police-station may, with the written permission of a Magistrate, seize and detain any spirituous liquor or intoxicating drug within the cantonment, or within the limits prescribed under section 13, which at the time of the alleged commission of the subsequent offence belonged to, or was in the possession of, the person.

(3) The Court convicting a person of an offence against section 13 or section 14 may order the confiscation of the whole or any part of anything seized under sub-section (1) or sub-section (2).

(4) Subject to the provisions of Chapter XLIII of the Code of Criminal Procedure, 1882, anything seized under sub-section (1) or sub-section (2) and not confiscated under sub-section (3) shall be restored to the person from whom it was taken.

16. The foregoing provisions of this Chapter shall not apply to the sale or supply of any article for medicinal purposes by a medical practitioner, chemist or druggist.

Saving of article sold or supplied for medicinal purposes.

CHAPTER IV.

TAXATION AND CANTONMENT FUND.

Taxation.

17. (1) With the previous sanction of the Governor General in Council, the Local Government may, by notification in the official Gazette,—

(a) impose in any cantonment which is not included in a municipality any tax which under any enactment in force at the date of the Notification, can be imposed in any municipality within the territories administered by such Government, and

(b) abolish or modify any tax so imposed.

(2) When any tax is leviable in a cantonment in pursuance of a notification under sub-section (1), the Local Government, with the like sanction, may, by a like notification, apply or adapt to the cantonment the provisions of any

enactment or rules in force at the date of the notification for the assessment and recovery of any tax in any municipality within the territories administered by such Government.

18. (1) The Local Government may, by notification in the official Gazette, extend the provisions of Act XX of 1856 (to make better provision for the appointment and maintenance of Police *Chaukidars* in Cities, Towns, Stations, Suburbs and *Bazars* in the Presidency of Fort William in Bengal) to any cantonment which is not included in a municipality and which is situated in any part of British India in which that Act is in force, and the Cantonment Magistrate may exercise all the powers of the Magistrate under that Act, subject only to the control of the District Magistrate and the Local Government.

(2) The Local Government may order that a cantonment to which the provisions of Act XX of 1856 have been extended shall be divided into any number of cantonment divisions, and may determine the nature of the tax to be levied in each such division according to section 10 of that Act.

(3) The Local Government may, by notification in the official Gazette, cancel any notification under sub-section (1), and may revoke or vary any order under sub-section (2).

19. While a tax assessed according to the circumstances, and the property to be protected, of the persons liable thereto, or according to the annual value of houses and grounds, is levied under Act XX of 1856 in a cantonment, a tax on persons practising any profession or art or carrying on any trade or calling, or a tax on buildings and lands, as the case may be, shall not be imposed under section 17 of this Act in the cantonment.

20. (1) Notwithstanding anything in any enactment for the time being in force, the Governor General in Council may, by notification in the *Gazette of India*, prohibit the levy of the whole or any part of any tax imposed in a cantonment, or exempt any person by name or in virtue of his office or any class of persons, or any property or any class of property, from the operation of any such tax, and may, by a like notification, rescind any such prohibition or exemption.

(2) Where the area subject to the authority of a municipal committee as defined in section 2 of the Municipal Taxation Act, 1881, includes the whole or part of a cantonment, nothing in section 4 or section 5 of that Act or in any other like enactment for the time being in force shall apply to so much of that area as is comprised in the cantonment.

Cantonment Fund.

21. (1) There shall be formed for every cantonment which is not included in a municipality

Cantonment Fund.

*The Cantonments Bill.**(Chapter IV.—Taxation and Cantonment Fund.—Sections 22—24. Chapter V.—Supplemental Provisions.—Sections 25—26.)*

a cantonment fund, and there shall be placed to the credit thereof, among other sums, the following, namely:—

- (a) subject to deductions under section 545 of the Code of Criminal Procedure, 1882, or under any other enactment for the time being in force or under any order of the Local Government, all fines recovered from persons convicted of offences committed within the cantonment against this Act or against any enactment extended or rule made thereunder, or against the provisions of section 34 of Act V of 1861 or the corresponding enactment for the time being in force in the territories administered by the Governor of Fort St. George in Council or by the Governor of Bombay in Council, or against the provisions of Chapter XIII or Chapter XIV of the Indian Penal Code or of section 156 of the Army Act, 1881;
- (b) the proceeds of taxes imposed under section 17 or levied under Act XX of 1856 in the cantonment; and
- (c) rents and profits accruing from property placed by the Government under the management of the cantonment authority.

(2) Notwithstanding anything in any enactment as to the purposes to which the proceeds of a tax are to be appropriated, the cantonment fund shall be applicable, subject to the rules under this Act, to the maintenance of the police-force employed in the cantonment and to the other purposes of this Act within the cantonment and, with the general or special sanction of the Local Government, to like objects, within or without British India, beyond the limits of the cantonment in cases in which, in the opinion of the Local Government, the application of the fund beyond those limits is for the benefit of the inhabitants of the cantonment or of any military force ordinarily quartered therein or of any detachment of any such force.

22. (1) Where, in or near a cantonment, there is a Government treasury fund, or sub-treasury or a bank to which the Government treasury business has been made over, the cantonment fund shall be kept in the treasury, sub-treasury or bank.

(2) Where there is no such treasury, sub-treasury or bank, the cantonment fund may be deposited with any banker or person acting as a banker who has given such security for the safe custody and repayment on demand of the fund so deposited as the District Magistrate may in each case think sufficient.

23. The cantonment fund shall be vested in Her Majesty, and subject to the provisions of this Act and of the rules thereunder and to the control of the Local Government, the management of the fund shall be entrusted to the cantonment authority.

24. The cantonment fund shall be deemed to be "public revenues" within the meaning of the proviso to section 6 of the Land-acquisition Act, 1870, and any property acquired at the cost of the cantonment fund shall vest in Her Majesty.

CHAPTER V.

SUPPLEMENTAL PROVISIONS.

25. The Governor General in Council may, by notification in the *Gazette of India*, extend to all cantonments or to any cantonment or to any part of any cantonment any enactment for the time being in force in any municipality in British India, and declare its extension to be subject to such restrictions and modifications, if any, as he thinks fit.

26. The Governor General in Council may make rules consistent with this Act to provide for all or any of the following matters, namely:—

- (1) the manner in which, and the authority to which, application for permission to occupy land belonging to the Government in a cantonment is to be made;
- (2) the conditions to be annexed to every such permission given in pursuance of such an application;
- (3) the preparation and maintenance of registers of immoveable property in cantonments;
- (4) the constitution of cantonment committees, the functions to be discharged by them, the conduct of, and the control to be exercised over, their proceedings, and the division of duties among the members of such committees;
- (5) the functions to be discharged by the commanding officer of a cantonment where a cantonment committee has not been constituted, or has in pursuance of an order of the Local Government ceased to exist, or for any reason cannot be convened;
- (6) the executive duties of the Cantonment Magistrate and his position in relation to the commanding officer of the cantonment;
- (7) the purposes to which the cantonment fund may be applied;
- (8) the authority on which money may be paid from the cantonment fund;
- (9) the investment of any balance of that fund;
- (10) the execution of contracts by, or on behalf of, the cantonment authority;
- (11) the accounts to be kept by the cantonment authority, and the manner in which those accounts are to be audited and published;

X of 1882.

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

The Cantonments Bill.

(Chapter V.—Supplemental Provisions—Sections 27-28.)

- (12) the definition and abatement of nuisances for which sufficient provision has not, in the opinion of the Governor General in Council, been made under section 25;
- (13) the requisitions which may be made on persons having the control of sewers, drains, latrines or other things creating, or likely to create, nuisances, and the mode of enforcing such requisitions;
- (14) the prevention of the overcrowding of buildings and places in a cantonment;
- (15) the construction and maintenance, to the satisfaction of the cantonment authority, of buildings and of boundary-walls, hedges and other fences;
- (16) the regulation of the practice of agriculture and irrigation in a cantonment, the keeping of lands therein in proper order, and the felling, lopping and trimming of trees on such lands;
- (17) the regulation of encamping-grounds, sarāis, markets and slaughter-houses, of traffic on roads, and of processions and public assemblies;
- (18) the use and management of burial and burning grounds;
- (19) the supervision and the regulation of the use of public wells, tanks, rivers, streams, springs or other sources from which water is or may be made available for public use, and of the lands in the vicinity thereof;
- (20) the parts of a cantonment in which persons practising any profession or carrying on any trade, calling or occupation may be required to reside for the purpose of practising the profession or carrying on the trade, calling or occupation, and the conditions, if any, to be observed by such persons;
- (21) the segregation in, or 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;
- (22) the segregation in, or the removal and exclusion from, a cantonment, or the destruction, of animals suffering or suspected to be suffering from any infectious or contagious disease;
- (23) the suppression of mendicancy and of loitering or importuning for the purpose of prostitution, and the removal and exclusion from a cantonment of disorderly persons, of persons who have been convicted of any offence against Chapter XVII of the Indian Penal Code or section 156 of the Army Act, 1881, or have been ordered under the Code of Criminal Procedure, 1882, to execute a bond for their good behaviour, and of persons whom the commanding officer deems it expedient to exclude from the cantonment

- with or without assigning any reason for excluding them therefrom;
- (24) the prevention of cruelty to animals and the care of animals while grazing;
- (25) the prevention and extinction of fires;
- (26) the registration of births and deaths;
- (27) the appointment by owners of buildings and lands in cantonments who are absent from cantonments, of persons residing within or near cantonments to act as their agents for all or any of the purposes of this Act or any enactment extended or rule made thereunder;
- (28) the powers of inspection, entry and search which may be exercised in carrying out any of those purposes, and the cases in which breaches of enactments extended under section 25 or of rules made under this section are to be cognizable offences;
- (29) the mode in which summonses, notices, requisitions and other documents are to be served on the persons to whom they are addressed;
- (30) the cases, authorities and conditions in, to and on which executive orders passed under this Act or any enactment extended or rule made thereunder may be appealed from; and,
- (31) generally, the carrying out of the purposes of this Act.

27. (1) The power to make rules under the last foregoing section is subject to the condition of the rules being made after previous publication and of their not taking effect until they have been published in the *Gazette of India* and in such other manner as the Governor General in Council prescribes.

(2) A rule under the last foregoing section may be general for all cantonments in British India or for all cantonments not expressly excepted from its operation, or may be special for the whole or any part of any one or more than one cantonment, as the Governor General in Council directs.

(3) A copy of the rules for the time being in force in a cantonment shall be kept open to inspection free of charge at all reasonable times in the office of the Cantonment Magistrate.

(4) In making any rule under clause (12) or any of the following clauses of the last foregoing section, the Governor General in Council may direct that a breach of it shall be punished with fine which may extend to fifty rupees, or with imprisonment for a term which may extend to eight days, and, when the breach is a continuing breach, with fine which, in addition to such fine or imprisonment as aforesaid, may extend to five rupees for every day after the first during which the breach continues.

28. The Local Government may, by notification in the official Gazette, extend to any area beyond the cantonment and in the vicinity there-

Extension of certain rules to places beyond cantonments.

The Cantonments Bill.

(Chapter V.—Supplemental Provisions.—Sections 29-33. The Schedule.—Enactments repealed.)

of any of the rules in force in the cantonment under clause (12) or any of the following clauses of section 26, and 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.

29. A Judge or Magistrate shall not be deemed within the meaning of section 555 of the Code of Criminal Procedure, 1882, to be a party to, or personally interested in, any prosecution for an offence against this Act, or against any enactment extended or rule made thereunder, because he is a member of the cantonment committee or, where there is no such committee, is the commanding officer of the cantonment, or because he has ordered or approved the prosecution.

30. Where a cantonment is situated within the limits of a presidency-town, the functions assigned to any authority by this Act or any enactment extended or rule made thereunder shall, subject to the provisions of any enactment for the time being in force, be discharged by such authority as the Local Government may appoint in this behalf.

31. A suit or prosecution shall not be entertained in any Court against any cantonment authority, authority appointed under the last foregoing section, Cantonment Magistrate or commanding officer for anything in good faith done or purporting to be done in pursuance of the powers conferred by this Act or any rule thereunder on such authority, Magistrate or officer, whether the thing done was or was not authorized by the powers so conferred.

32. (1) Section 54, paragraphs two and three, and sections 59, 107 and 123 of the Transfer of

Property Act, 1882, with respect to the transfer of property by registered instrument, shall, on and from the commencement of the Act, extend to every cantonment in British India.

(2) Where a cantonment has not been constituted a sub-district or district for the purposes of the Indian Registration Act, 1877, under section 9 of that Act, the Registrar of the district in which the cantonment is situated shall cause a copy of such entries in Indexes Nos. I and II as relate to immoveable property within the limits of the cantonment to be forwarded to the Cantonment Magistrate annually or at such shorter intervals as the Local Government may prescribe.

33. The Governor General in Council may, by notification in the *Gazette of India*, exclude from the operation of the whole or any part of this Act the whole or any part of any cantonment.

THE SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

| Number and year. | Subject or title. | Extent of repeal. |
|---|---|---|
| 1 | 2 | 3 |
| <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. |
| Act V of 1869. | Indian Articles of War. | Part III, clause (c); and for the last twenty-seven words of Part I, clause (f), the following shall be substituted, namely:— "and officers in charge of the Police in cantonments are defined and controlled." |
| Act VII of 1870. | Court-fees Act, 1870. | Section 19, clause iv, and in Schedule II, article 1, clause (a), the words "or to any Cantonment Magistrate sitting as a Court of Civil Judicature under Act No. III of 1859." |
| Act XV of 1874. | Laws Local Extent Act, 1874. | So much of the second schedule as relates to Madras Regulation XIV of 1832; so much of the third schedule as relates to sections 18, 19, 20, 45, 46 and 47 of Bombay Regulation XXII of 1827; and so much of the fourth and fifth schedules as relates to Bengal Regulation XX of 1810. |
| Act XX of 1875. | Central Provinces Laws Act, 1875. | So much as relates to Bengal Regulation XX of 1810. |
| Act XVIII of 1876. | Oudh Laws Act, 1876. | So much as relates to Bengal Regulation XX of 1810. |
| Act III of 1877. | Indian Registration Act, 1877. | The second paragraph of section 9, beginning with the word "Whenever" and ending with the word "thereof." |
| Act XIV of 1879. | Hackney-carriage Act, 1879. | Section 4, from and inclusive of the words "and the Governor General in Council may" down to and inclusive of the words "in which British troops are cantoned." |

*The Cantonments Bill.**(The Schedule.—Enactments repealed.)*

| Number and year. | Subject or title. | Extent of repeal. |
|---------------------------------------|-----------------------------------|--|
| 1 | 2 | 3 |
| Act III of 1880. | Cantonments Act, 1880. | So much as has not been repealed. |
| Act XXII of 1881. | Excise Act, 1881. | The proviso to section 53. |
| Act X of 1882. | Code of Criminal Procedure, 1882. | Clause (b) of section 1. |
| Act XIV of 1882. | Code of Civil Procedure. | Section 6, clause (a), the words "an officer or" in section 468, and the whole of section 469. |
| Act XX of 1886. | Upper Burma Laws Act, 1886. | In the First Part of the Second Schedule the words and figures "III of 1880, Cantonments." |
| <i>Regulation of the Bengal Code.</i> | | |
| Regulation XX of 1810. | Military barracks. | So much as has not been repealed. |
| <i>Regulation of the Bombay Code.</i> | | |
| Regulation XXII of 1827. | Military authority. | So much as has not been repealed, except sections 40, 41, 42 and 43. |

| Number and year. | Subject or title. | Extent of repeal. |
|---|--------------------------------|--|
| 1 | 2 | 3 |
| <i>Acts of the Governor of Fort St. George in Council.</i> | | |
| Act IV of 1865. | Madras Cantonments. | The whole so far as it has not been repealed. |
| Act I of 1866. | Madras Cantonments. | So much as has not been repealed. |
| <i>Act of the Governor of Bombay in Council.</i> | | |
| Act III of 1867. | Bombay Cantonment Act of 1867. | So much as has not been repealed. |
| <i>Act of the Lieutenant-Governor of Bengal in Council.</i> | | |
| Act VII of 1878. | Bengal Excise Act, 1878. | The proviso to section 81. |
| <i>Regulation under the Statute 33 Victoria, Chapter 3.</i> | | |
| III of 1877. | Ajmere Laws Regulation, 1877. | Section 39 and so much as relates to Bengal Regulation XX of 1810. |

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

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 28th August 1889:

Bill No. 11 of 1889.

A Bill to amend Acts XVII of 1864, X of 1865, II of 1874 and V of 1881.

WHEREAS it is expedient to amend Act XVII of 1864 (*an Act to constitute an Office of Official Trustee*) the Indian Succession Act, 1865, the Administrator General's Act, 1874, and the Probate and Administration Act, 1881; It is hereby enacted as follows:—

Act XVII of 1864.

1. In section 1 of Act XVII of 1864 the following shall be inserted before the definition of the expression "High Court", namely:—

"The word 'Government' shall mean, in relation to the Presidency of Fort William in Bengal, the Governor General in Council; in relation to the Presidency of Fort St. George, the Governor of Fort St. George in Council; and, in relation to the Presidency of Bombay, the Governor of Bombay in Council."

2. For section 5 of the said Act the following shall be substituted, namely:—

"5. Every Official Trustee appointed under this Act shall be appointed and may be suspended or removed from his office by the Government."

3. In section 6 of the said Act, for the words "Chief Justice by whom he is appointed" the word "Government" shall be substituted.

4. For the portion of section 7 of the said Act beginning with the words "It shall be lawful for the Chief Justice of the High Court" and ending with the words "it shall be lawful for the Chief Justice to appoint some person to officiate as Official Trustee" the following shall be substituted, namely:—

"It shall be lawful for the Government from time to time to grant leave of absence to the Official Trustee, but subject always to such and the like rules as may be for the time being in force as to leave of absence of officers attached to the High Court. Whenever any Official Trustee shall obtain leave of absence, it shall be lawful

for the Government to appoint some person to officiate as Official Trustee."

5. Every person holding the office of Official Trustee at the commencement of this Act shall be deemed to have been appointed under Act XVII of 1864 as amended by this Act.

The Indian Succession Act, 1865.

6. After section 326 of the Indian Succession Act, 1865, the following section shall be inserted, namely:—

"326A. Where a person not having his domicile in British India has died leaving assets both in British India and in the country in which he had his domicile at the time of his death, and there has been a grant of probate or letters of administration in British India with respect to the assets there and in the country of domicile with respect to the assets in that country, the executor or administrator, as the case may be, in British India, after having given such notices as are mentioned in section 320 and discharged, at the expiration of the time therein named, such lawful claims as he knows of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons."

The Administrator-General's Act, 1874.

7. In clause (b) of the definition of the expression "Presidency of Bengal" in section 3 of the Administrator-General's Act, 1874, the words "Burma, British Baluchistan" shall be substituted for the words "British Burma".

8. (1) For the first paragraph of section 37 of the said Act, as amended by section 5 of the Administrator General's Act, 1881, beginning with the words "If in cases falling within section 36" and ending with the words "as if such letters had been granted to him", the following shall be substituted, namely:—

"If, in cases falling within section 36, no person claiming otherwise than as a creditor to be entitled to a share of the effects of the deceased obtains, within three months, a certificate from the Administrator General under the same section, or letters of administration to the estate and

X of 1865.
II of 1874.
V of 1881.

X of 1855.

II of 1874.

IX of 1881.

effects of the deceased, and such deceased was not a Hindu, Muhammadan, Parsi or Buddhist, or exempted under the Indian Succession Act, 1865, section 332, from the operation of that Act, the Administrator General may administer the estate and effects without letters of administration, in the same manner as if such letters had been granted to him ;”

(2) The portion of section 5 of the Administrator General's Act, 1881, beginning with the words “and in section 37 of the same Act” and ending with the words “from the operation of that Act” is hereby repealed.

Addition of new section after section 41, Act II, 1874.

namely:—

“41A. Where a person not having his domicile in British India has died leaving assets both in British India and in the country in which he had his domicile at the time of

Transfer of certain assets from British India to executor or administrator in country of domicile for distribution.

his death, and proceedings for the administration of his estate with respect to assets in British India have been taken under section 36 or section 37, and there has been a grant of probate or letters of administration in the country of domicile with respect to the assets in that country, the holder of the certificate granted under section 36 or section 37, or the Administrator General, as the case may be, after having given such notices as the High Court may by any general rule to be made from time to time prescribe, for creditors and others to send in to him their claims against the estate of the deceased, and having discharged, at the expiration of the time therein named, such lawful claims as he knows of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons.”

Addition to Act II, 1874, of a Part respecting the division of the Presidency of Bengal into Provinces.

9. After section 41 of the said Act the following section shall be inserted, section shall be inserted, 10. To the said Act, after Part VI and section 66 thereof, the following shall be added, namely:—

“PART VII.

DIVISION OF THE PRESIDENCY OF BENGAL INTO PROVINCES.

67. (1) Notwithstanding anything in the foregoing provisions of

Division of the Presidency of Bengal into Provinces.

this Act, the Governor-General in Council, upon the occurrence of any vacancy in the office of the Administrator General of Bengal, may, by notification in the *Gazette of India*,—

- (a) divide the Presidency of Bengal, as defined in this Act, into so many Provinces as he thinks fit,
- (b) define the limits of each of those Provinces, and
- (c) appoint an Administrator General for each Province,

and, subject to the provisions of this section, the following consequences shall thereupon ensue, namely:—

(i) the office of Administrator General of Bengal shall cease to exist:

(ii) the Administrator General of a Province shall have the like rights and privileges and perform the like duties in the territories and dominions included in the Province as the Administrator General of Bengal had and performed as Administrator General therein:

(iii) the functions of the Government under this Act shall, as regards the territories and dominions included in a Province, be discharged by the Governor-General in Council:

(iv) the functions of whatsoever kind assigned by the foregoing provisions of this Act to the High Court at Calcutta in respect of the territories and dominions included in a Province shall be discharged by such High Court as the Governor-General in Council may, by notification in the *Gazette of India*, appoint in this behalf; and probate or letters of administration granted to the Administrator General of the Province by the High Court so appointed shall have the same effect throughout the Presidency of Bengal, as defined in this Act, or, if the Court so directs, throughout British India, as, but for the abolition of the office of Administrator General of Bengal, probate or letters of administration granted to the holder of that office by the High Court at Calcutta would have had:

(v) in the foregoing provisions of this Act the word ‘Presidency’ shall be deemed to include a Province, the expression ‘Presidency-town’ the place of sitting of a High Court appointed by the Governor-General in Council under clause (iv) of this sub-section, and the expression ‘Advocate General’ a Government Advocate or other officer appointed by the Government to discharge for a Province the functions under this Act of an Advocate General for a Presidency:

(vi) the provisions of this Act with respect to the commission of the Administrator General of Bengal shall regulate the commission payable to the Administrator General of a Province: and,

(vii) generally, the provisions of the foregoing sections of this Act with respect to the High Court at Calcutta, and the provisions of those sections or of any other enactment with respect to the Administrator General of Bengal, shall, in relation to a Province, be construed, so far as may be, to

apply to the High Court and Administrator General, respectively, appointed for the Province under this section.

(2) Any proceeding which was commenced before the publication of the notification dividing the Presidency of Bengal into Provinces and to or in which the Administrator General of Bengal in his representative character was a party or was otherwise concerned shall be continued as if the notification had not been published, and the Administrator General of the Province in which the town of Calcutta is comprised shall for the purposes of the proceeding be deemed to be the successor in office of the Administrator General of Bengal.

(3) The Court of the Recorder of Rangoon shall be deemed to be a High Court for the purposes of clause (iv) of sub-section (1).

(4) Notwithstanding any division of the Presidency of Bengal, as defined in this Act, into Provinces under this section, the Administrator General of the Province in which the town of Calcutta is comprised shall be deemed to be the Administrator General for the whole of the said Presidency for the purposes of the Regimental Debts Act, 1863."

25 & 27 Vict.,
c. 57.

The Probate and Administration Act, 1881.

11. After section 145 of the Probate and Administration Act, 1881, ^{V of 1881.} the following section shall be inserted, namely:—

Addition of new section after section 145, Act V, 1881.

"145A. Where a person not having his domicile in British India has died leaving assets both in British India and in the country in which he had his domicile at the time of his death, and there has been a grant of probate or letters of administration in British India with respect to the assets there and in the country of domicile with respect to the assets in that country, the executor or administrator, as the case may be, in British India, after having given such notices as are mentioned in section 139 and discharged, at the expiration of the time therein named, such lawful claims as he knows of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons."

STATEMENT OF OBJECTS AND REASONS.

THE main object of this Bill (section 10) is to provide for the division, upon the occurrence of a vacancy in the office of Administrator General of Bengal, of the present unwieldy Presidency of Bengal, as defined in the Administrator General's Act, 1874, into Provinces having Calcutta, Allahabad, Lahore and Rangoon as their respective centres.

2. Another object (sections 1 to 5), which has been approved by the Honourable the Chief Justices of the Calcutta, Madras and Bombay High Courts, is to enable the Government, as occasion occurs, to combine the office of Official Trustee with that of Administrator General at Calcutta, Madras and Bombay.

3. Another object of the Bill (section 7) is to provide for the administration of estates in Upper Burma and British Baluchistan by an Administrator General.

4. A further object (section 8) is to remove an ambiguity in the expression of section 5 of the Administrator General's Act, 1881.

5. Lastly, it not infrequently happens that a person not having his domicile in British India dies leaving assets both in British India and in the country of his domicile, his estate being administered by one executor or administrator in British India and by another in the country of domicile, and it has been held by very high authority that a receipt given by the executor or administrator in the country of domicile to the executor or administrator in British India for the surplus or residue of the estate in British India is not a valid discharge to the executor or administrator in British India. An object of the Bill (sections 6, 9 and 11) is to declare that such a receipt shall, subject to conditions, be a valid discharge.

(Signed) ANDREW R. SCOBLE.

The 26th August 1889.

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 28th August, 1889 :—

Bill No. 12 of 1889.

A Bill to amend the Indian Merchandise Marks Act, 1839.

WHEREAS it is expedient to enable Local Governments to permit piece-goods to be imported at any time before the first day of November, 1889, without having their length stamped thereon in standard yards, or in standard yards and

a fraction of such a yard; It is hereby enacted as follows :—

1. (1) The Local Government may in its discretion, and either absolutely or subject to conditions, declare that the provisions of section 18 of the Sea Customs Act, 1878, as amended by section 10, sub-section (2), of the Indian Merchandise Marks Act, 1889, shall, as regards any piece-goods mentioned in the declaration, be deemed to be in abeyance up to, and inclusive of, the thirty-first day of October, 1889.

(2) The Local Government may delegate to a Chief Customs-officer or other officer appointed by it in this behalf the power conferred upon it by sub-section (1).

STATEMENT OF OBJECTS AND REASONS.

The Calcutta, Madras, Rangoon and Karachi Chambers of Commerce having represented that the first day of August, 1889, has proved to be an inconveniently early date for the enforcement of the prohibition of the bringing into British India of such piece-goods as are described in clause (f) of section 18 of the Sea Customs Act, 1878, as amended by the Indian Merchandise Marks Act, 1889, the Governor-General in Council proposes to authorise Local Governments to permit the prohibition to remain in abeyance in special cases up to, and inclusive of, the thirty-first day of October, 1889.

(Signed) ANDREW R. SCOBLE.

The 28th August, 1889.

S. HARVEY JAMES,

Secretary to the Government of India.