

THE



Bombay Government Gazette

1884

PART IV

ACTS

PASSED BY THE

GOVERNMENT OF INDIA

AND BY THE

GOVERNMENT OF BOMBAY

Bombay:

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 4th January 1884, and was promulgated for general information in the *Gazette of India* on the 5th January 1884.—

Act No. I. of 1884.

An Act to amend the law relating to the granting of honorary degrees by the Universities at Calcutta, Madras and Bombay

WHEREAS it is expedient to amend the law relating to the granting of honorary degrees, and to give to the Universities at Calcutta, Madras and Bombay the power of granting the degree of Doctor in the faculty of Law to persons who have not undergone a previous examination;

and whereas the executive government of each of the said Universities is, by bye-laws made under the Acts establishing the same, vested in a Syndicate consisting of the Vice-Chancellor and certain of the Fellows;

It is hereby enacted as follows:—

1. Act No. XXI of 1875 (*an Act to authorize the University at Calcutta to grant honorary degrees*) is repealed.

2. If the Vice-Chancellor and not less than two-thirds of the other members of the Syndicate of any of the Universities at Calcutta, Madras and Bombay recommend that an honorary degree be conferred on any person, on the ground that he is, in their opinion, by reason of eminent position and attainments, a fit and proper person to receive such a degree, and their recommendation is supported by a majority of those present at a meeting of the Senate and is confirmed by the Chancellor, it shall be lawful for the Chancellor, Vice-Chancellor and Fellows to confer on that person the degree of Doctor in the faculty of Law, without requiring him to undergo any examination.

D. FITZPATRICK,

Secretary to the Government of India.

Published with the "Bombay Government Gazette" on the 10th January 1884.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 18th December 1883, and was promulgated for general information in the *Gazette of India* on the 22nd December 1883:—

ACT No. XXI. OF 1883.

THE INDIAN EMIGRATION ACT, 1883.

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SCHEDULE I.—COUNTRIES TO WHICH EMIGRATION IS LAWFUL.

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SCHEDULE III.—PROBABLE LENGTHS OF VOYAGE UNDER THIS ACT.

An Act to amend the law relating to the Emigration of Natives of India.

WHEREAS it is expedient to amend the law relating to the emigration of Natives of India; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY

1. (1) This Act may be called the Indian Emigration Act, 1883.
- (2) It extends to the whole of British India.
- 2 Nothing in this Act or in any rule made under this Act shall apply to any vessel belonging to, or in the service of, Her Majesty or of the Government of India.
3. Except as to the power to make rules, this Act shall come into force on such day as the Governor General in Council, by notification in the *Gazette of India*, appoints.
1871. 4. On and from the day on which this Act comes into force, the Indian Emigration Act, 1871, and Act No. XIV of 1872 (to exempt the Straits Settlements from the Indian Emigration Act, 1871) shall be repealed.
5. All notifications issued, contracts entered into, rules and appointments made, and licenses granted under any enactment hereby repealed, and in force on the day on which this Act comes into force, shall (so far as they are consistent with this Act) be deemed to have been respectively issued, entered into, made and granted under this Act.
6. In this Act, unless there is something repugnant in the subject or context,—
- (1) "Emigrate" and "emigration" denote the departure by sea out of British India of a Native of India under an agreement to labour for hire in some country beyond the limits of India other than the island of Ceylon or the Straits Settlements.
- Provided that a domestic servant when accompanying his employer shall not be deemed to emi-

grate within the meaning of the above definition:

(2) "Emigrant" means any Native of India who emigrates, or has emigrated, within the meaning of the above definition, or who has been registered under this Act as an emigrant, and includes any dependent of an emigrant:

(3) "Dependent" means any of the following persons accompanying any emigrant, namely:—

(a) any woman who has not entered into an agreement to emigrate under this Act;

(b) any child in whose name and on whose behalf any such agreement has not been entered into; and

(c) any aged or incapacitated relative or friend:

(4) "Magistrate" means, in the Presidency towns, a Presidency Magistrate, and elsewhere a District Magistrate or a Sub-divisional Magistrate, and includes also any person appointed by the Local Government, by name or by virtue of his office, to perform in any local area the functions of a Magistrate under this Act.

(5) "Registering Officer" means any person appointed by the Local Government, by name or by virtue of his office, to perform in any local area the functions of a Registering Officer under this Act.

(6) "Recruiter" includes a head recruiter or other person who collects or receives emigrants recruited by other persons

(7) "Vessel" includes anything made for the conveyance by water of human beings or property.

(8) "Emigrant-vessel" means a vessel the master of which is licensed under this Act to carry emigrants therein and

(9) "Master" means any person (except a pilot or harbour-master) having for the time being control or charge of a vessel.

CHAPTER II.

PORTS FROM WHICH, AND COUNTRIES TO WHICH, EMIGRATION IS LAWFUL.

7. (1) Emigration shall not be lawful except from the ports of Calcutta, Madras and Bombay, and from such other ports as

the Governor General in Council, from time to time, by notification in the *Gazette of India*, declares to be ports from which emigration is lawful.

(2) The Governor General in Council may at any time, by a like notification, revoke any notification issued under this section.

(3) The Local Government may, from time to time, by notification in the official *Gazette*, fix for the purposes of this Act the limits of any port from which emigration is lawful.

8. (1) Emigration shall not be lawful except to the countries specified in the first schedule hereto annexed, and to such

other countries as the Governor General in Council, from time to time, by notification in the *Gazette of India*, declares to be countries to which emigration is lawful.

(2) Every notification under this section must contain a declaration that the Governor General

Indian Emigration Act, 1883.

(Chapter IV.—Protectors of Emigrants and Medical Inspectors.)

in Council has been duly certified that the Government of the country to which the notification refers has made such laws and other provisions as the Governor General in Council thinks sufficient for the protection of emigrants to that country during their residence therein.

9. (1) Whenever the Governor General in Council has reason to believe that any of the grounds, hereinafter mentioned, for prohibiting

emigration to any country to which emigration is lawful, exists, he may, by notification in the *Gazette of India*, declare that emigration to that country shall cease to be lawful from a day specified in the notification; and from that day emigration to that country shall accordingly cease to be lawful.

(2) The grounds referred to in sub-section (1) of this section are—

(a) that the plague or any other epidemic disease dangerous to human life has broken out in the country;

(b) that the mortality among emigrants in the country is excessive;

(c) that proper measures have not been taken for the protection of emigrants immediately on their arrival in the country or during their residence therein;

(d) that the agreements made with emigrants, as such, before their departure from India are not duly enforced by the Government of the country; and

(e) that the Governor General in Council, having, either directly or through the Secretary of State for India in Council, addressed the Government of the country with a view to obtain information regarding the condition or treatment of emigrants therein, has not within a reasonable time received the information asked for.

10. (1) Whenever the Local Government has reason to believe that, in any country to which emigration is lawful, the plague or other epidemic disease dangerous to human life has broken out, and that emigrants, if allowed to emigrate to that country, would be exposed to serious risk of life on arrival there, it may, by notification in the official Gazette, declare that emigration to that country from any port in the territories administered by it shall cease to be lawful pending a reference to the Governor General in Council.

(2) The Local Government shall at once report the publication of a notification under this section, with the reasons for it, to the Governor General in Council, who shall thereupon publish a notification in the *Gazette of India* confirming or cancelling the notification published by the Local Government.

11. Whenever the Governor General in Council is satisfied that the ground on which a notification has been published by him under either of the two last foregoing sections with respect to any country has ceased to exist, he may, by noti-

fication in the *Gazette of India*, declare that emigration to that country shall again be lawful from a day to be specified in the notification.

12. (1) The Local Government may, with the previous sanction of the Governor General in Council, by notification in the official Gazette, prohibit, from a day specified in the notification, all Natives of India or any specified class of Natives, from emigrating from the whole or any specified part of the territories under its administration to any specified country.

(2) The Local Government may, with the like sanction, in like manner, vary or cancel any notification published under this section.

13. The publication of a notification under any of the four last foregoing sections shall not affect any act done, offence committed or proceedings commenced before the publication,

Saving for acts done before publication of notification.

CHAPTER III.

EMIGRATION AGENTS.

14. (1) The Government of every country, to which emigration is lawful, may, from time to time, appoint a person to be Emigration Agent in any port from which emigration is lawful, and may suspend or remove any person so appointed.

(2) An appointment under this section shall not take effect until the Local Government, by notification in the official Gazette, has declared its approval of the appointment.

15. The remuneration to be given to an Emigration Agent shall not depend on, or be regulated by, the number of emigrants sent by him, but shall be in the nature of a fixed salary:

Provided that the Governor General in Council may, from time to time, authorize the payment to specified Emigration Agents of special fees for occasional work.

CHAPTER IV.

PROTECTORS OF EMIGRANTS AND MEDICAL INSPECTORS.

16. (1) The Local Government may, from time to time, appoint a proper person to be the Protector of Emigrants for any port within the territories administered by it from which emigration is lawful.

(2) The Governor General in Council may, from time to time, define the local area to which the authority of any Protector of Emigrants so appointed shall extend.

(3) Every Protector of Emigrants may be suspended or removed by the Local Government which appointed him.

(4) Every Protector of Emigrants shall be a public servant within the meaning of the Indian Penal Code.

Indian Emigration Act, 1883.

(Chapter V.—Recruiters.)

17. Every Protector of Emigrants, in addition to the special duties assigned to him by this Act or the rules made under this Act, shall—

(a) protect and aid with his advice all emigrants;

(b) cause, so far as he can, all the provisions of this Act, and of the rules made under this Act, to be complied with;

(c) inspect, on arrival, all vessels bringing return-emigrants to the port for which he is Protector;

(d) enquire into the treatment received by the return-emigrants both during the period of their service in the country to which they emigrated, and also during the return voyage, and report thereon to the Local Government; and

(e) aid and advise the return-emigrants so far as he reasonably can.

18. (1) The Local Government may, from time to time, appoint a Medical Inspector of Emigrants at each port from which emigration is lawful, and may suspend or remove him.

(2) Every Medical Inspector of Emigrants shall be a public servant within the meaning of the

XLV of 1860. Indian Penal Code.

19. Every Emigration Agent, and all persons in charge of, or employed in, any depot established under this Act, or in charge of or employed in any emigrant-vessel, shall give the Protector of Emigrants and the Medical Inspector of Emigrants every facility for making such inspections, examinations and surveys, as are required by this Act, or by the rules made under this Act, or as those officers may deem necessary or proper, and shall afford them all such information as they may reasonably require.

CHAPTER V.

RECRUITERS.

20. (1) The Protector of Emigrants at each of the ports from which emigration is lawful shall, on the application of the Emigration Agent for any country to which emigration is lawful, grant licenses to so many fit persons as to the Protector seems necessary to be recruiters of emigrants within the local area to which the authority of the Protector extends.

(2) A person shall not, unless he holds a license granted under this chapter,—

(a) enter into, or attempt to enter into, any agreement, with any person purporting to bind him to emigrate, or

(b) in consideration of any hire or reward, induce, or attempt to induce, any person to leave any place for the purpose of emigrating, or

(c) act or be employed in any other respect as a recruiter of emigrants.

(3) Every recruiter shall produce his license when called upon to do so by any Magistrate or officer in charge of a police-station.

21. Every license granted under this chapter shall specify the particular country for which, and the local area within which, the holder is licensed to recruit, and may be in the form set forth in the second schedule hereto annexed.

22. (1) A license granted under this chapter shall not, be in force for a longer period than one year from the day on which it comes into force.

(2) The Protector of Emigrants may, on the ground of misconduct, cancel any license granted by him under this chapter before the expiration of the period for which it is in force.

23. (1) A recruiter shall not, in any place beyond the limits of a port from which emigration is lawful, enter, or attempt to enter, into any agreement with any person purporting to bind him to emigrate, or induce or assist, or attempt to induce or assist, any person to leave any place for the purpose of emigrating, or act or be employed in any other respect as a recruiter of emigrants, unless his license bears the countersignature of the District Magistrate.

(2) If a District Magistrate has satisfied himself, after such enquiry as he thinks necessary, that the licensee is, by character or from any other cause, unfitted to be a recruiter, under this Act, he may refuse to countersign a recruiter's license.

(3) If a District Magistrate has satisfied himself, after such enquiry as aforesaid, that sufficient and proper accommodation has not been provided in a suitable place, or is not available, for such intending emigrants or emigrants as may be collected by the recruiter pending their registration or removal to the depot at the port of embarkation, he may refuse to countersign a recruiter's license or to decide whether he will countersign his license until after the expiration of such time as may in his opinion be reasonable.

(4) Before a Magistrate refuses to countersign, or defers his countersignature of, a recruiter's license, he shall record in writing his reasons for so doing.

24. If any Magistrate, having countersigned a recruiter's license, afterwards finds reason to think that the licensee is, by character or from any other cause, unfitted to be a recruiter under this Act, or that the accommodation provided for intending emigrants or emigrants collected by him has become unsuitable or has ceased to be available, he may require the licensee to produce his license, and may cancel the countersignature on it or may impound the license and send it for cancellation to the Protector of Emigrants who granted it.

25. When a Magistrate countersigns, or refuses to countersign, a recruiter's license, or cancels the countersignature on it, he shall at once report the countersignature, or the refusal or cancellation, and the grounds of the refusal or cancellation, to the Protector of Emigrants who granted the license.

Indian Emigration Act, 1883.

(Chapter VI.—Registration of Emigrants and Execution of Agreements to emigrate.)

26. (1) The Emigration Agent on whose application, any recruiter is licensed shall supply the recruiter with a written or printed statement, signed by the Agent, and countersigned by the Protector of Emigrants, of the terms of agreement which the recruiter is authorized to offer on behalf of the Agent to intending emigrants.

(2) The statement shall be both in English and in the Vernacular language or languages of the local area within which the recruiter is licensed to recruit.

(3) The recruiter shall give a true copy of the statement to every person whom he invites to emigrate, and shall produce the statement for the information of any Magistrate or officer in charge of a police-station, when called upon to do so by the Magistrate or officer.

27. (1) Every recruiter shall provide sufficient accommodation to be and proper accommodation provided by recruiters in a suitable place for such intending emigrants or emigrants as may be collected by him pending their registration or removal to the port of embarkation.

(2) The place where the accommodation is provided shall have a board fixed in some conspicuous position specifying the purpose for which the place is used.

(3) Every District Magistrate, and any subordinate Magistrate or officer of Police authorised in this behalf by a rule made under this Act, shall have, for the supervision and regulation of the places where accommodation is provided, under this section, the same powers as are by this Act conferred on a Protector of Emigrants in respect of depôts at the port of embarkation.

(4) All recruiters or other persons in charge of these places shall afford every Magistrate and any officer of Police authorised, as aforesaid in this behalf every facility for visiting and inspecting them.

CHAPTER VI.

REGISTRATION OF EMIGRANTS AND EXECUTION OF AGREEMENTS TO EMIGRATE.

28. The Local Government may, from time to time, appoint any person, by name or by virtue of his office, to perform in a specified local area, but subject to the control of the District Magistrate or such other officer as the Local Government appoints, by name or by virtue of his office, in this behalf, the functions of a Registering Officer under this Act.

29. Every agreement to emigrate entered into by any person must —

(a) if executed within the limits of any port from which emigration is lawful, be executed in the presence of the Protector;

(b) if executed elsewhere, be executed in the presence of a Registering Officer.

30. Every recruiter who desires to engage any person to emigrate shall appear before a Registering Officer or the

Protector of Emigrants (as the case may be) with that person, and with any persons intending to accompany that person as his dependents.

31. (1) The Registering Officer or Protector shall thereupon examine the person, apart from the recruiter, with reference to his intended agreement; and, if it appears that he is competent and willing to enter into the agreement and understands its nature, that he has not been induced to enter into it by any coercion, undue influence, fraud, misrepresentation or mistake, that its terms are in conformity with law, and are such as, according to the statement furnished to the recruiter under section twenty-six, he was authorized to offer, shall, subject to the provisions of section thirty-three, register in a book to be kept for the purpose, in such form as the Governor General in Council, from time to time, by rules made under this Act, prescribes the name, sex, name of the father, caste, occupation and age of the intending emigrant, and the name of the village or place of which he is a resident, and such other particulars (if any) concerning him and his dependents (if any) as the Governor General in Council, from time to time, by rules made under this Act, prescribes.

(2) Notwithstanding anything contained in the last foregoing section, the Registering Officer or Protector may refuse to register any married woman under that section if he finds that her husband does not consent to her emigrating.

(3) The Registering Officer or Protector may also, in the case of any woman whom he believes to be married, refuse to decide whether he will register her until after the expiration of such time, not exceeding ten days, as he thinks fit.

33. (1) When any person appears before a Registering Officer or Protector under section thirty as a dependent of an intending emigrant, the Registering Officer or Protector shall, if the person is able to give intelligent answers to questions, examine him, apart from the recruiter, as to his dependence on the intending emigrant whom he is about to accompany and as to his willingness to emigrate.

(2) Where the Registering Officer or Protector sees reason to doubt the existence of the dependence or willingness, he may, if he thinks fit, refuse to register the intending emigrant unless the name of the dependent is omitted from the register.

34. Whenever the Registering Officer or Protector refuses to register any intending emigrant, he shall record his reasons for the refusal.

35. (1) When the particulars concerning any intending emigrant and his dependents (if any) have been registered, the Registering Officer or Protector shall cause an agreement to be prepared in triplicate, and shall

Indian Emigration Act, 1833.
(Chapter VII.—*Emigration Depôts.*)

call on the recruiter and the intending emigrant to execute the agreement in triplicate in his presence, and, if they execute it, shall attest the execution with his signature.

(2) An agreement to emigrate shall not be of any effect until the particulars concerning the intending emigrant and his dependents (if any) have been registered, and the agreement has been executed and attested under this Act.

(3) When the particulars concerning any intending emigrant and his dependents (if any) have been registered, and an agreement has been executed and attested under this Act, the intending emigrant shall be deemed to be registered under this Act as an emigrant.

36. Every agreement to emigrate shall contain a copy of the particulars registered concerning the intending emigrant and his dependents (if any) under section thirty-one, and on the reverse such particulars concerning the nature, duration and term of service and the remuneration of the emigrant, and such other matters (if any) as the Governor General in Council, from time to time, by rules made under this Act, prescribes.

37. When the agreement has been executed and attested, one copy thereof shall be delivered to the recruiter for transmission to the Emigration Agent, another shall be delivered to the emigrant, and the third shall be retained by the Protector or sent by the Registering Officer to him.

38. For the preparation of every agreement under this chapter the recruiter or Emigration Agent shall pay such fee as the Governor General in Council, from time to time, by notification in the *Gazette of India*, prescribes.

Provided that the Governor General in Council may at any time, by like notification, declare that the fee payable under this section shall be consolidated, either generally or in any specified local area, with the fee payable under section seventy-three.

39. Notwithstanding anything to the contrary in the Indian Contract Act, 1872, it shall be lawful for any person of the age of sixteen years or upwards to enter in manner in this Act provided into an agreement to emigrate to any place to which emigration is lawful.

40. Any person entering into an agreement to emigrate, and being the parent or guardian of a child under the age of sixteen years and above the age of ten years, may, in the name of and on behalf of the child, enter into an agreement in manner in this Act provided binding the child to emigrate with him.

CHAPTER VII.

EMIGRATION DEPÔTS.

41. Every Emigration Agent shall establish at the port for which he is appointed a suitable depôt for the reception and lodging of emigrants before embarkation for the country for which he is Emigration Agent, and shall provide all necessary food and clothing for all emigrants during their stay at the depôt.

42. (1) A depôt established under the last foregoing section shall not be used for the reception and lodging of emigrants until it has been inspected and approved by the Protector of Emigrants and the Medical Inspector of Emigrants, and a license for its use has been granted by the Protector.

(2) A license under this section shall not be granted for a longer period than one year from the day on which it comes into force.

(3) The Protector of Emigrants may at any time cancel a license under this section—

(a) if he considers that the depôt for which it was granted is unhealthy, or has in any respect become unsuitable for the purpose for which it was established, or

(b) if the Emigration Agent fails, after reasonable notice, to comply with any of the requirements of this Act or of the rules made under this Act.

43. The Protector of Emigrants and the Medical Inspector shall, from time to time, and at least once in every week during which any emigrants may be kept in any depôt at the port for which they are Protector and Medical Inspector, respectively, inspect the emigrants in that depôt, and examine the state of the depôt, and the manner in which the emigrants therein are lodged, fed, clothed and otherwise provided for and attended to.

44. The Medical Inspector shall report to the Protector of Emigrants any circumstance that may come to his knowledge showing that any depôt is not suitable for its purpose, or that the emigrants lodged therein are treated with any oppression or neglect.

45. (1) The Medical Inspector may, if he thinks fit, direct that any emigrant suffering from any disease likely to be dangerous to his neighbours shall be isolated or excluded from the depôt.

(2) The Medical Inspector may, if he thinks fit, order the removal of any emigrant so suffering to a proper hospital for treatment at the expense of the Emigration Agent; and the expense (if any) incurred by the Protector of Emigrants in respect of the removal of the emigrant and his treatment in the hospital shall be recoverable from the Emigration Agent by the Protector of Emigrants, with interest thereon at the rate of six per centum per annum from the date on which the expense was incurred.

Indian Emigration Act, 1883.

(Chapter VIII.—Conveyance of Emigrants to Depôts and Procedure on Arrival).

CHAPTER VIII.

CONVEYANCE OF EMIGRANTS TO DEPÔTS AND
PROCEDURE ON ARRIVAL.

46. A recruiter shall not remove or attempt to remove any intending emigrant to a depôt, or induce or attempt to induce him to go to a depôt, or to leave the local limits of the jurisdiction of the Magistrate by whom the recruiter's license has been countersigned, or aid him in going to a depôt, or in leaving any such local limits, until the intending emigrant has been registered under this Act as an emigrant.

47. (1) Every emigrant must, after he has been registered under this Act, be conveyed with all convenient despatch by or under the orders of the recruiter or Emigration Agent, to the depôt established at the port of embarkation by the Emigration Agent on whose application the recruiter has been licensed.

(2) When an emigrant has been registered at a place beyond the limits of the port of embarkation, he must, while proceeding to the depôt, be accompanied throughout the journey either by the recruiter himself, or by a competent person appointed by him with the approval of a Magistrate.

(3) The Magistrate shall give to the person so appointed a certificate signed by him stating that he has been appointed for the journey to the depôt.

(4) The recruiter or the person so appointed shall, throughout the journey, provide the emigrant with proper and sufficient food and lodging.

48. The arrival at a depôt of each emigrant must immediately be reported by the person in charge of the depôt to the Emigration Agent, and by the Agent to the Protector of Emigrants.

49. (1) The copy of the agreement received by the recruiter from the Registering Officer or Protector must, as soon as conveniently may be after the arrival of the emigrant at the depôt, be shown by the Emigration Agent to the Medical Inspector of Emigrants.

(2) The Medical Inspector shall examine each emigrant entered in the agreement to ascertain whether he is fit, having regard to his age and state of health, to undertake the journey to the country to which he has agreed to emigrate.

(3) The Medical Inspector, if satisfied of his fitness, shall give a certificate to that effect to the Emigration Agent. If not so satisfied, he shall give a certificate to that effect to the Protector of Emigrants.

50. (1) In any of the following cases, namely:—
(a) if the Medical Inspector of Emigrants finds that an emigrant is,

or has become, unfit to undertake the journey to the country to which he has agreed to emigrate, and if the Protector of Emigrants considers that the emigrant has not dishonestly represented himself as fit to undertake the journey, or

(b) if the Protector finds that any such irregularity has occurred in the recruitment or treatment by the recruiter of any emigrant as makes it just to rescind the agreement to emigrate, or

(c) if the Emigration Agent refuses to fulfil the agreement entered into with the emigrant,

the Protector may order the Emigration Agent to pay to the emigrant such sum as the Protector deems reasonable as compensation, and when the emigrant has been registered at a place beyond the limits of the port of embarkation, such reasonable sum as is necessary to enable him to return to the place at which he was registered, and may take any steps which he thinks necessary for the conveyance of the emigrant to that place.

(2) Any emigrant who has been registered at any place beyond the limits of the port of embarkation, and who from his state of health is, in the opinion of the Medical Inspector of Emigrants, unfit to undertake at once the return-journey to the place at which he was registered, shall be entitled to be fed, lodged, clothed and attended to at the depôt at the expense of the Emigration Agent until he is reported by the Medical Inspector fit to undertake the return-journey.

51. (1) When any order is made under the last foregoing section with reference to any emigrant who was registered at any place beyond the limits of the port of embarkation, any emigrant who has been registered as his dependent,

or any emigrant who, not being a dependent, is the father, mother, wife, husband, son, daughter, brother, sister, guardian or ward of the emigrant, shall be entitled—

(a) to be conveyed at the expense of the Emigration Agent with the emigrant to the place at which he was registered; and

(b) if the emigrant is unable to travel, to be lodged, fed and clothed in the depôt at the expense of the Emigration Agent until the emigrant is able to travel.

(2) The Protector of Emigrants may include any expenses incurred under this section in an order made under the last foregoing section with respect to the emigrant.

52. If it appears that during the journey to the depôt any emigrant has suffered any ill-treatment, or that, in the case

of any emigrant who has been registered at a place beyond the limits of the port of embarkation, the provisions of section forty-seven have not been complied with, the Protector of Emigrants may order the Emigration Agent to pay—

(a) to the emigrant a reasonable sum by way of compensation, and

(b) if any expenses have been incurred by or under the orders of the Protector on behalf of the emigrant by reason of the neglect to comply with the provisions of

Indian Emigration Act, 1883.

(Chapter IX.—Emigrant-vessels.)

section forty-seven, to the Protector the expenses so incurred.

53. (1) On failure of the Emigration Agent for twenty-four hours to comply with an order of the Protector for the payment of any sum to an emigrant under any of the last three foregoing sections, the Protector may pay the same to the emigrant.

(2) Every sum paid by the Protector to an emigrant under sub-section (1), and, on failure of the Emigration Agent for twenty-four hours to comply with an order for payment thereof under the last foregoing section, every sum which the Protector may have ordered the Emigration Agent to pay to him under that section, shall be recoverable from the Emigration Agent with interest thereon at the rate of six per centum per annum from the date of payment.

(3) Further proof shall not be required by any Court in any such case than that the Protector gave the Emigration Agent an order to pay the sum, and that the Emigration Agent for twenty-four hours failed to comply with the order.

CHAPTER IX.

EMIGRANT-VESSELS.

54. It shall not be lawful to receive any emigrant on board any vessel unless a license to carry emigrants in the vessel has been obtained from the Local Government.

55. (1) When the master or owner of any vessel desires to obtain a license to carry emigrants in his vessel, he shall apply in writing through the Protector of Emigrants to the Local Government for the license.

(2) The application must state the number of emigrants which, according to the rules as to space contained in this chapter, the applicant deems the vessel capable of carrying, and the tonnage and such other particulars respecting the vessel as the Governor General in Council, from time to time, by rules made under this Act, prescribes.

56. (1) The Protector of Emigrants shall cause the vessel to be surveyed by a competent person at the cost of the master or owner, with a view to ascertain her seaworthiness and the extent and nature of her accommodation for emigrants, and to ascertain that she is properly ventilated, and is supplied with all the tackle, apparel and furniture requisite for her intended voyage.

(2) If the Local Government is of opinion that the vessel is in all respects suitable for the carrying of emigrants under this Act, and is properly manned and officered, it shall give to the master of the vessel a license to carry emigrants therein specifying the number of emigrants which may be received on board.

57. (1) A license shall not be granted under the last foregoing section unless—

- Accommodation required on board emigrant-vessel.
- there is provided for the emigrants, either between-decks or, subject to the approval of the Protector of Emigrants and the Medical Inspector, in cabins on the upper deck, a space devoted to the exclusive use of the emigrants having in every part a height of not less than six feet;
 - a separate place is fitted up for a hospital; and
 - such arrangements are made for the separation of women (married or single) and children from the other emigrants as the Governor General in Council, from time to time, by rules made under this Act, prescribes.

(2) The cabins on the upper deck provided under clause (a) of this section must be firmly secured and entirely covered in.

58. Every emigrant-vessel must contain within the space referred to in clause (a) of the last foregoing section at least twelve superficial feet and seventy-two cubic feet of space for each emigrant:

Provided that two emigrants under the age of ten years shall for the purposes of this section count as one only.

59. There must be on board every emigrant-vessel, at the time of departure of the vessel from the port at which they embark, provisions, clothing, fuel and water for the emigrants (over and above the supply for the master, officers and crew, and of the cabin and other passengers, if any), in such quantity and of such description and quality as the Governor General in Council, from time to time, by rules made under this Act, prescribes.

60. Every emigrant-vessel must, at the time of departure of the vessel from the port at which the emigrants embark, have on board, and must carry with her, a properly qualified surgeon, and also such compounders, interpreters and attendants subordinate to the surgeon, and such medicines and other stores in such quantity and of such quality as the Governor General in Council, from time to time, by rules made under this Act, prescribes.

61. The Protector of Emigrants and the Medical Inspector of Emigrants shall see personally that all the provisions of the last two foregoing sections are complied with.

62. (1) Every master licensed under this Act shall on the requisition of the Protector of Emigrants, and before any emigrant embarks on board his vessel, execute to the Protector, in duplicate, a bond, in such form as the Local Government, from time to time, prescribes, binding himself and the owner of the vessel

Indian Emigration Act, 1833.
(Chapter X.—Embarkation and Departure.)

in a penal sum of ten thousand rupees, to perform the duties imposed by this Act or any rule made under this Act on a master and owner respectively.

(2) The Protector of Emigrants shall forward one copy of the bond to such officer as may be appointed in this behalf by the Government of the country to which the emigrants are to be conveyed, or, in the case of a foreign colony, to the British Consular Agent, and the other copy to the Local Government.

CHAPTER X.

EMBARKATION AND DEPARTURE.

63. An emigrant shall not embark, except with the permission of the Protector of Emigrants, until seven days have elapsed from the date of his arrival at the depôt.

Time at which emigrant-vessels may leave India.

64. (1) An emigrant-vessel shall not sail from any port in British India—

- (a) to any country west of the Cape of Good Hope, except at such seasons as the Governor General in Council, from time to time, by rules made under this Act, prescribes as seasons during which it shall be lawful for emigrant-vessels generally, or of a class to which the vessel belongs, to sail to that country;
- (b) to any country during any season which the Governor General in Council, from time to time, by notification in the *Gazette of India*, declares to be a season during which the sailing of emigrant-vessels to that country is prohibited.

65. If any emigrant without sufficient cause refuses or neglects to embark when called on by the Emigration Agent to do so, it shall not be lawful to compel the emigrant to embark; but nothing in this section shall affect the civil or criminal liabilities which an emigrant incurs by reason or in respect of any such refusal or neglect.

66. (1) When any emigrants are about to embark on board any vessel, the Emigration Agent shall supply the master of the vessel with four copies of a list, specifying, as accurately as may be, the names, ages and occupations of the emigrants, and the names of their respective fathers.

(2) The master shall not receive any emigrant on board unless he is provided with a pass, signed by the Emigration Agent, and countersigned by the Protector, stating the name and age of the emigrant, the name of his father, and the country to which he has agreed to emigrate, and certifying that he is in a fit state of health to undertake the voyage to that country.

(3) Every emigrant shall on embarkation deliver the pass to the master.

(4) The master shall compare the emigrants who embark and the passes delivered by them

with the list supplied by the Emigration Agent; and, if the list appears to be correct and to correspond with the passes delivered and with the emigrants embarked, the master shall sign the four copies of the list.

(5) The master shall not permit any emigrant to remain on board who has not delivered up his pass to the master, or is not mentioned in the list.

67. (1) When the copies of the list have been signed, the master shall give two of the copies to the Protector of Emigrants, who shall sign them if he believes them to be correct.

(2) The Protector shall send one of the copies so signed by him by the vessel which carries the emigrants to such officer as may be appointed in this behalf by the Government of the country to which the emigrants have agreed to emigrate, or, in the case of a foreign colony, to the British Consular Agent, and shall file the other copy in his own office.

68. (1) The master shall give to the Emigration Agent the two remaining copies of the list.

(2) The Emigration Agent shall thereupon sign the copies, and shall return one of them to the master.

(3) The master shall, on the arrival of the vessel at the country to which the emigrants have agreed to emigrate, and before their disembarkation, deliver the copy so returned to him to such officer as may be appointed in this behalf by the Government of the country, or, in the case of a foreign colony, to the British Consular Agent.

69. (1) The Medical Inspector shall be present at the embarkation of all emigrants, and shall examine each emigrant to ascertain if he is in a fit state of health to undertake the voyage to the country to which he has agreed to emigrate; and, if he finds that he is not fit to undertake the voyage, he shall inform the Protector accordingly.

(2) The Protector may thereupon refuse to permit the emigrant to embark; and any emigrant, registered as a dependent of an emigrant whom the Protector has refused to permit to embark, or any emigrant who, not being a dependent, is the father, mother, wife, husband, son, daughter, brother, sister, guardian, or ward of the emigrant, may, notwithstanding anything in this Act, refuse to embark.

(3) The provisions of sections fifty, fifty-one and fifty-three shall apply to emigrants who under this section are not permitted to embark, and to any emigrants who under this section refuse to embark, and to the recovery of expenses incurred under this Act in respect of them.

70. The Emigration Agent shall, after all the emigrants have embarked, deliver to the master all the agreements made by the Emigration Agent or under his authority with the emigrants, and delivered or sent to him under this Act; and the

Disposal of the two copies of list to be given by master to Protector.

give two of the copies to the Protector of Emigrants, who shall sign

Disposal of the two copies of list to be given by master to Emigration Agent.

shall give to the Emigration Agent the two remaining copies of the list.

Examination of emigrants by Medical Inspector.

of all emigrants, and shall examine each emigrant

Emigration Agent to deliver agreements to emigrate to master.

ed, deliver to the master all the agreements made by the Emigration Agent or under his authority with the emigrants, and delivered or sent to him under this Act; and the

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(Chapter X.—*Embarkation and Departure.*)

master shall, on arrival at the country to which the emigrants are to be conveyed, deliver these agreements to such officer as may be appointed in this behalf by the Government of the country, or, in the case of a foreign colony, to the British Consular Agent.

71. Before any emigrant-vessel clears out of any port, the master of the vessel shall obtain from the Protector of Emigrants at the port, and from the Emigration Agent for the country to which the emigrants are to be conveyed, certificates, signed by the Protector and Emigration Agent, respectively, to the effect that the Protector and Agent have, in respect of all the emigrants embarking at that part in the vessel, done all that is required by the foregoing provisions of this Act, or by the rules made under this Act, to be done on the part of the Protector and Agent, respectively, and that all the directions for the security, well-being and protection of emigrants which are contained in this Act, or in the rules made under this Act, have in the case of that vessel been complied with.

72. The master of every emigrant-vessel shall keep on board the vessel during the whole voyage two copies of this Act and of all rules made under this Act, and two copies of a translation of this Act, and of those rules, in such language or languages as the Local Government directs, and shall, on request made at any reasonable time, produce one of those copies to any emigrant for his perusal.

73. For each emigrant who embarks on board an emigrant-vessel the Emigration Agent shall pay to the Protector of Emigrants a fee of such amount as the Governor General in Council, from time to time, by notification in the *Gazette of India*, prescribes:

Provided as follows:—

(a) the fee payable under this section shall not be more than is, in the opinion of the Governor General in Council, sufficient to raise the total income from fees under this Act to an amount which will cover the cost of any establishment or supervision which the Governor General in Council thinks necessary to provide for the control of emigration:

(b) if it appears to the Governor General in Council expedient to provide, in the case of any country, any special establishment or expenditure for the protection of Indian emigrants to that country, the Governor General in Council may increase the fee payable in the case of emigrants to that country to an amount sufficient, in his opinion, to cover the cost of the special establishment or expenditure.

74. It shall be the duty of every master licensed under this Act to see that all the provisions of this Act and the rules made under this Act are

Duty of master to see to observance of Act and rules on board his vessel.

observed on board his vessel during the voyage from British India to the country to which the emigrants are to be conveyed.

75. The master shall return his pass to each emigrant before he disembarks in the country to which he has agreed to emigrate.

Special Provisions as to Vessels sailing from Calcutta.

76. The master of every vessel carrying emigrants from the port of Calcutta shall proceed on his voyage and depart with his vessel from Garden Reach within twenty-four hours after the embarkation of such of the emigrants as have first embarked.

77. Every sailing-vessel leaving the port of Calcutta with emigrants shall proceed from Garden Reach to sea under tow of a steamer declared to be competent by such officer as the Local Government appoints in this behalf.

78. (1) When an emigrant-vessel leaves the port of Calcutta, if during her passage down the river, and while between Garden Reach and Diamond Harbour, the disease of measles, scarlet-fever or small-pox appears on board, the master shall, if so required by the surgeon in charge of the emigrants, send to the hospital at Diamond Harbour all emigrants suffering from the disease, with any emigrants registered as their dependents, and any emigrant who, not being a dependent, is the father, mother, wife, husband, son, daughter, brother, sister, guardian or ward of any such emigrant and* who wishes to accompany him or her, and shall at once inform the Protector of Emigrants at Calcutta of the number and names of the emigrants so sent to hospital.

(2) The provisions of sections fifty, fifty-one and fifty-three shall, so far as may be, apply to emigrants landed under this section, and to the recovery of expenses incurred in respect of them.

79. (1) In the event of cholera in an epidemic form appearing among the emigrants on board any such vessel carrying emigrants from the port of Calcutta, the surgeon in charge of the emigrants may require the master to land all the emigrants on board the vessel at Diamond Harbour.

(2) The master shall at once comply with the request of the surgeon, and shall immediately give notice of his having done so to the Protector of Emigrants at Calcutta, who shall take such action thereon as the Governor General in Council, from time to time, by rules made under this Act, prescribes.

Emigrant-vessel sailing from Calcutta to depart within 24 hours of embarkation.

Emigrant-vessel sailing from Calcutta to be towed to sea.

Power of surgeon of emigrant-vessel leaving Calcutta to require sick emigrants to be sent to hospital.

Power of surgeon of emigrant-vessel leaving Calcutta to require all emigrants to be landed when cholera appears.

Indian Emigration Act, 1883.
(Chapter XII.—Offences.)

CHAPTER XI.

RULES.

80. (1) The Governor General in Council may, ^{Power for Governor General in Council to make rules.} from time to time, make rules consistent with this Act—

- (a) to provide for the supervision and regulation of places of accommodation provided under this Act, and to define the classes of Magistrates and the officers of Police to be authorized to visit and inspect those places;
- (b) to prescribe the form of the register required under this Act, and the particulars to be entered therein, and to regulate the control to be exercised over Registering Officers by the District Magistrate or officer (if any) appointed in this behalf under this Act;
- (c) to prescribe the forms of the agreements to be made under this Act, and the particulars to be contained therein and the language or languages in which agreements must be expressed;
- (d) to prescribe the conditions on which licenses for the establishment of depôts under this Act may be given, to provide for the supervision and regulation of depôts, and for the medical care of the emigrants during their residence there, and the measures to be taken on the outbreak of any epidemic or infectious disease there;
- (e) to prescribe the forms to be supplied by Emigration Agents and recruiters for the purposes of this Act;
- (f) to prescribe the particulars which the owner or master of a vessel applying for a license to carry emigrants in his vessel must state;
- (g) to regulate the proportion of women to be ordinarily carried in any emigrant-vessel with male emigrants, and to prescribe the arrangements to be made for the separation of women (married or single) and children from the other emigrants on board an emigrant-vessel;
- (h) to prescribe the description, quantity and quality of provisions, fuel and water to be taken by emigrant-vessels, the daily allowance of food and water to be issued, and the nature and amount of clothing to be supplied to each emigrant during the voyage;
- (i) to fix the number of the compounders, interpreters and attendants subordinate to the surgeon to be carried for the care of the sick or weakly on board each emigrant-vessel;
- (j) to prescribe the nature, quantity and quality of medicines and other stores to be carried on board emigrant-vessels;
- (k) to provide for the ventilation and cleanliness of every emigrant-vessel during a voyage, and for its being furnished with a sufficient number of life-buoys, boats, water-buckets and other appliances to be used in case of shipwreck or fire;
- (l) to prescribe the seasons at which alone emigrant-vessels or specified classes of emi-

grant-vessels may sail from any port in British India to any country west of the Cape of Good Hope to which emigration is for the time being lawful;

- (m) to provide for the disposal of emigrants who may be landed under section seventy-nine;
- (n) to provide for the medical care of the emigrants on the voyage, and to provide for the measures to be taken on the outbreak of any epidemic or infectious disease on a voyage;
- (o) to provide for a journal being kept by the surgeon of every emigrant-vessel, recording the health of the emigrants, and his treatment of the sick, with full explanation of the causes of every death; and to define the duties and powers of the surgeon in respect of the emigrants committed to his care;
- (p) to define and regulate the powers and duties of the several officers appointed by the Government under this Act; and
- (q) generally to provide for the security, well-being and protection of emigrants:

Provided that the Local Government may, in special cases, notwithstanding anything contained in rules made under clause (q) of this section, permit an emigrant-vessel to sail though it does not carry the proportion of women required to be carried in ordinary cases.

(2) The power to make rules conferred by this section may be exercised at any time after the passing of this Act, but any rule made under this section shall not take effect until the Act comes into force.

81. (1) The Governor General in Council shall, before making rules, ^{Publication of drafts and rules.} under the last foregoing section, publish a draft of the proposed rules in such manner as may, in his opinion, be sufficient for the information of persons likely to be affected thereby.

(2) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(3) The Governor General in Council shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(4) Every rule made under the last foregoing section shall be published in the *Gazette of India*, and the publication in the *Gazette of India* of a rule purporting to be made under that section shall be conclusive evidence that it has been duly made.

CHAPTER XII.

OFFENCES.

82. (1) Whoever, except in conformity with the provisions of this Act or of the rules made under this Act,—

- (a) makes, or attempts to make any agreement with any Native of India purporting to bind him to emigrate, or
- (b) in consideration of any hire or reward, induces, or attempts to induce, any Native of India to leave any place for the purpose of emigrating,

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or otherwise acts or is employed as a recruiter of emigrants, or

(c) in consideration of any hire or reward, receives into or detains in any place, or being a recruiter, in any place other than a place in which accommodation has been provided in accordance with this Act or the rules made under this Act, any person with a view to his being registered as an emigrant, or after his registration as an emigrant and before his departure for the depôt at the port of embarkation,

shall be punished with fine which may extend to five hundred rupees.

(2) If any person, other than a recruiter licensed under this Act, commits an offence under this section, any Police-officer may arrest him without warrant.

Recruiters removing un-registered emigrants to depôt

(a) removes, or attempts to remove, any intending emigrant to a depôt before he has been registered under this Act as an emigrant, or induces, or attempts to induce, him to leave the local limits of the jurisdiction of the Magistrate by whom the recruiter's license has been countersigned before he has been so registered, or aids, or attempts to aid, him in leaving any such local limits or going to any depôt before he has been so registered, or

(b) fails to give a true copy of the statement with which he is provided under section twenty-six to any person whom he invites to emigrate, or

(c) fails to provide any emigrant whom he has engaged, and who has been registered at a place beyond the limits of the port of embarkation, with suitable lodging and food, or otherwise ill-treats any emigrant on his journey to the depôt, shall be punished with fine which may extend to five hundred rupees.

84. (1) Whoever, by means of intoxication, coercion or fraud, causes or induces, or attempts to cause or induce, any Native of India to emigrate, or to enter into any agreement to emigrate, or to leave any place with a view to emigrating, shall be punished with imprisonment for a term which may extend to one year, or with fine or with both.

85. Whoever, without lawful authority, issues any written order to the Police to assist himself or any other person to procure emigrants, or falsely represents that any emigrants are required by the Government or are to be engaged on behalf of the Government, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Receiving emigrants on board vessel in contravention of Act.

(a) knowingly receives on board his vessel any emigrant who has not complied with the provisions of this Act, or the rules made under this Act, so far as they are binding on him, or

(b) not being licensed under this Act, knowingly receives any emigrant on board his vessel, or

(c) being licensed under this Act, knowingly receives on board his vessel any emigrant in excess of the number specified in his license,

he shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees for each emigrant so received, or with both; and the vessel, her tackle, apparel and furniture, may be declared by the Court before which the master is tried to be forfeited to Her Majesty.

87. If any master licensed under this Act fraudulently does, or suffers to be done, any act or thing whereby the license becomes inapplicable to the altered state of the vessel or other matter to which the license relates, he shall be punished with fine which may extend to five thousand rupees;

and he may also be sued on any bond which he may have executed under section sixty-two.

88. If any master of an emigrant-vessel clears, or attempts to clear, his vessel outwards when any of the provisions of sections fifty-seven, fifty-nine or sixty have not been complied with in respect of his vessel, he shall be punished with fine which may extend to four thousand rupees;

89. If any master receives on board his vessel any emigrants and fails to comply with the requirements of sections sixty-six, sixty-seven and sixty-eight in respect of those emigrants, he shall be punished with fine which may extend to two hundred rupees for each emigrant so received on board.

90. If any master, having cleared his vessel, takes on board any emigrant not entered in the list mentioned in section sixty-six or not furnished with a pass required by that section, he shall be punished with fine which may extend to two hundred rupees for each emigrant so taken.

91. If any master lands any emigrant in any country other than the country for which he has been shipped by the Emigration Agent, he shall be punished for every emigrant so landed with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both, unless the landing has been caused by stress of weather or unavoidable accident, or has taken place under the provisions of section seventy-eight or seventy-nine.

92. If any master of a sailing-vessel leaving the port of Calcutta with emigrants on board—

(a) does not leave Garden Reach with his vessel within the time prescribed in section seventy-six, or

(b) without reasonable excuse, causes or allows his vessel to go below Garden Reach without being in tow of such a steamer as is referred to in section seventy-seven,

Indian Emigration Act, 1883.
(Chapter XIII.—Supplemental.)

he shall be punished with fine which may extend to one thousand rupees.

93. (1) If any emigrant deserts before arrival at depôt, or refuses without reasonable cause to proceed to the depôt, he shall be punished with fine which may extend to twenty rupees, or to the cost incurred in entering into an agreement with, registering and conveying him to the depôt, whichever is greater, and, in default of payment of the fine, with imprisonment which may extend to one month.

(2) Any fine levied under this section may, in the discretion of the convicting Magistrate, be paid to the Emigration Agent or recruiter by whom the cost was incurred.

94. (1) If any emigrant—(a) deserts from the depôt, or,

(b) without reasonable cause, refuses or neglects to embark when called upon to do so by the Emigration Agent,

he shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or to double the amount of the cost incurred in entering into an agreement with, registering and conveying him to the depôt, and maintaining him therein, or with both.

(2) Any fine levied under this section may, in the discretion of the convicting Magistrate, be paid to the Emigration Agent or recruiter by whom the cost was incurred.

95. If any person causes, or if any master knowingly permits, any emigrant to embark contrary to the provisions of section sixty-three, he shall be punished with fine which may extend to two hundred rupees for each emigrant so embarked.

96. (1) Prosecutions under sections eighty-six to ninety-five (both inclusive) shall not be instituted except as follows, namely:—

(a) Prosecutions under sections eighty-six to ninety-two, both inclusive, by the Emigration Agent, or by the Protector of Emigrants or by an officer appointed for the purpose by the Local Government.

(b) Prosecutions under section ninety-three, by or with the sanction of a Magistrate or Registering Officer or of the Protector of Emigrants at the port of embarkation.

(c) Prosecutions under section ninety-four, by the Emigration Agent with the sanction of the Protector.

(d) Prosecutions under section ninety-five, by the Protector of Emigrants or by an officer appointed for the purpose by the Local Government.

97. The following shall be good defences to charges under section ninety-three and ninety-four, respectively, namely:—

(a) to a charge under section ninety-three, that the accused person or other emigrants accompanying him has or have been ill-treated, deceived or defrauded by the recruiter or any person under his control;

(b) to a charge under section ninety-four, that the emigrant has suffered any ill-treatment or neglect in the depôt or on the journey thither.

98. All the powers for the time being conferred by law on officers of sea-customs with regard to the searching and detention of vessels, or otherwise for the prevention of smuggling on board thereof, may be exercised by those officers for the prevention of offences against this Act.

CHAPTER XIII.

SUPPLEMENTAL.

99. The Local Government may, from time to time, appoint any person, by name or by virtue of his office, to perform within a specified local area the functions of a Magistrate under this Act.

100. (1) Whenever an Emigration Agent is chargeable with a breach of any duty to an emigrant arising from any agreement with the emigrant or imposed by this Act or the rules made under this Act, the Protector of Emigrants may, if he thinks fit, institute a suit on behalf of the emigrant against the Emigration Agent for the recovery of compensation for the breach.

(2) In awarding compensation under this section, all sums ordered to be paid under section fifty or section fifty-two shall be taken into consideration.

101. (1) The Governor General in Council may, from time to time, by notification in the *Gazette of India*, determine what shall be held to be, for the purposes of this Act the probable length of the voyages by sailing-vessels and vessels using steam-power, respectively, from any port from which, to any country to which, emigration is for the time being lawful.

(2) Until otherwise determined under this section, the probable length of the voyage by sailing-vessels from the ports mentioned in the third schedule hereto annexed to the countries mentioned in that schedule shall be deemed to be the lengths stated in that schedule.

102. (1) The Governor General in Council may, by notification in the *Gazette of India*, extend the Straits Settlements Emigration Act, 1877, to the whole or any part of British India.

(2) The Governor General in Council may also, from time to time, by a like notification, declare

Indian Emigration Act, 1833.

(Schedule III.—Probable Lengths of Voyage under this Act.)

SCHEDULE III.

(See Section 101.)

PROBABLE LENGTHS OF VOYAGE UNDER THIS ACT.
FROM CALCUTTA—

To Mauritius ...	} From the month of April to the month of October, both inclusive, ten weeks; and from the month of November to the month of March, both inclusive, eight weeks.	... Ten weeks.
To Natal		... Seventeen weeks.
To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, Nevis, St. Croix, French Guiana, Martinique, Guadeloupe, and its dependencies, and Dutch Guiana.	} Twenty weeks.	... Ten weeks.
To Natal		... Twelve weeks.
To Fiji	... Eighteen weeks.	... Seventeen weeks.

FROM MADRAS—

To Mauritius ...	} From the month of April to the month of October, both inclusive, seven weeks; and from the month of November to the month of March, both inclusive, six weeks.	... Ten weeks.
To Natal		... Seventeen weeks.

To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, Nevis, St. Croix, French Guiana, Martinique, Guadeloupe and its dependencies, and Dutch Guiana.	} Nineteen weeks.	... Ten weeks.
To Natal		... Seventeen weeks.
To Fiji	... Ten weeks.	... Seventeen weeks.

FROM BOMBAY—

To Mauritius ...	} From the month of April to the month of September, both inclusive, five weeks; and from the month of October to the month of March, both inclusive, six weeks.	... Ten weeks.
To Natal		... Seventeen weeks.
To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, Nevis, St. Croix, French Guiana, Martinique, Guadeloupe and its dependencies, and Dutch Guiana.	} Nineteen weeks.	... Ten weeks.
To Natal		... Seventeen weeks.
To Fiji	... Ten weeks.	... Seventeen weeks.

D. FITZPATRICK,

Secretary to the Government of India.

Published with the "Bombay Government Gazette" on the 17th January 1884.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 4th January 1884, and was promulgated for general information in the *Gazette of India* on the 5th January 1884:—

Act No. I. of 1884.

An Act to amend the law relating to the granting of honorary degrees by the Universities at Calcutta, Madras and Bombay

WHEREAS it is expedient to amend the law relating to the granting of honorary degrees, and to give to the Universities at Calcutta, Madras and Bombay the power of granting the degree of Doctor in the faculty of Law to persons who have not undergone a previous examination;

and whereas the executive government of each of the said Universities is, by bye-laws made under the Acts establishing the same, vested in a Syndicate consisting of the Vice-Chancellor and certain of the Fellows;

It is hereby enacted as follows:—

1. Act No. XXI of 1875 (*an Act to authorize the University at Calcutta to grant honorary degrees*) is repealed.

Repeal of Act XXI of 1875.

2 If the Vice-Chancellor and not less than two-thirds of the other members of the Syndicate of any of the Universities at Calcutta, Madras and Bombay recommend that an honorary degree be conferred on any person, on the ground that he is, in their opinion, by reason of eminent position and attainments, a fit and proper person to receive such a degree, and their recommendation is supported by a majority of those present at a meeting of the Senate and is confirmed by the Chancellor, it shall be lawful for the Chancellor, Vice-Chancellor and Fellows to confer on that person the degree of Doctor in the faculty of Law, without requiring him to undergo any examination.

D. FITZPATRICK,
Secretary to the Government of India.

[Published with the "Bombay Government Gazette" on the 24th January 1884.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 4th January 1884, and was promulgated for general information in the *Gazette of India* on the 5th January 1884:—

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and whereas the executive government of each of the said Universities is, by bye-laws made under the Acts establishing the same, vested in a Syndicate consisting of the Vice-Chancellor and certain of the Fellows;

It is hereby enacted as follows:—

1. Act No. XXI. of 1875 (*an Act to authorize the University at Calcutta to grant honorary degrees*) is repealed.

2. If the Vice-Chancellor and not less than two-thirds of the other members of the Syndicate of any of the Universities at Calcutta, Madras and

Bombay recommend that an honorary degree be conferred on any person, on the ground that he is, in their opinion, by reason of eminent position and attainments, a fit and proper person to receive such a degree, and their recommendation is supported by a majority of those present at a meeting of the Senate and is confirmed by the Chancellor, it shall be lawful for the Chancellor, Vice-Chancellor and Fellows to confer on that person the degree of Doctor in the faculty of Law, without requiring him to undergo any examination.

D. FITZPATRICK,

Secretary to the Government of India.

THE



Bombay Government Gazette.

Published by Authority.

THURSDAY, 31ST JANUARY 1884.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 25th January 1884, and was promulgated for general information in the *Gazette of India* on the 26th January 1884:—

Act No. III. of 1884.

An Act to amend the Code of Criminal Procedure, 1832.

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1832; It is hereby enacted as follows:—

1. In section 25, after the words "British India" the following shall be inserted:—

"Sessions Judges and District Magistrates are Justices of the Peace within and for the whole of the territories administered by the Local Government under which they are serving."

2. To section 191 the following shall be added, namely:—

"When a Magistrate takes cognizance of an offence under clause (c), the accused, or, when there are several persons accused, any one of them, shall be entitled to require that the case shall, instead of being tried by such Magistrate, be either transferred to another Magistrate or committed to the Court of Session."

3. In section 443, before the words "Presidency Magistrate" the words "District Magistrate or" shall be inserted.

4. In section 444, after the words "Court of Session," the words "except the Sessions Judge" shall be inserted.

5. (1) In section 446, before the words "Presidency Magistrate" the words "District Magistrate or" shall be inserted.

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

"and a District Magistrate shall not pass any such sentence other than imprisonment for a term which may extend to six months, or fine which may extend to two thousand rupees, or both."

6. Section 450 is hereby repealed.

7. For section 451 the following shall be substituted:—

"451. (1) In trials of European British subjects before a High Court or Court of Session, if before the first juror is called and accepted, or the first assessor is appointed, as the case may be, any such subject requires to be tried by a mixed jury, the trial shall be by a jury of which not less than half the number shall be Europeans or Americans or both Europeans and Americans.

(2) When any such trial before a Court of Session would in the ordinary course be with the aid of assessors, the European British subject accused or where there are several European British subjects accused, all of them jointly, may, instead of claiming to be tried by a mixed jury under sub-

section (1), require that not less than half the number of the assessors shall be Europeans or Americans or both Europeans and Americans."

New sections, to follow section 451

8 After section 451 the following shall be inserted, namely:—

"451A. (1) In trials of European British subjects before a District Magistrate, any such subject may, in a summons case before he is

Right of European British subject to claim jury before District Magistrate.

heard in his defence under section 244, or in a warrant case before he enters on his defence under section 256, claim that the trial shall be by a jury composed in manner prescribed by section 451.

"(2) If a claim is made under sub-section (1) in a summons case at the time when the Magistrate proceeds under section 244 to hear the accused, or in a warrant case at the time when the Magistrate calls upon the accused under section 256 to enter upon the defence, the Magistrate shall forthwith issue the necessary orders for the trial by a jury as aforesaid.

"(3) If such a claim is made at an earlier stage of the proceedings, the Magistrate shall issue such orders whenever it appears to him from the evidence recorded that there will be a sufficient case to go before a jury.

"(4) In every such case the Magistrate shall, notwithstanding anything contained in section 242, before issuing any orders as aforesaid, frame a formal charge.

"(5) The provisions of sections 211, 216, 217, 219 and 220 shall, so far as may be, apply for the purpose of securing the attendance of the complainant, the accused and the witnesses at every trial to be held under this section.

"(6) The provisions of this Code relating to the procedure in a trial by jury before a Court of Session shall, as nearly as may be, apply to every trial under this section as if the District Magistrate were a Sessions Judge and the accused had been committed to his Court for trial.

"(7) All Courts may construe any of the provisions referred to in sub-section (5) or sub-section (6), in so far as they are made applicable by that sub-section, with such verbal alterations not affecting the substance as may be necessary or proper to adapt the same to the matter before them.

"(8) Nothing in this section shall affect the power of the Magistrate to commit an accused person for trial under section 347 or section 447."

"451B. (1) If an accused person claims to

Transfer to another Court in certain cases.

be tried by jury under section 451A, and in the opinion of the District Magistrate there is reason to believe that a jury composed in manner prescribed by section 451 cannot be constituted for the trial before himself or cannot be so constituted without an amount of delay, expense or inconvenience which under the circumstances of the case would be unreasonable, he may, instead of issuing orders for the trial before himself under section 451A, transfer the case for trial to such other District Magistrate or to such Sessions Judge as the High Court may, from time to time, by rules made by it in this behal

and approved by the Local Government, or by special order, direct.

(2) When a case is transferred under this section to a Sessions Judge or District Magistrate, he shall with all convenient speed try it with the same powers (including the power of commitment) and according to the same procedure as if he were a District Magistrate acting under section 451A."

9. The last sixteen words of section 459 are hereby repealed; and in the same section, after the words "any Magistrate" the words "or any Judge presiding in a Court of Session" shall be inserted.

10. In section 462 after the figures "460" the following shall be inserted, namely:—"or before the Court of a District Magistrate or Sessions Judge proceeding under section 451A or 451B."

11. (1) In Section 526, after clause (d), the following shall be inserted, namely:—

"or
" (e) that such an order is expedient for the ends of justice."

(2) In the same Section, after clause (3), the following shall be inserted, namely:—

"or
" (4) that an accused person be committed for trial to itself or to a Court of Sessions."

New section inserted after section 526.

12. After section 256 the following section shall be inserted, namely:—

"526A. If, in any criminal case or appeal, before the commencement of the hearing, the public prosecutor, the complainant or the accused notifies to the Court before which the case or appeal is pending his intention to make an application under section 526 in respect of the case, the Court shall exercise the powers of postponement or adjournment given by section 344 in such a manner as will afford a reasonable time for the application being made and an order being obtained thereon, before the accused is called on for his defence, or, in the case of an appeal, before the hearing of the appeal."

13. To section 528 the following shall be added, namely:—

"A Magistrate making an order under this section shall record in writing his reason for making the same."

14. (1) In this Act, "section" means section X. of 1882.

Construction. of the Code of Criminal Procedure, 1882.

(2) All references to that Code made in enactments heretofore passed or hereafter to be passed shall be read as if made to that Code as amended by this Act.

15. This Act may be called the Criminal Procedure Code Amendment Act, 1884, and it shall come into force on the first day of May 1884.

D. FITZPATRICK,
Secretary to the Government of India.

[Published with the "Bombay Government Gazette" on the 14th February 1884.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor-General on the 25th January 1884, and was promulgated for general information in the *Gazette of India* on the 26th January, 1884.—

Act No. III. of 1884.

An Act to amend the Code of Criminal Procedure, 1882.

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882; It is hereby enacted as follows—

of 1882.

1. In section 25, after the words "British Amendment of section 25. India" the following shall be inserted.—

"Sessions Judges and District Magistrates are Justices of the Peace within and for the whole of the territories administered by the Local Government under which they are serving"

2. To section 191, the following shall be added, namely:—

"When a Magistrate takes cognizance of an offence under clause (c), the accused, or, when there are several persons accused, any one of them, shall be entitled to require that the case shall, instead of being tried by such Magistrate, be either transferred to another Magistrate or committed to the Court of Session"

3. In section 443, before the words "Presidency Magistrate" the words "District Magistrate or" shall be inserted.

4. In section 444, after the words "Court of Session" the words "except the Sessions Judge" shall be inserted.

5. (1) In section 446, before the words "Presidency Magistrate" the words "District Magistrate or" shall be inserted.

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

"and a District Magistrate shall not pass any such sentence other than imprisonment for a term which may extend to six months, or fine which may extend to two thousand rupees, or both."

IV.—2-2

Repeal of section 450.

6. Section 450 is hereby repealed.

New section substituted for section 451.

7. For section 451 the following shall be substituted:—

"451. (1) In trials of European British subjects before a High Court or Court of Session, if before the first juror is called and accepted, or the first assessor is appointed, as the case may be, any such subject requires to be tried by a mixed jury, the trial shall be by a jury of which not less than half the number shall be Europeans or Americans or both Europeans and Americans.

(2) When any such trial before a Court of Session would in the ordinary course be with the aid of assessors, the European British subject accused, or where there are several European British subjects accused, all of them jointly, may, instead of claiming to be tried by a mixed jury under sub-section (1), require that, not less than half the number of the assessors shall be Europeans or Americans, or both Europeans and Americans."

8. After section 451 the following shall be inserted, namely:—

451A. (1) In trials of European British subjects before a District Magistrate, any such subject may, in a summons case before he is heard in his defence under section 244, or in a warrant case before he enters on his defence under section 256, claim that the trial shall be by a jury composed in manner prescribed by section 451.

(2) If a claim is made under sub-section (1) in a summons case at the time when the Magistrate proceeds under section 244 to hear the accused, or in a warrant case at the time when the Magistrate calls upon the accused under section 256 to enter upon the defence, the Magistrate shall forthwith issue the necessary orders for the trial by a jury as aforesaid.

(3) If such a claim is made at an earlier stage of the proceedings, the Magistrate shall issue such orders whenever it appears to him from the evidence recorded that there will be a sufficient case to go before a jury.

(4) In every such case the Magistrate shall, notwithstanding anything contained in section 242, before issuing any orders as aforesaid, frame a formal charge.

"(5) The provisions of sections 211, 216, 217, 219 and 220 shall, so far as may be, apply for the purpose of securing the attendance of the complainant, the accused and the witnesses at every trial to be held under this section.

"(6) The provisions of this Code relating to the procedure in a trial by jury before a Court of Session shall, as nearly as may be, apply to every trial under this section as if the District Magistrate were a Sessions Judge and the accused had been committed to his Court for trial.

"(7) All Courts may construe any of the provisions referred to in sub-section (5) or sub-section (6), in so far as they are made applicable by that sub-section, with such verbal alterations not affecting the substance as may be necessary or proper to adapt the same to the matter before them.

"(8) Nothing in this section shall affect the power of the Magistrate to commit an accused person for trial under section 347 or section 447."

"451B. (1) If an accused person claims to be tried by jury under section 451A, and in the opinion of the District Magistrate there is reason to believe that a jury composed in manner prescribed by section 451 cannot be constituted for the trial before himself or cannot be so constituted without an amount of delay, expense or inconvenience which under the circumstances of the case would be unreasonable, he may, instead of issuing orders for the trial before himself under section 451A, transfer the case for trial to such other District Magistrate or to such Sessions Judge as the High Court may, from time to time, by rules made by it in this behalf and approved by the Local Government, or by special order, direct.

"(2) When a case is transferred under this section to a Sessions Judge or District Magistrate, he shall with all convenient speed try it with the same powers (including the power of commitment) and according to the same procedure as if he were a District Magistrate acting under section 451A."

9. The last sixteen words of section 459 are hereby repealed; and in the same section, after the words "any Magistrate" the words "or any Judge presiding in a Court of Session" shall be inserted.

10. In section 462 after the figures "460" the following shall be inserted, namely:—"or before the Court of a

District Magistrate or Sessions Judge proceeding under section 451A or 451B."

11. (1) In Section 526, after clause (d), the following shall be inserted, namely:—

"or

"(e) that such an order is expedient for the ends of justice."

(2) In the same Section, after clause (3), the following shall be inserted, namely:—

"or

"(4) that an accused person be committed for trial to itself or to a Court of Session."

12. After section 526 the following section shall be inserted, namely:—

"526A. If, in any criminal case or appeal, before the commencement of the hearing, the public prosecutor, the complainant, or the accused notifies to the Court before which the case or appeal is pending his intention to make an application under section 526 in respect of the case, the Court shall exercise the powers of postponement or adjournment given by section 344 in such a manner as will afford a reasonable time for the application being made and an order being obtained thereon, before the accused is called on for his defence, or, in the case of an appeal, before the hearing of the appeal."

13. To section 528 the following shall be added, namely:—

"A Magistrate making an order under this section shall record in writing his reason for making the same"

14. (1) In this Act, "section" means section of the Code of Criminal Procedure, 1882.

X. of 1882

(2) All references to that Code made in enactments heretofore passed or hereafter to be passed shall be read as if made to that Code as amended by this Act.

15. This Act may be called the Criminal Procedure Code Amendment Act, 1884, and it shall come into force on the first day of May 1884.

D. FITZPATRICK,
Secretary to the Government of India.

THE



Bombay Government Gazette.

Published by Authority.

THURSDAY, 6TH MARCH 1884.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 26th February, 1884, and was promulgated for general information in the *Gazette of India* on the 1st March 1884:—

Act No. IV. of 1884.

THE INDIAN EXPLOSIVES ACT,
1884.

CONTENTS.

SECTION.

- 1 Short title.
- Local extent.
2. Commencement.
- 3 Repeal of portions of Act XII of 1875.
4. Definitions.
5. Power to make rules as to licensing of the manufacture, possession, use, sale, transport and importation of explosives.
6. Power for Governor General in Council to prohibit the importation, manufacture or possession of specially dangerous explosives.
7. Power to make rules conferring powers of inspection, search, seizure, detention and removal.
8. Notice of accidents.
9. Inquiry into accidents.
- 10 Forfeiture of explosives.
11. Distress of vessel.
12. Abetment and attempts.
13. Power to arrest without warrant persons committing dangerous offences.

IV.—3

SECTION.

- * 14. Saving for manufacture, possession, use, sale, transport or importation by Government.
15. Saving of Indian Arms Act, 1875.
16. Saving as to liability under other law.
17. Extension of definition of "explosive" to other explosive substances.
18. Procedure for making publication and confirmation of rules.

An Act to regulate the manufacture, possession, use, sale, transport and importation of Explosives.

WHEREAS it is expedient to regulate the manufacture, possession, use, sale, transport and importation of explosives; It is hereby enacted as follows:—

- | | |
|--|---|
| Short title. | 1. (1) This Act may be called the Indian Explosives Act, 1884, and |
| Local extent. | (2) It extends to the whole of British India. |
| 2. (1) This Act shall come into force on such day as the Governor General in Council, by notification in the <i>Gazette of India</i> , appoints. | |
| Commencement. | (2) Provided that any notification or rule may be made under this Act at any time after the passing thereof, but, except in the case of a notification under section 18, sub-section (2), shall not take effect until the Act comes into force. |
| 3. On and from the day on which this Act comes into force, section seven, clause (o), and sections twenty-eight to | |
| Repeal of portions of Act XII. of 1875. | |

XII of 1875.

thirty-four (both inclusive), of the Indian Ports Act, 1875, shall be repealed.

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

Definitions.

(1) "explosive"—

(a) means gunpowder, nitro-glycerine, dynamite, gun-cotton, blasting powders, fulminate of mercury or of other metals, coloured fires and every other substance, whether similar to those above-mentioned or not, used or manufactured with a view to produce a practical effect by explosion, or a pyrotechnic effect; and

(b) includes fog-signals, fireworks, fuzes, rockets, percussion-caps, detonators, cartridges, ammunition of all descriptions, and every adaptation or preparation of an explosive as above defined:

(2) "manufacture" includes the process of dividing into its component parts, or otherwise breaking up or unmaking, any explosive, or making fit for use any damaged explosive, and the process of re-making, altering or repairing any explosive:

(3) "vessel" includes every ship, boat and other vessel used in navigation, whether propelled by oars or otherwise:

(4) "carriage" includes any carriage, wagon, cart, truck, vehicle or other means of conveying goods or passengers by land, in whatever manner the same may be propelled:

(5) "master" includes every person (except a pilot or harbour-master) having for the time being command or charge of a vessel: provided that, in reference to any boat belonging to a ship, "master" shall mean the master of the ship;

(6) "import" means to bring into British India by sea or land.

5. (1) The Governor General in Council may for any part of British India, and each Local Government, with the previous sanction of the Governor General in Council, may for any part of the territories under its administration, make rules consistent with this Act to regulate or prohibit, except under and in accordance with the conditions of a license granted as provided by those rules, the manufacture, possession, use, sale, transport and importation of explosives, or any specified class of explosives.

(2) Rules under this section may provide for all or any of the following, among other matters, that is to say:—

- (a) the authority by which licenses may be granted;
- (b) the fees to be charged for licenses, and the other sums (if any) to be paid for expenses by applicants for licenses;
- (c) the manner in which applications for licenses must be made, and the matters to be specified in such applications;
- (d) the form in which, and the conditions on and subject to which, licenses must be granted,

(e) the period for which licenses are to remain in force; and

(f) the exemption absolutely or subject to conditions of any explosives from the operation of the rules.

(3) The authority making rules under this section may by the rules impose penalties on all persons manufacturing, possessing, using, selling, transporting or importing explosives in breach of the rules, or otherwise contravening the rules:

Provided that the maximum penalty which may be imposed by any such rules shall not exceed—

(a) in the case of a person so importing or manufacturing an explosive, a fine which may extend to three thousand rupees;

(b) in the case of a person so possessing, using or transporting an explosive, a fine which may extend to one thousand rupees;

(c) in the case of a person so selling an explosive, a fine which may extend to five hundred rupees; and

(d) in any other case, two hundred rupees.

6. (1) Notwithstanding anything in the rules under the last foregoing section, the Governor General in Council may, from time to time, by notification in the *Gazette of India*,

Power for Governor General in Council to prohibit the manufacture, possession or importation of specially dangerous explosives

(a) prohibit, either absolutely or subject to conditions, the manufacture, possession or importation of any explosive which is of so dangerous a character that, in the opinion of the Governor General in Council, it is expedient for the public safety to issue the notification; and

(b) cancel any notification under this section.

(2) The officers of sea customs at every port shall have the same power in respect of any explosive with regard to the importation of which a notification has been issued under this section and the vessel containing the explosive as they have for the time being in respect of any article the importation of which is prohibited or regulated by the law relating to sea customs and the vessel containing the same; and the enactments for the time being in force relating to sea customs or any such article or vessel shall apply accordingly.

(3) Any person manufacturing, possessing or importing an explosive in contravention of a notification issued under this section shall be punished with fine which may extend to three thousand rupees, and, in the case of importation by water, the owner and master of the vessel in which the explosive is imported shall, in the absence of reasonable excuse, each be punished with fine which may extend to three thousand rupees.

7. (1) The Governor General in Council, or the Local Government with the previous sanction of the Governor General in Council, may make rules consistent with this Act authorizing any officer, either by name or in virtue of his office—

Power to make rules conferring powers of inspection, search, seizure, detention and removal.

(a) to enter, inspect and examine any place, carriage or vessel in which an explosive is being manufactured, possessed, used, sold, transported or imported under a license granted under this Act, or in which he has reason to believe that an explosive has been or is being manufactured, possessed, used, sold, transported or imported in contravention of this Act, or of the rules made under this Act;

(b) to search for explosives therein;

(c) to take samples of any explosive found therein on payment of the value thereof, and

(d) to seize, detain, remove and, if necessary, destroy any explosive found therein.

X, of 1882

(2) The provisions of the Code of Criminal Procedure relating to searches under that Code shall, so far as the same are applicable, apply to searches by officers authorized by rules under this section.

8. Whenever there occurs in or about, or in connection with, any place in which an explosive is manufactured, possessed or used, or any carriage or vessel either conveying an explosive or on or from which an explosive is being loaded or unloaded, any accident by explosion or by fire attended with loss of human life or serious injury to person or property, or of a description usually attended with such loss or injury, the occupier of the place, or the master of the vessel, or the person in charge of the carriage, as the case may be, shall forthwith give notice thereof to the officer in charge of the nearest police-station.

9. (1) Whenever, in the opinion of a District Magistrate, Sub-divisional Magistrate or any other Magistrate specially empowered by the Local Government in this behalf, an enquiry is necessary into the cause of any accident of the description mentioned in section 8, he may either himself make the inquiry or direct a Magistrate subordinate to himself to make the inquiry.

(2) Any Magistrate making an inquiry under this section shall, for the purposes of conducting the inquiry, have all the powers which he would have in holding an inquiry into an offence under the Code of Criminal Procedure.

X, of 1882.

(3) The powers conferred on a Magistrate by this section may in a Presidency town be exercised by the Commissioner of Police as well as by any Magistrate specially empowered in this behalf under sub-section (1).

10. When a person is convicted of an offence punishable under this Act or the rules made under this Act, the Court before which he is convicted may direct that the explosive, or ingredient of the explosive, or the substance, (if any) in respect of which the offence has been committed, or any part of that explosive, ingredient or substance, shall, with the receptacles containing the same, be forfeited.

11. Where the owner or master of a vessel is adjudged under this Act to pay a fine for an offence committed with, or in relation to, that vessel,

the Court may, in addition to any other power it may have for the purpose of compelling payment of the fine, direct it to be levied by distress and sale of the vessel, and the tackle, apparel and furniture thereof, or so much thereof as is necessary.

12. Whoever abets, within the meaning of the Indian Penal Code, the commission of an offence punishable under this Act or the rules made under this Act, or attempts to commit any such offence and in such attempt does any act towards the commission of the same, shall be punished as if he had committed the offence.

13. Whoever is found committing any act for which he is punishable under this Act or the rules under this Act, and which tends to cause explosion or fire in or about any place where an explosive is manufactured or stored, or any railway or port, or any carriage, ship or boat, may be apprehended without a warrant by a Police-officer, or by the occupier of, or the agent or servant of, or other person authorized by the occupier of, that place or by any agent or servant of, or other person authorized by, the railway administration or conservator of the port and be removed from the place, where he is arrested, and conveyed as soon as conveniently may be before a Magistrate.

14. Nothing in this Act shall apply to the manufacture, possession, use, sale, transport or importation of any explosive—

(a) by order of the Government, or

(b) by any person employed under the Government in the execution of this Act, or as a keeper of a magazine, artisan, soldier, sailor, policeman or otherwise, or enrolled as a volunteer under the Indian Volunteers Act, 1869, in the course of his employment or duty as such.

15. Nothing in this Act shall affect the provisions of the Indian Arms Act, 1878:

Provided that an authority granting a license under this Act for the manufacture, possession, sale, transport or importation of an explosive may, if empowered in this behalf by the rules under which the license is granted, direct by an order written on the license that it shall have the effect of a like license granted under the said Indian Arms Act.

16. Nothing in this Act or the rules under this Act shall prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or those rules, or from being liable under that other law to any other or higher punishment or penalty than that provided by this Act or those rules:

Provided that a person shall not be punished twice for the same offence.

17. The Governor General in Council may, from time to time, by notification in the *Gazette of India*, declare that any substance which appears to the Governor General in Council to be specially dangerous to life or property, by reason either of its explosive properties or of any process in the manufacture thereof being liable to explosion, shall be deemed to be an explosive within the meaning of this Act; and the provisions of this Act (subject to such exceptions, limitations and restrictions as may be specified in the notification) shall accordingly extend to that substance in like manner as if it were included in the definition of the term "explosive" in this Act.

18. (1) An authority making rules under this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(2) The publication shall be made in such manner as the Governor General in Council, from

time to time, by notification in the *Gazette of India*, prescribes.

(3) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(4) The authority making the rules shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) A rule made under this Act shall not take effect if it is made by the Governor General in Council until it has been published in the *Gazette of India*, and if it is made by the Local Government until it has been published in the local official Gazette.

(6) The publication in the Gazette of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made, and, if it requires sanction, that it has been duly sanctioned.

(7) All powers to make rules conferred by this Act may be exercised from time to time as occasion requires.

D. FITZPATRICK,
Secretary to the Government of India.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 29th February 1884, and was promulgated for general information in the *Gazette of India* on the 1st March 1884.

Act No. VI of 1884.

**THE INLAND STEAM-VESSELS
ACT, 1884.**

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An Act to amend the law relating to the Survey, and the Examination and Grant of Certificates to Engineers, of Inland Steam-vessels, and to provide for certain other matters relating to those vessels.

WHEREAS it is expedient to amend the law relating to the survey of inland steam-vessels and the examination and grant of certificates to engineers of those vessels;

And whereas it is also expedient to provide for the grant of certificates to the masters of inland steam-vessels, and for investigations into casualties affecting, and into charges against masters and engineers of, those vessels, and for the protection of passengers and goods carried thereon from danger by fire and for the regulation of the carriage of passengers therein;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Inland Short title and extent. Steam-vessels Act, 1884

(2) It extends in the first instance to the whole of British India, except the territories administered by the Governor of Fort St. George in Council.

(3) But the Governor of Fort St. George in Council may, at any time, by notification in the local official Gazette, extend this Act or any part thereof to the whole or any part of the territories under his administration.

2. (1) This Act shall come into force in the whole of British India, except the territories administered by the Governor of Fort St. George in Council, on such day as the Governor General in Council, by notification in the *Gazette of India*, directs.

(2) If the Governor of Fort St. George in Council extends this Act or any part thereof to the whole or any part of the territories under his administration, the Act or part so extended shall come into force in the local area to which it is so extended on such day as the Governor in Council, by the notification extending the Act or part, directs.

(3) Provided that any notification, rule or appointment may be made under this Act at any time after the passing thereof, but, except in the case of a notification under section sixty-nine, subsection (2), shall not take effect until the Act or part thereof, under which the notification, rule or appointment is made, comes into force.

3. (1) On and from the day on which this Act comes into force, elsewhere than in the territories administered by the Governor of Fort St. George in Council, the Acts mentioned in the first column of the first schedule hereto annexed shall be repealed to the extent mentioned in the third column thereof.

(2) But all proceedings commenced, investigations held, and certificates granted, cancelled or suspended under any of the said Acts shall be deemed to have been respectively commenced, held granted, cancelled or suspended under this Act or under the Indian Steam-ships Act, 1884, VII. of 1884, as the case may be.

Inland Steam-vessels Act.

Chapter II.—Survey of Inland Steam-vessels.

(5) For the purposes of the last foregoing subsection, a certificate granted to the commander of an inland steam-vessel under Bengal Act VII of 1879 (to provide for the proper management of certain inland steam-vessels) shall be deemed to be a first class master's certificate granted under this Act; and an engineer's certificate, whether of competency or service, granted under any other of the Acts repealed by this Act shall be deemed to be an engineer's certificate granted under this Act or a first-class engineer's certificate granted under the Indian Steam-ships Act, 1884, as the case may be.

VII. of 1884.

4. When in any Act, Regulation or Notification passed or issued before this Act comes into force, reference is made to any Act repealed by this Act, the reference shall, so far as may be practicable, be read as applying to this Act or the Indian Steam-ships Act, 1884, or the corresponding part of this Act or that Act, as the case may be.

VII. of 1884.

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

(1) "vessel" includes anything made for the conveyance by water of human beings or of property.

(2) "steam-vessel" means every description of vessel propelled wholly or in part by the agency of steam:

(3) "inland water" means any canal, river, navigable lake or water in British India.

(4) "inland steam-vessel" means a steam-vessel which ordinarily plies on inland water:

(5) "voyage" includes also the plying of a vessel at or about any place:

(6) "master" means any person (except a pilot or harbour-master) having for the time being the charge or control of a vessel:

(7) "passenger" includes any person carried in a steam-vessel other than the master and crew and the owner, his family and servants and

(8) "prescribed" means prescribed by a rule made by the Local Government under this Act.

CHAPTER II.

SURVEY OF INLAND STEAM-VESSELS.

6. (1) An inland steam-vessel shall not proceed on any voyage unless she has a certificate of survey under this Act in force and applicable to the voyage on which she is about to proceed or the service on which she is about to be employed.

(2) Nothing in this section shall apply to any steam-vessel proceeding on a voyage during the interval between the time at which her certificate under this Act expires and the time at which it is first practicable to have the certificate renewed.

7. (1) The Local Government may, from time to time, appoint so many persons as it thinks fit to be surveyors for the purposes of this Act at such places within the territories under its administration as it, from time to time, appoints to be places of survey.

(2) Every surveyor appointed under this Act may be suspended or removed by the Local Government which appointed him.

(3) Every surveyor appointed under this Act shall, for the purposes of any survey made by him, be deemed to be a public servant within the meaning of the Indian Penal Code.

XLV of 1860

8 (1) For the purposes of a survey under this Act, any surveyor appointed under this Act may, at any reasonable time, go on board any inland steam-vessel, and may inspect the steam-vessel and every part thereof, and the machinery, equipments or articles on board thereof.

Provided that he does not unnecessarily hinder the loading or unloading of the steam-vessel, or unnecessarily detain or delay her from proceeding on any voyage.

(2) The owner, master and officers of the steam-vessel shall afford to the surveyor all reasonable facilities for a survey, and all such information respecting the steam-vessel, and her machinery and equipments, or any part thereof, respectively, as he reasonably requires.

9 When a survey under this Act is completed, the surveyor making it shall forthwith, if satisfied that he can with propriety do so, give to the owner or master of the steam-vessel surveyed a declaration in the prescribed form containing the following particulars, namely—

(a) that the hull and machinery of the steam-vessel are sufficient for the service intended and in good condition;

(b) that the equipments of the steam-vessel and the certificates of the master and engineer or engine-driver are such and in such condition as are required by any law for the time being in force and applicable to the steam-vessel;

(c) the time (if less than one year) for which the hull, machinery and equipments of the steam-vessel will be sufficient,

(d) the limit (if any) beyond which, as regards the hull, machinery or equipments, the steam-vessel is in the surveyor's judgment not fit to ply,

(e) the number of passengers (if any) which the steam-vessel is in the judgment of the surveyor fit to carry, distinguishing, if necessary, between the respective numbers to be carried on the deck and in the cabins, and in different parts of the deck and cabins, the number to be subject to such conditions and variations, according to the time of year, the nature of the voyage, the cargo carried or other circumstances as the case requires, and

(f) any other prescribed particulars.

Inland Steam-vessels Act.

Chapter II.—Survey of Inland Steam-vessels.

10. (1) The owner or master to whom a declaration is given under the last foregoing section shall, within fourteen days after the date of the receipt thereof, send the declaration to such officer as the Local Government, from time to time, appoints in this behalf.

(2) If he fails to do so, he shall forfeit a sum not exceeding five rupees for every day during which the sending of the declaration is delayed.

(3) The owner or master shall pay the sum so forfeited on the delivery of the certificate of survey in addition to the fee payable for the certificate.

11. (1) Upon receipt of a declaration by the officer appointed in this behalf under the last foregoing section, the Local Government shall, if satisfied that the provisions of this Act have been complied with, cause a certificate in duplicate to be prepared and delivered, through such officer at the place at which the steam-vessel was surveyed as the Local Government, from time to time, appoints in this behalf, to the owner or master of the steam-vessel surveyed, on his applying and paying the fees and other sums (if any) in this Act mentioned as payable on delivery of a certificate.

(2) A certificate granted under this section shall be in such form as the Governor-General in Council, from time to time, directs; shall contain a statement to the effect that the provisions of this Act with respect to the survey of the steam-vessel and the transmission of the declaration in respect thereof have been complied with; and shall set forth—

(a) the particulars concerning the steam-vessel which clauses (c), (d) and (e) of section nine require the declaration by the surveyor to contain, and

(b) any other prescribed particulars.

(3) When a certificate is ready for delivery under this section, the Local Government shall cause notice thereof to be given by post or otherwise to the owner or master of the steam-vessel to which the certificate relates.

12. For every certificate of survey granted by the Local Government under this Act the owner or master of the steam-vessel surveyed shall pay to the officer through whom the certificate is delivered to him—

(a) a fee calculated on the tonnage of the steam-vessel according to the rates in the second schedule hereto annexed or according to any other prescribed rates, and,

(b) when the survey is made in any place of survey, other than Calcutta, Madras, Bombay or Rangoon, such additional fee, in respect of the expense (if any) of the journey of the surveyor to the place, as the Local Government, from time to time, by notification in the official Gazette, directs.

13. The owner or master of every steam-vessel for which a certificate of survey has been granted under this Act shall forthwith, on the receipt of the certificate, cause one of the duplicates thereof to be affixed, and kept affixed so long as it remains in force and the steam-vessel is in use, on some conspicuous part of the steam-vessel where it may be easily read by all persons on board thereof.

14. A certificate of survey granted under this Act shall not be in force—

(a) after the expiration of one year from the date thereof; or

(b) after the expiration of the period, if less than one year, for which the hull, boilers, engines or any of the equipments have been stated in the certificate to be sufficient, or

(c) after notice has been given by the Local Government, to the owner or master of the steam-vessel to which the certificate relates, that the Local Government has cancelled or suspended it.

15. Any certificate of survey granted under this Act may be cancelled or suspended by a Local Government if it has reason to believe—

(a) that the declaration by the surveyor of the sufficiency and good condition of the hull, boilers, engines or any of the equipments of the steam-vessel has been fraudulently or erroneously made, or

(b) that the certificate has otherwise been granted upon false or erroneous information; or

(c) that since the making of the declaration, the hull, boilers, engines or any of the equipments of the steam-vessel have sustained any injury, or have otherwise become insufficient.

16. The Local Government may require any certificate of survey which has expired or has been cancelled or suspended to be delivered up to such person as it, from time to time, directs

17. If the Local Government which cancels or suspends a certificate of survey granted under this Act is not the Local Government which granted the certificate, the Local Government cancelling or suspending the certificate shall report the fact of cancellation or suspension, together with the reasons therefor, to the Local Government which granted the certificate.

18. A survey under this Act shall ordinarily be made by one surveyor, but two surveyors may be employed if the Local Government, by order in writing, so directs, either generally in the case of all steam-vessels at any place of survey, or specially in the case of any particular steam-vessel or class of steam-vessels at any such place.

Inland Steam-vessels Act.

Chapter III.—Masters and Engineers of Inland Steam-vessels.

19. (1) If the surveyor or surveyors making a survey under this Act refuses or refuse to give a declaration under section nine with regard to any steam-vessel, or gives or give a declaration with which the owner or master of the steam-vessel surveyed is dissatisfied, the Local Government may, on the application of the owner or master, direct two other surveyors appointed under this Act to survey the steam-vessel.

(2) The surveyors so directed shall forthwith survey the steam-vessel, and may, after the survey, either refuse to give a declaration or give such declaration as under the circumstances seems to them proper; and their decision shall be final.

20. When a survey is made under either of the last two foregoing sections by two surveyors, each of the surveyors making the survey shall perform a prescribed portion of the duties assigned by this Act or the rules made under this Act to a surveyor making a survey.

21. (1) The Local Government may make rules to regulate the making of surveys under this Act.

(2) Rules under this section may, among other matters,—

- (a) declare the times and places at which, and the manner in which, surveys are to be made;
- (b) regulate the duties of the surveyor making a survey, and, where two surveyors are employed, assign the respective duties of each of the surveyors employed;
- (c) declare the form in which the declarations of surveyors and certificates of survey granted under this Act are to be framed, and the nature of the particulars which are to be stated therein, respectively;
- (d) fix the rates according to which the fees payable for certificates of surveys are to be calculated in the case of all or any of the places of survey within the territories under its administration, and
- (e) define the cases in, and the extent to, which under ordinary circumstances a survey may be dispensed with before the grant of a new certificate.

CHAPTER III

MASTERS AND ENGINEERS OF INLAND STEAM-VESSELS.

22. The Local Government may, from time to time, appoint persons for the purpose of examining the qualifications of persons desirous of obtaining certificates of competency as masters or as engineers or engine-drivers of inland steam-vessels.

23. (1) The Local Government shall grant to every person who is reported by the examiners to possess the necessary

qualifications, a certificate of competency to the effect that he is competent to act as a first class master or as a second-class master of an inland steam-vessel, as the case may be.

(2) Every certificate granted under this section shall be in the prescribed form.

24. (1) The Local Government shall grant to every person who is reported by the examiners to possess the necessary qualifications, a certificate of competency to the effect that he is competent to act as an engineer or, as an engine-driver of an inland steam-vessel, as the case may be.

(2) Every certificate granted under this section shall be in the prescribed form.

25. Before granting a certificate under either of the last two foregoing sections, the Local Government may, if it has reason to believe that the report of the examiners regarding any applicant has been unduly made, require a re-examination of the applicant or a further inquiry into his testimonials and character.

26. Every certificate of competency granted under this Act shall be made in duplicate, and one copy shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded in the prescribed manner.

27. Whenever a master or an engineer or an engine-driver proves, to the satisfaction of the Local Government which granted his certificate, that he has, without fault on his part, lost or been deprived of it, a copy of the certificate to which, by the record kept as provided by law, he appears to be entitled, shall be granted to him, and shall have all the effect of the original.

28. (1) An inland steam-vessel having engines of eighty nominal horse-power or upwards shall not proceed on any voyage unless she has—

(a) as her master a person possessing a first-class master's certificate granted under this Act or a master's certificate granted under Act I of 1859 (for the amendment of the law relating to Merchant Seamen) or the Merchant Shipping Acts, 1854 to 1883, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869; and

(b) as her engineer a person possessing an engineer's certificate granted under this Act or the Indian Steam-ships Act, 1884, or the Merchant Shipping Acts, 1854 to 1883, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869.

(2) An inland steam-vessel having engines of under eighty nominal horse-power shall not proceed on any voyage unless she has—

(a) as her master a person possessing a second-class master's certificate granted under this Act or a certificate of the higher grade of the nature referred to in clause (a) of sub-section (1), and

Power for Local Government to order a second survey.

Division of duties when two surveyors employed.

Power for Local Government to make rules as to surveys.

Grant of engineers' and engine drivers' certificates of competency.

Certificates to be made in duplicate.

Copy of certificate to be granted in certain cases.

Number of engineers and nature of certificates necessary in case of different steam vessels.

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Chapter IV.—Investigations into Casualties

(b) as her engineer a person possessing an engine-driver's certificate granted under this Act or the Indian Steam-ships Act, 1884, or a certificate of the higher grade of the nature referred to in clause (b) of sub-section (1):

Provided that a steam-vessel shall be deemed to have complied with this sub-section if she has as her master and engineer a person possessing both a second-class master's certificate and an engine-driver's certificate granted under this Act.

29 The Local Government may make rules to regulate the granting of certificates of competency under this Act, and may by such rules—

Power for Local Government to make rules as to grant of certificates of competency.

- (a) provide for the conduct of the examination of persons desirous of obtaining certificates of competency as masters, engineers or engine-drivers under this Act;
- (b) prescribe the qualifications to be respectively required of persons desirous of obtaining first-class masters' certificates, second-class masters' certificates, engineers' certificates and engine-drivers' certificates, respectively;
- (c) fix the fees to be paid by all applicants for examination, and
- (d) prescribe the form in which certificates are to be framed, and the manner in which the copy of the certificate which is kept by the Local Government is to be recorded.

CHAPTER IV.

INVESTIGATIONS INTO CASUALTIES.

30. (1) Whenever—

Report of casualties to be made to Local Government

- (a) any inland steam-vessel has been wrecked, abandoned or materially damaged, or
 - (b) by reason of any casualty happening to or on board of any inland steam-vessel, loss of life has ensued, or
 - (c) any inland steam-vessel has caused loss or material damage to any other vessel,
- the master of the steam-vessel shall forthwith give notice of the wreck, abandonment, damage, casualty or loss to the officer in charge of the nearest police-station.

31. (1) If in any case a formal investigation into the facts referred to in the last foregoing section appears to the Local Government to be requisite or expedient, the Local Government may appoint a special Court, consisting of not less than two nor more than four persons, and direct the Court to make the investigation, and may fix the place for making the same.

(2) One of the members of the Court shall be a Magistrate, another shall be some person conversant with maritime affairs or the navigation of inland steam-vessels, and the other or others (if any) shall be conversant with either maritime or mercantile affairs or with the navigation of inland steam-vessels

32. Any principal Court of ordinary criminal jurisdiction and the Court of any District Magistrate may, when so directed by the Local Government, make the investigation referred to the last foregoing section.

Power for principal Court of ordinary criminal jurisdiction to hold investigations into casualties when so directed.

33. (1) Any Court making an investigation under either of the last two foregoing sections may inquire into any charge of incompetency or misconduct arising in the course of the investigation against any master, engineer or engine-driver, as well as into any charge of a wrongful act or default on his part causing any wreck, abandonment, damage, casualty or loss referred to in section thirty.

Power for Court of Investigation to inquire into charges against masters, engineers and engine-drivers

(2) In every case in which any such charge, whether of incompetency or misconduct, or of a wrongful act or default as aforesaid, arises against any master, engineer or engine-driver in the course of an investigation, the Court shall, before the commencement of the inquiry into the charge, cause to be furnished to him a copy of the report or statements of the case upon which the investigation has been directed.

34. (1) If the Local Government has reason to believe that there are grounds for charging any master, engineer or engine-driver of an inland steam-vessel with incompetency or misconduct, otherwise than in the course of an investigation under section thirty-one or section thirty-two, it may send a statement of the case to the principal Court of ordinary criminal jurisdiction, or the Court of the District Magistrate, at or nearest to the place at which it may be convenient for the parties and witnesses to attend, and may direct the Court to make an investigation into the charge

Power for Local Government to direct investigation into charges of incompetency or misconduct.

(2) Before commencing the investigation, the Court shall cause the master or engineer or engine-driver so charged to be furnished with a copy of the statement sent by the Local Government.

35. For the purpose of an investigation under this chapter into any charge against a master, engineer or engine-driver the Court may summon him to appear and shall give him full opportunity of making a defence, either in person or otherwise.

Person accused to be heard

36. (1) When any investigation involves, or appears likely to involve, any question as to the cancelling or suspension of the certificate of a master, engineer or engine-driver, the Court making the investigation shall constitute as its assessors, for the purposes of the investigation, two persons having experience in the merchant service or in the navigation of inland steam-vessels, and in every other investigation the Court making it may, if it thinks fit, constitute as its assessor, for the purposes of the investigation, any person conversant with maritime affairs or the navigation of inland steam-vessels and willing to act as assessor.

Assessors.

Inland Steam-vessels

Chapter V.—Suspension and Cancellation of Masters' and Engineers' Certificates.

(2) Every person appointed under this section shall attend during the investigation and deliver his opinion in writing, to be recorded on the proceedings. But the exercise of all powers conferred on the Court by this Act shall rest with the Court.

37 For the purpose of any investigation under this chapter, the Court making the investigation, so far as relates to compelling the attendance and examination of witnesses and the production of documents and the regulation of the proceedings, shall have—

- (a) if the Court is a special Court—the same powers as are exercisable by the principal Court of ordinary criminal jurisdiction for the place at which the investigation is made, and
- (b) if the Court is a principal Court, of ordinary criminal jurisdiction or the Court of the District Magistrate—the same powers as are exercisable respectively by either Court in the exercise of its criminal jurisdiction

38. (1) If any Court making an investigation under this chapter thinks it necessary for obtaining evidence that any person should be arrested, it may issue a warrant for his arrest, and may, for the purpose of effecting the arrest, authorize any officer (subject, nevertheless, to any general or special instructions from the Local Government) to enter any vessel

(2) Any officer so authorized may, for the purpose of enforcing the entry, call to his aid any officers of Police or Customs, or any other persons, and may seize and detain the vessel for such time as is reasonably necessary to effect the arrest, and every such officer or other person shall be deemed to be a public servant within the meaning of the Indian Penal Code

(3) No person shall be detained by virtue of this section for more than forty-eight hours.

39. (1) Whenever, in the course of any investigation, it appears that any person has committed, within the jurisdiction of any Court in British India, an offence punishable under any law in force in British India, the Court making the investigation may (subject to such rules consistent with this Act as the High Court may, from time to time, prescribe) cause him to be arrested, or commit him or hold him to bail to take his trial before the proper Court, and may bind over any person to give evidence at the trial, and may, for the purposes of this section, exercise all the powers of a Magistrate of the first class or of a Presidency Magistrate.

(2) For the purposes of this section the Recorder of Rangoon shall, within the local limits of the territories for the time being administered by the Chief Commissioner of British Burma, be deemed to be the High Court.

40 (1) Whenever, in the course of any such trial, the testimony of any witness is required in relation to the subject-matter, any deposition previously made by him in relation to the same

subject-matter before any Court making an investigation under this chapter shall, if authenticated by the signature of the Magistrate or presiding Judge, be admissible in evidence on proof—

- (a) that the witness cannot be found within the jurisdiction of the Court before which the trial is held; and
- (b) that it was made in the presence of the person accused, and that he had an opportunity of cross-examining the witness.

(2) A certificate by the Magistrate or presiding Judge that the deposition was made in the presence of the accused and that he had that opportunity shall, unless the contrary be proved, be sufficient evidence that it was so made and that he had that opportunity.

41 The Court shall, in the case of every investigation under this chapter, transmit to the Local Government a full report of the conclusions at which it has arrived, together with the evidence.

42 (1) Whenever any explosion occurs on board any inland steam-vessel, causes of explosions on the Local Government board inland steam-vessels may, if it thinks fit, direct that an investigation into the cause of the explosion be made by such person or persons as it thinks fit.

(2) The person or persons so directed may enter into and upon the steam-vessel, with all necessary workmen and labourers, and remove any portion of the steam-vessel, or of the machinery thereof, for the purpose of the investigation, and shall report to the Local Government what in his or their opinion was the cause of the explosion

(3) Every person making an investigation under this section shall be deemed to be a public servant within the meaning of the Indian Penal Code.

CHAPTER V.

SUSPENSION AND CANCELLATION OF MASTERS' AND ENGINEERS' CERTIFICATES

43. Any certificate granted under this Act to any master, engineer or engine-driver may be suspended or cancelled by the Local Government which granted it, or by any other Local Government, in the following cases, that is to say—

- (a) if, on any investigation made under this Act, the Court reports that the wreck or abandonment of, or loss or damage to, any inland steam-vessel, or loss of life, has been caused by his wrongful act or default, or that he is incompetent, or has been guilty of any gross act of drunkenness, tyranny or other misconduct; or
- (b) if he is proved to have been convicted of any non-bailable offence or

(c) if in the case of a second-class master or an engine-driver, the master or engine-driver is or has become, in the opinion of the Local Government, unfit to act as a second-class master or engine-driver

Inland Steam-vessels Act.

Chapter VII.—Carriage of Passengers in Inland Steam-vessels.

Provided that, in any case in which an investigation has been made into a charge against any master, engineer or engine-driver, a certificate shall not be suspended or cancelled under clause (a) of this section unless the Local Government is satisfied that the holder of the certificate has been furnished before the commencement of the investigation with the copy of the report or statement required by section thirty-three or section thirty-four, as the case may be

44 Every master, engineer or engine-driver whose certificate is cancelled or suspended under the last foregoing section shall deliver it to such person as the Local Government which cancelled or suspended it from time to time directs.

45. If the Local Government which cancels or suspends a certificate under section forty-three is not the Local Government which granted the certificate, the Local Government so cancelling or suspending the certificate shall report the proceedings, and the fact of cancellation or suspension, to the Local Government which granted the certificate.

46 (1) Any Local Government may at any time revoke any order of cancellation or suspension which it may have made under section forty-three, or grant, without examination, to any person whose certificate it has so cancelled, a new certificate.

(2) A certificate so granted shall have the same effect as if it had been granted after examination.

CHAPTER VI.

PROTECTION OF INLAND STEAM-VESSELS FROM
DANGER BY FIRE.

47 The Governor General in Council may, from time to time, by notification in the *Gazette of India*, declare what shall be deemed to be, for the purposes of this Act, dangerous goods.

48 (1) A person shall not take with him on board an inland steam-vessel, and a person shall not deliver or tender for carriage on an inland steam-vessel, any dangerous goods without giving notice of their nature to the owner or master of the steam vessel, or, in the case of goods delivered or tendered for carriage, without distinctly marking their nature on the outside of the package containing the goods.

(2) The owner or master of an inland steam-vessel may refuse to carry upon an inland steam-vessel any luggage or parcel which he suspects to contain dangerous goods, and may require the luggage or parcel to be opened to ascertain the fact previously to carrying the same; and, in case any such luggage or parcel is received for the purpose of being carried in any inland steam-vessel, the owner or master of the vessel may stop the transit thereof, until he is satisfied as to the nature of its contents.

49. Where any dangerous goods have been sent or brought on board any inland steam-vessel in contravention of the last foregoing section, the owner or master of the steam-vessel may, if he thinks fit, cause the goods to be thrown overboard, together with any package or receptacle in which they are contained, and neither the owner nor the master shall, in respect of his having so thrown the goods overboard, be subject to any liability, civil or criminal, in any Court.

50. (1) The Local Government may make rules for the protection of inland steam-vessels from danger by explosion or fire.

(2) Rules under this section may provide for the following among other matters, that is to say—

- (a) the conditions on, and subject to, which dangerous goods may be carried on board inland steam-vessels;
- (b) the precautions to be taken to prevent explosions or fires on board inland steam-vessels; and
- (c) the apparatus for the purpose of extinguishing fires which is to be kept on board inland steam-vessels.

(3) Any rule under this section may contain a provision that any person committing a breach of it shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

CHAPTER VII.

CARRIAGE OF PASSENGERS IN INLAND STEAM-VESSELS.

51. (1) The Local Government may make rules to regulate the carriage of passengers in inland steam-vessels.

(2) Rules under this section may provide for the following among other matters, that is to say—

- (a) the cases in which passengers may be refused admission to, or may be required to leave, inland steam-vessels,
- (b) the payment of fares and the exhibition of tickets or receipts (if any) showing the payment of their fares by passengers in inland steam-vessels; and
- (c) the regulation generally of the conduct of passengers in inland steam-vessels

(3) Any rule under this section may contain a provision that any person committing a breach of it shall be punished with fine which may extend to twenty rupees.

(4) The master or any other officer of an inland steam-vessel, and any person called by him to his assistance, may arrest any person who has committed a breach of any rule made under this section, and whose name and address are unknown to the master or other officer.

Inland Steam-vessels Act.

Chapter VIII.—Penalties and Legal Proceedings.

X of 1882 (5) The procedure prescribed by section 59 of the Code of Criminal Procedure in the case of arrests by private persons shall apply to every arrest under this section.

CHAPTER VIII

PENALTIES AND LEGAL PROCEEDINGS.

52 (1) If any inland steam-vessel proceeds on a voyage in contravention of section six, the owner and master of the steam-vessel shall each be liable to a fine which may extend to one thousand rupees.

(2) If the master or any other officer on board of an inland steam-vessel which proceeds on a voyage in contravention of section six is a licensed pilot, he shall be liable to have his license as a pilot cancelled, or suspended for any period, by the Local Government, as the Local Government sees fit to order.

53. If the certificate of survey granted under this Act is not kept affixed in an inland steam-vessel in the manner provided by this Act, the owner and master of the steam-vessel shall each be liable to a fine which may extend to one hundred rupees.

54. If the owner or master of an inland steam-vessel, without reasonable cause, neglects or refuses to deliver up a certificate of survey when required under this Act to do so, he shall be punished with fine which may extend to one hundred rupees.

55 (a) If any person who has been engaged to serve as master, engineer or engine-driver of an inland steam-vessel, proceeds on any voyage in that steam-vessel as master, engineer or engine-driver, as the case may be, without being at the time entitled to, and possessed of, the certificate required under this Act, and

(b) if any person employs any person as a master, engineer or engine-driver of an inland steam-vessel without ascertaining that he is at the time entitled to, and possessed of, the master's, engineer's or engine-driver's certificate, as the case may be, required under this Act, he shall be punished with fine which may extend to five hundred rupees.

56. If any master wilfully fails to give notice as required by section thirty, of any wreck, abandonment, damage, casualty or loss, he shall be punished with fine which may extend to five hundred rupees, and in default of payment to simple imprisonment for a term which may extend to three months.

57. If any master, engineer or engine-driver whose certificate is cancelled or suspended under this Act fails to deliver the certificate to such

person as the Local Government which cancelled or suspended it directs, he shall be punished with fine which may extend to five hundred rupees.

58 If any person, in contravention of section forty-eight, takes with him on board any inland steam-vessel any dangerous goods, or delivers or tenders any such goods for the purpose of being carried on any inland steam-vessel, he shall be punished with fine which may extend to two hundred rupees, and the goods shall be forfeited to Her Majesty.

59. If any person employed or engaged in any capacity on board an inland steam-vessel by wilful breach of duty, or by neglect of duty, or by reason of drunkenness

(a) does any act tending to the immediate wreck, destruction or material damage of the vessel, or tending immediately to endanger the life or limb of any person belonging to or on board the vessel, or

(b) refuses or omits to do any lawful act proper and requisite to be done by him for preserving the vessel from immediate wreck, destruction or material damage, or for preserving any person belonging to or on board of the vessel from immediate danger to life or limb,

he shall be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to two years, or with both.

60. Where the owner or master of an inland steam vessel is convicted of an offence under this Act or the rules made under this Act committed on board of, or in relation to, that steam-vessel, and sentenced to pay a fine, the Magistrate may, in addition to any other power he may have for the purpose of compelling payment of the fine, direct the amount thereof to be levied by distress and sale of the vessel and the tackle, apparel and furniture thereof, or so much thereof as is necessary.

61 Except in the case of offences under rules made under section fifty-one, no magistrate shall try an offence under this Act, or the rules under it, unless he is a Presidency Magistrate, or a Magistrate whose powers are not less than those of a Magistrate of the first class

62 If any person commits an offence against this Act or the rules made under this Act, he shall be triable for the offence in any place in which he may be found or which the Local Government, from time to time, by notification in the official Gazette, directs in this behalf, or in any other place in which he might be tried under any other law for the time being in force.

63. Nothing in this Act shall prevent any person from being prosecuted under any other law for any act or omission

Saving of prosecutions under other Acts.

Inland Steam-vessels Act.

Chapter IX.—Supplemental.

which constitutes an offence against this Act or the rules made under this Act, or from being liable under that other law to any other or higher punishment or penalty than that provided by this Act or the rules made under this Act:

Provided that a person shall not be punished twice for the same offence.

CHAPTER IX.

SUPPLEMENTAL.

64. The Local Government may, from time to time, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, declare that all or any of the provisions of Chapters II and III of this Act shall not apply in the case of any specified class of steam-vessels, or shall apply to them with such modifications as the Local Government prescribes.

65. The Local Government may, from time to time, by notification in the official Gazette, define how much of any tidal water shall be deemed to be an inland water for the purposes of this Act:

66. All fees payable under this Act may be recovered as fines under this Act.

67. Nothing in this Act or in any rule made under this Act shall apply to any steam-vessel belonging to, or in the service of, Her Majesty or the Government of India.

68. Every master of an inland steam-vessel who possesses a master's certificate duly granted under this Act and then in force shall, in ports to

XII of 1875.

which section 38 of the Indian Ports Act, 1875, has been extended, be deemed, for the purposes of that section, to be the pilot of the steam-vessel of which he is in charge

(2) Nothing in this section shall be deemed to affect the provisions of Bombay Act I of 1863, which require persons in charge of vessels passing through any of the channels or tidal channels at the mouths of the river Indus to pay fees for pilotage.

69. (1) A Local Government making rules under this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(2) The publication shall be made in such manner as the Governor General in Council, from time to time, by notification in the *Gazette of India*, prescribes.

(3) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration

(4) The Local Government shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified

(5) A rule made under this Act shall not take effect until it has been sanctioned by the Governor General in Council and published in the local official Gazette.

(6) The publication in the Gazette of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made and sanctioned.

(7) All powers to make rules conferred by this Act may be exercised from time to time as occasion requires.

THE FIRST SCHEDULE.

ACTS REPEALED.

(See Section 3)

(a) Act of the Governor General in Council.

Number and year.	Subject or short title.	Extent of repeal
XVI of 1871.	The Burmese Steamer Survey Act.	The whole.

(b) Acts of the Governor of Bombay in Council.

Number and year.	Subject or short title.	Extent of repeal.
II of 1864	To provide for the periodical survey of steam-vessels in the ports, harbours, rivers or waters of the Presidency of Bombay	The whole, except section 15.
IV of 1873	To amend Bombay Act II of 1864, providing for the periodical survey of steam-vessels, and to provide for the examination of engineers of steam-vessels.	The whole.

(c) Acts of the Lieutenant-Governor of Bengal in Council.

Number and year.	Subject or short title.	Extent of repeal.
V of 1862	To provide for the periodical survey of steam-vessels in the port of Calcutta.	The whole.
I of 1868	The Steam-boat Survey Amendment Act, 1868.	So much as has not been repealed.
III of 1871	To increase the fees for the survey of steam-vessels	The whole.
VII of 1879.	To provide for the proper management of certain inland steam-vessels.	The whole.

THE SECOND SCHEDULE.

(See Section 12.)

RATES OF FEES.

	Tons.	Rs.
For steam-vessels of less than 100 tons and up to 200	100	25
" " 200 " " " 350	200	40
" " 350 " " " 700	350	50
" " 700 " " " 1,000	700	60
" " 1,000 " " " 1,500	1,000	80
" " 1,500 " and upwards	1,500	100
		120

D. FITZPATRICK,

Secy. to the Govt. of India.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 29th February, 1884, and was promulgated for general information in the *Gazette of India* on the 1st March 1884. —

Act No. VII of 1884.

THE INDIAN STEAM-SHIPS ACT,
1884.

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THE SCHEDULE.—RATES OF FEES.

Indian Steam-ships Act.

Chapter I.—Preliminary.

An Act to amend the law relating to the Survey of Steam-ships and the Grant of Certificates to Engineers of those Ships.

WHEREAS it is expedient to amend the law relating to the survey of steam-ships and the grant of certificates to engineers of those ships: It is hereby enacted as follows —

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Indian Steam-ships Act, 1884; and
- Extent. (2) It extends to the whole of British India.
2. (1) This Act shall come into force on such day as the Governor General in Council, by notification in the *Gazette of India*, appoints
- Commencement.

(2) Provided that any notification, rule or appointment may be made under this Act at any time after the passing thereof, but except in the case of a notification under section forty-two, sub-section (2), shall not take effect until the Act comes into force.

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

(1) "steam-ship" means every description of vessel used in navigation and propelled wholly or in part by the agency of steam.

(2) "British steam-ship" includes a steam-ship registered under Act XIX of 1838, Act X of 1841 or Act XI of 1850, or under any other law passed by the Governor General in Council and for the time being in force for the registration of ships in India:

Indian Steam-ships Act.

Chapter II—Survey of Steam-ships.

(3) "master" means any person (except a pilot or harbour-master) having for the time being control or charge of a steam-ship.

(4) "passenger" includes any person carried in a steam-ship other than the master and crew and the owner, his family and servants: and

(5) "prescribed" means prescribed by a rule made by the Local Government under this Act.

CHAPTER II.

SURVEY OF STEAM-SHIPS.

4. A steam-ship shall not carry more than twelve passengers between places in British India, and a British steam-ship shall not carry more than twelve passengers to or from any place in British India from or to any place out of British India, unless she has a certificate of survey under this Act in force and applicable to the voyage on which she is about to proceed or the service on which she is about to be employed.

5 Nothing in the last foregoing section shall apply to—

(a) any steam-ship having a certificate of survey granted by the board of Trade or any British Colonial Government, unless it appears from the certificate that it is inapplicable to the voyage on which the steam-ship is about to proceed, or the service on which she is about to be employed, or unless there is reason to believe that the steam-ship has, since the grant of the certificate, sustained injury or damage, or been found unseaworthy or otherwise inefficient; or

(b) any steam-ship having a certificate of survey granted under the Inland Steam-vessels Act, 1884, in force and applicable to the voyage on which the steam-ship is about to proceed or the service on which she is about to be employed, or

(c) any steam-ship belonging to, or in the service of, Her Majesty or the Government of India; or

(d) any steam-ship belonging to any foreign Prince or State when employed mainly on the public service of the Prince or State; or

(e) any steam-ship carrying passengers during the interval between the time at which her certificate of survey under this Act expires and the time at which it is first practicable to have the certificate renewed.

6 (1) If any steam-ship carries or attempts to carry passengers in contravention of section four the owner and master of the steam-ship shall each be liable to a fine which may extend to one thousand rupees

(2) If the master or any other officer of any steam-ship which carries or attempts to carry passengers in contravention of section four is a licensed pilot, he shall be liable to have his license as a pilot cancelled or suspended for any period by the Local Government, as the Local Government sees fit to order.

7 No officer of Customs shall grant a port-clearance, nor shall any pilot be assigned, to any steam-ship for which a

certificate of survey is required by section four, until after the production, by the owner or master thereof of a certificate under this Act in force and applicable to the voyage on which she is about to proceed and the service on which she is about to be employed.

8. If any steam-ship for which a certificate of survey is required by section four leaves or attempts to leave any port of survey without a certificate, any officer of Customs or any pilot on board the steam-ship may detain her until she obtains a certificate

9 (1) The Local Government may, from time to time, appoint so many persons as it thinks fit to be surveyors for the purposes of this Act at such ports within the territories under its administration as it, from time to time, appoints to be ports of survey.

(2) Every surveyor appointed under this Act may be suspended or removed by the Local Government which appointed him.

(3) Every surveyor appointed under this Act shall, for the purposes of any survey made by him, be deemed to be a public servant within the meaning of the Indian Penal Code.

10. (1) For the purposes of a survey under this Act, any surveyor appointed under this Act may, at any reasonable time, go on board a steam-ship, and may inspect the steam-ship and every part thereof, and the machinery, equipments or articles on board thereof:

Provided that he does not unnecessarily hinder the loading or unloading of the steam-ship, or unnecessarily detain, or delay her from proceeding on any voyage.

(2) The owner, master and officers of the steam-ship shall afford to the surveyor all reasonable facilities for a survey, and all such information respecting the steam-ship and her machinery and equipments, or any part thereof, respectively, as he reasonably requires

11. When a survey under this Act is completed, the surveyor making it shall forthwith, if satisfied that he can with propriety do so, give to the owner or master of the steam-ship surveyed a declaration in the prescribed form containing the following particulars, namely:—

(a) that the hull and machinery of the steam-ship are sufficient for the service intended and in good condition,

(b) that the equipments of the steam-ship and the certificates of the master, mate or mates, and engineer or engineers or engine-driver, are such and in such condition as are required by any law for the time being in force and applicable to the steam-ship;

(c) the time (if less than one year) for which the hull, machinery and equipments of the steam-ship will be sufficient;

(d) the limit (if any) beyond which, as regards the hull, machinery or equipments, the steam-ship is in the surveyor's judgment not fit to ply;

Indian Steam-ships Act.

Chapter II.—Survey of Steam-ships.

(e) the number of passengers which the steam-ship is in the judgment of the surveyor fit to carry, distinguishing, if necessary, between the respective numbers to be carried on the deck and in the cabins and in different parts of the deck and cabins, the number to be subject to such conditions and variations, according to the time of year, the nature of the voyage, the cargo carried or other circumstances as the case requires, and

(f) any other prescribed particulars.

12. (1) The owner or master to whom a declaration is given under the last foregoing section shall, within fourteen days after the date of the receipt thereof, send the declaration to such officer as the Local Government, from time to time, appoints in this behalf.

(2) If he fails to do so, he shall forfeit a sum not exceeding five rupees for every day during which the sending of the declaration is delayed.

(3) The owner or master shall pay the sum so forfeited on the delivery of the certificate of survey in addition to the fee payable for the certificate.

13. (1) Upon receipt of a declaration by the officer appointed in this behalf under the last foregoing section, the Local Government shall, if satisfied that the provisions of this Act have been complied with, cause a certificate in duplicate to be prepared and delivered, through such officer at the port at which the steam-ship was surveyed as the Local Government, from time to time, appoints in this behalf, to the owner or master of the steam-ship surveyed, on his applying and paying the fees and other sums (if any) mentioned in this Act as payable on delivery of a certificate.

(2) A certificate granted under this section shall be in such form as the Governor General in Council, from time to time, directs, shall contain a statement to the effect that the provisions of this Act with respect to the survey of the steam-ship and the transmission of the declaration in respect thereof have been complied with; and shall set forth—

(a) the particulars concerning the steam-ship which clauses (c), (d) and (e) of section eleven require the declaration by the surveyor to contain; and

(b) any other prescribed particulars.

(3) When a certificate is ready for delivery under this section, the Local Government shall cause notice thereof to be given by post or otherwise to the owner or master of the steam-ship to which the certificate relates.

14 For every certificate of survey granted by the Local Government under this Act the owner or master of the steam-ship surveyed shall pay to the officer through whom the certificate is delivered to him—

Fees for certificates of survey.

(a) a fee calculated on the tonnage or the steam-ship according to the rates in the schedule hereto annexed, or according to any other prescribed rates; and

(b) when the survey is made in any port of survey other than Calcutta, Madras, Bombay or Rangoon, such additional fee, in respect of the expense, if any, of the journey of the surveyor to the port, as the Local Government, from time to time, by notification in the official Gazette, directs

15. (1) The owner or master of every steam-ship for which a certificate of survey has been granted under this Act shall forthwith, on the receipt of the certificate, cause one of the duplicates thereof to be affixed, and kept affixed so long as the certificate remains in force and the steam-ship is in use, on some conspicuous part of the steam-ship where it may be easily read by all persons on board thereof.

(2) If the certificate is not so kept affixed, the owner and master of the steam-ship shall each be liable to a fine which may extend to one hundred rupees

16. A certificate of survey granted under this Act shall not be in force—

(a) after the expiration of one year from the date thereof, or

(b) after the expiration of the period, if less than one year, for which the hull, boilers, engines or any of the equipments have been stated in the certificate to be sufficient, or

(c) after notice has been given by the Local Government, to the owner or master of the steam-ship to which the certificate relates, that the Local Government has cancelled or suspended it.

17 Any certificate of survey granted under this Act may be cancelled or suspended by a Local Government if it has reason to believe—

(a) that the declaration by the surveyor of the sufficiency and good condition of the hull, boilers, engines or any of the equipments of the steam-ship has been fraudulently or erroneously made, or

(b) that the certificate has otherwise been issued upon false or erroneous information; or

(c) that, since the making of the declaration, the hull, boilers, engines or any of the equipments of the steam-ship have sustained any injury, or have otherwise become insufficient.

18. (1) The Local Government may require any certificate of survey granted under this Act which has expired, or has been cancelled or suspended, to be delivered up to such person as it, from time to time, directs.

(2) If the owner or master of a steam-ship, without reasonable cause, neglects or refuses to

Power to require delivery of expired or cancelled certificates of survey.

Cancellation or suspension of certificate of survey by Local Government.

Certificate of survey to be affixed in conspicuous part of steam-ship

*Indian Steam-ships Act.**Chapter III.—Examination and Certificates of Engineers and Engine-drivers.*

deliver up a certificate as required under this section, he shall be punished with fine which may extend to one hundred rupees

19 If the Local Government which cancels or suspends a certificate of survey granted under this Act is not the Local Government which granted the certificate, the Local Government cancelling or suspending the certificate shall report the fact of cancellation or suspension, together with the reasons therefor, to the Local Government which granted the certificate.

20 A survey under this Act shall ordinarily be made by one surveyor, but two surveyors may be employed if the Local Government, by order in writing, so directs, either generally in the case of all steam-ships at any port of survey, or specially in the case of any particular steam-ship or class of steam-ships at any such port

21. (1) If the surveyor or surveyors making a survey under this Act refuses or refuse to give a declaration under section eleven with regard to any steam-ship, or gives or give a declaration with which the owner or master of the steam-ship surveyed is dissatisfied, the Local Government may, on the application of the owner or master, direct two other surveyors appointed under this Act to survey the steam-ship.

(2) The surveyors so directed shall forthwith survey the steam-ship, and may, after the survey, either refuse to give a declaration or give such declaration as under the circumstances seems to them proper, and their decision shall be final.

22. When a survey is made under either of the last two foregoing sections by two surveyors, each of the surveyors making the survey shall perform a prescribed portion of the duties assigned by this Act or the rules made under this Act to a surveyor making a survey.

23. When a foreign steam-ship requires to be furnished with a certificate of survey under this Act, and the Local Government is satisfied, by the production of a certificate of survey attested by a British Consular Officer at the port of survey, that the ship has been officially surveyed at a foreign port, and that the requirements of this Act are proved by that survey to have been substantially complied with, the Local Government may, if it thinks fit, dispense with any further survey of the ship in respect of the requirements so complied with, and give a certificate which shall have the same effect as a certificate given after survey under this Act

Provided that this section shall not apply in the case of an official survey at any foreign port with respect to which Her Majesty has by Order in Council directed that section 19 of the Merchant Shipping Act, 1876, shall not apply.

24 (1) The Local Government may make rules to regulate the making of surveys under this Act.

(2) Rules under this section may, among other matters,—

(a) declare the times and places at which, and the manner in which, surveys are to be made;

(b) regulate the duties of the surveyor making a survey, and, where two surveyors are employed, assign the respective duties of each of the surveyors employed,

(c) declare the form in which the declarations of surveyors and certificates of survey under this Act are to be framed, and the nature of the particulars which are to be stated therein respectively, and

(d) fix the rates according to which the fees payable for certificates of survey are to be calculated in the case of all or any of the ports of survey within the territories under its administration.

25. The Local Government may, from time to time, with the previous sanction of the Governor General in Council, by notification

in the local official Gazette, declare that all or any of the provisions of this chapter shall not apply in the case of any specified class of steam-ships, or shall apply to them with such modifications as the Local Government prescribes.

CHAPTER III.

EXAMINATION AND CERTIFICATES OF ENGINEERS AND ENGINE-DRIVERS.

26. The Local Government may, from time to time, appoint persons for the purpose of examining the qualifications of persons desirous of obtaining certificates of competency as engineers or engine-drivers

27 (1) The Local Government shall grant to every person who is reported by the examiners to possess the necessary qualifications a certificate of competency to the effect that he is competent to act as a first-class engineer or as a second-class engineer or as an engine-driver, as the case may be:

Provided that the Local Government may, in any case in which it has reason to believe that the report has been unduly made, require, before granting a certificate, a re-examination of the applicant or a further inquiry into his testimonials and character.

(2) Every certificate granted under this section shall be in the prescribed form.

28. Notwithstanding anything contained in the Indian Merchant Shipping Act, 1883, or any other law for the time, being in force, the Local Government may at any time, without any formal investigation, suspend or cancel any

Indian Steam-ships Act.

Chapter III.—Examination and Certificates of Engineers and Engine-drivers.

engine-driver's certificate granted by it under this Act, if in its opinion the holder is, or has become, unfit to act as an engine-driver.

29. Every certificate of competency granted under this Act shall be made in duplicate, and one copy shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded in the prescribed manner

30. Whenever an engineer or engine-driver proves to the satisfaction of the Local Government which granted his certificate that he has, without fault on his part, lost or been deprived of it, a copy of the certificate to which, by the record kept as provided by law, he appears to be entitled shall be granted to him, and shall have all the effect of the original.

31. (1) A British steam-ship shall not proceed from any port in British India to any port or place not being either in British India, or on the continent of India, or in the Island of Ceylon, unless she has,—

(a) if the steam-ship has engines of one hundred nominal horse-power or upwards, as her first and second engineers two certificated engineers, the first possessing a first class engineer's certificate and the second a second-class engineer's certificate or a certificate of the higher grade, granted under this Act or the Merchant Shipping Acts, 1854 to 1883, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869,

(b) if the steam-ship has engines of under one hundred nominal horse-power, as her only or first engineer an engineer possessing a second-class engineer's certificate or a certificate of the higher grade of the nature referred to in clause (a).

(2) A foreign steam-ship having engines of fifty nominal horse-power or upwards shall not carry passengers from any port in British India to any other port in British India, and a British steam-ship having engines of a like horse-power shall not proceed from any port in British India to any other port in British India or to any port or place on the continent of India or in the Island of Ceylon, unless she has as her only or first engineer an engineer possessing a second class engineer's certificate or a certificate of the higher grade of the nature referred to in clause (a) of sub-section (1).

32. (1) On and from such day as the Local Government, by notification in the official Gazette directs in this behalf, a foreign steam-ship having engines of under fifty nominal horse-power shall not carry passengers from any port within the territories administered by that Local Government to any other port in British India, and a British steam-ship having engines of a like horse-power shall not proceed from any port within those territories to any

other port in British India or to any port or place on the continent of India or in the island of Ceylon, unless she has as her engineer a person possessing an engine-driver's certificate granted under this Act or an engineer's certificate of either of the grades referred to in the last foregoing section

(2) The Local Government may at any time, by a like notification, cancel any notification issued by it under this section

33. Nothing in section thirty-one or section thirty-two shall apply to any steam-ship to which the provisions of the Inland Steam-vessels Act, 1884, are applicable. VI, of 1884.

34. (a) If any person, who has been engaged to serve in any of the capacities referred to in section thirty-one or section thirty-two in any steam-ship to which those sections apply, respectively, proceeds in the steam-ship in that capacity without being at the time entitled to, and possessed of, the certificate required by those sections, and

(b) if any person employs any person in any capacity referred to in section thirty-one or section thirty-two in any steam-ship to which those sections apply, respectively, without ascertaining that he is at the time entitled to, and possessed of, the certificate required by those sections;

he shall be punished with fine which may extend to five hundred rupees

35. The provisions of Act I of 1859 (for the amendment of the law relating to Merchant Seamen) with respect to the certificates of competency or service of the master and mate contained in section 31 and section 32 of that Act shall apply to certificates of competency granted under this Act in the same manner as if certificates of competency granted to engineers, under this Act were specially mentioned and included in those sections.

36. The Local Government may make rules to regulate the granting of certificates of competency under this Act, and may by such rules—

(a) provide for the conduct of the examinations of persons desirous of obtaining certificates of competency as engineers or engine-drivers under this Act,

(b) prescribe the qualifications to be respectively required of persons desirous of obtaining first class engineers' certificates, second-class engineers' certificates and engine-drivers' certificates, respectively;

(c) fix the fees to be paid by all applicants for examination; and

(d) prescribe the form in which certificates are to be framed, and the manner in which the copy of the certificate which is kept by the Local Government is to be recorded.

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The Schedule.—Rates of Fees.

CHAPTER IV.

INVESTIGATIONS INTO EXPLOSIONS.

37. (1) Whenever any explosion occurs on board any steam-ship on or near the coasts of British India, the Local Government may, if it thinks fit, direct that an investigation into the cause of the explosion be made by such person or persons as it thinks fit.

(2) The person or persons so directed may enter into and on the steam-ship with all necessary workmen and labourers, and remove any portion of the steam-ship, or of the machinery thereof, for the purpose of the investigation, and shall report to the Local Government what, in his or their opinion, was the cause of the explosion.

(3) Every person making an investigation under this section shall be deemed to be a public servant within the meaning of the Indian Penal Code.

v of 1860.

CHAPTER V.
 SUPPLEMENTAL.

38. No Magistrate shall try any offence under this act unless he is a Presidency Magistrate or a Magistrate whose powers are not less than those of a Magistrate of the first class.

39. If any person commits an offence against this Act, he shall be triable for the offence in any place in which he may be found, or which the Local Government, from time to time, by notification in the official Gazette, directs in this behalf, or in any other place in which he might be tried under any other law for the time being in force.

40. Where the owner or master of a steam-ship is adjudged under this Act to pay a fine for an offence committed with, or in relation to, that steamship, the Court may, in addition to any other power it may have for the purpose of compelling payment of the fine, direct that it be levied by distress and sale of the steamship and the tackle, apparel and furniture thereof, or so much thereof as is necessary.

41. In section 13, clause (b), of the Native Passenger Ships Act, VIII of 1876, for the words "six months" the words "one year" shall be substituted; and after the word "sailing" the words "in force and applicable to the voyage on which the ship is about to proceed or the service on which she is about to be employed" shall be added.

42. (1) A Local Government making rules under this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(2) The publication shall be made in such manner as the Governor-General in Council, from time to time, by notification in the *Gazette of India*, prescribes.

(3) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(4) The Local Government shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) A rule made under this Act shall not take effect until it has been sanctioned by the Governor General in Council and published in the local official Gazette.

(6) The publication in the Gazette of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made and sanctioned.

(7) All powers to make rules conferred by this Act may be exercised from time to time as occasion requires.

THE SCHEDULE.

(See Section 14.)

RATES OF FEES.

	Tons.	Rs.
For steam-ships of less than 200	200	40
" " 200 tons and up to 350	350	50
" " 350 " " " 700	700	60
" " 700 " " " 1,000	1,000	80
" " 1,000 " " " 1,500	1,500	100
" " 1,500 " and upwards ...		120

D. FITZPATRICK,

Secretary to the Government of India.

[Published with the "Bombay Government Gazette" on the 13th March 1884.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 26th February, 1884, and was promulgated for general information in the *Gazette of India* on the 1st March 1884.—

Act No IV. of 1884.

THE INDIAN EXPLOSIVES ACT, 1884.

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17. Extension of definition of "explosive" to other explosive substances
18. Procedure for making publication and confirmation of rules.

An Act to regulate the manufacture, possession, use, sale, transport and importation of Explosives.

WHEREAS it is expedient to regulate the manufacture, possession, use, sale, transport and importation of explosives; It is hereby enacted as follows:—

- | | |
|---------------|--|
| Short title. | 1. (1) This Act may be called the Indian Explosives Act, 1884, and |
| Local extent. | (2) It extends to the whole of British India. |

IV.—7-1

2. (1) This Act shall come into force on such day as the Governor General in Council, by notification in the *Gazette of India*, appoints

(2) Provided that any notification or rule may be made under this Act at any time after the passing thereof, but, except in the case of a notification under section 18, sub-section (2), shall not take effect until the Act comes into force.

3. On and from the day on which this Act comes into force, section seven, clause (o), and sections twenty-eight to thirty-four (both inclusive), of the Indian Ports Act, 1875, shall be repealed. XII. of 1875.

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

(1) "explosive"—

(a) means gunpowder, nitro-glycerine, dynamite, gun-cotton, blasting powders, fulminate of mercury or of other metals, coloured fires and every other substance, whether similar to those above-mentioned or not, used or manufactured with a view to produce a practical effect by explosion, or a pyrotechnic effect, and

(b) includes fog-signals, fireworks, fuzes, rockets, percussion-caps, detonators, cartridges, ammunition of all descriptions, and every adaptation or preparation of an explosive as above defined.

(2) "manufacture" includes the process of dividing into its component parts, or otherwise breaking up or unmaking, any explosive, or making fit for use any damaged explosive, and the process of re-making, altering or repairing any explosive:

(3) "vessel" includes every ship, boat and other vessel used in navigation, whether propelled by oars or otherwise:

(4) "carriage" includes any carriage, wagon, cart, truck, vehicle or other means of conveying goods or passengers by land, in whatever manner the same may be propelled:

(5) "master" includes every person (except a pilot or harbour-master) having for the time being command or charge of a vessel. provided that, in reference to any boat belonging to a ship, "master" shall mean the master of the ship;

(6) "import" means to bring into British India by sea or land.

5. (1) The Governor General in Council may for any part of British India, and each Local Government, with the previous sanction of the Governor General in Council, may for any part of the territories under its administration, make rules consistent with this Act to regulate or prohibit, except under and in accordance with the conditions of a license granted as provided by those rules, the manufacture, possession, use, sale, transport and importation of explosives, or any specified class of explosives.

(2) Rules under this section may provide for all or any of the following, among other matters, that is to say:—

- (a) the authority by which licenses may be granted;
- (b) the fees to be charged for licenses, and the other sums (if any) to be paid for expenses by applicants for licenses;
- (c) the manner in which applications for licenses must be made, and the matters to be specified in such applications;
- (d) the form in which, and the conditions on and subject to which, licenses must be granted,
- (e) the period for which licenses are to remain in force; and
- (f) the exemption absolutely or subject to conditions of any explosives from the operation of the rules.

(3) The authority making rules under this section may by the rules impose penalties on all persons manufacturing, possessing, using, selling, transporting or importing explosives in breach of the rules, or otherwise contravening the rules:

Provided that the maximum penalty which may be imposed by any such rules shall not exceed—

- (a) in the case of a person so importing or manufacturing an explosive, a fine which may extend to three thousand rupees;
- (b) in the case of a person so possessing, using or transporting an explosive, a fine which may extend to one thousand rupees;
- (c) in the case of a person so selling an explosive, a fine which may extend to five hundred rupees; and
- (d) in any other case, two hundred rupees.

6. (1) Notwithstanding anything in the rules under the last foregoing section, the Governor General in Council may, from time to time, by notification in the *Gazette of India*,

(a) prohibit, either absolutely or subject to conditions, the manufacture, possession or importation of any explosive which is of so dangerous a character that, in the opinion of the Governor General in Council, it is expedient for the public safety to issue the notification, and

(b) cancel any notification under this section.

(2) The officers of sea customs at every port shall have the same power in respect of any explosive with regard to the importation of which

a notification has been issued under this section and the vessel containing the explosive as they have for the time being in respect of any article the importation of which is prohibited or regulated by the law relating to sea customs and the vessel containing the same; and the enactments for the time being in force relating to sea customs or any such article or vessel shall apply accordingly.

(3) Any person manufacturing, possessing or importing an explosive in contravention of a notification issued under this section shall be punished with fine which may extend to three thousand rupees, and, in the case of importation by water, the owner and master of the vessel in which the explosive is imported shall, in the absence of reasonable excuse, each be punished with fine which may extend to three thousand rupees.

7. (1) The Governor General in Council, or the Local Government with the previous sanction of the Governor General in Council, may make rules consistent with this Act authorizing any officer, either by name or in virtue of his office—

(a) to enter, inspect and examine any place, carriage or vessel in which an explosive is being manufactured, possessed, used, sold, transported or imported under a license granted under this Act, or in which he has reason to believe that an explosive has been or is being manufactured, possessed, used, sold, transported or imported in contravention of this Act, or of the rules made under this Act;

(b) to search for explosives therein;

(c) to take samples of any explosive found therein on payment of the value thereof; and

(d) to seize, detain, remove and, if necessary, destroy any explosive found therein.

(2) The provisions of the Code of Criminal Procedure relating to searches under that Code shall, so far as the same are applicable, apply to searches by officers authorized by rules under this section X. of 1882

8. Whenever there occurs in or about, or in connection with, any place in which an explosive is manufactured, possessed or used, or any carriage or vessel either conveying an explosive or on or from which an explosive is being loaded or unloaded, any accident by explosion or by fire attended with loss of human life or serious injury to person or property, or of a description usually attended with such loss or injury, the occupier of the place, or the master of the vessel, or the person in charge of the carriage, as the case may be, shall forthwith give notice thereof to the officer in charge of the nearest police-station.

9. (1) Whenever, in the opinion of a District Magistrate, Sub-divisional Magistrate or any other Magistrate specially empowered by the Local Government in this behalf, an enquiry is necessary into the cause of any accident of the description mentioned in section 8, he may either himself make the inquiry or direct a Magistrate subordinate to himself to make the inquiry.

(2) Any Magistrate making an inquiry under this section shall, for the purposes of conducting the inquiry, have all the powers which he would have in holding an inquiry into an offence under the Code of Criminal Procedure.

of 1882.

(3) The powers conferred on a Magistrate by this section may in a Presidency-town be exercised by the Commissioner of Police as well as by any Magistrate specially empowered in this behalf under sub-section (1)

10. When a person is convicted of an offence punishable under this Act or the rules made under this Act, the Court before which he is convicted may direct that the explosive, or ingredient of the explosive, or the substance, (if any) in respect of which the offence has been committed, or any part of that explosive, ingredient or substance, shall, with the receptacles containing the same, be forfeited.

11. Where the owner or master of a vessel is adjudged under this Act to pay a fine for an offence committed with, or in relation to, that vessel, the Court may, in addition to any other power it may have for the purpose of compelling payment of the fine, direct it to be levied by distress and sale of the vessel, and the tackle, apparel and furniture thereof, or so much thereof as is necessary.

XV of 1860.

12. Whoever abets, within the meaning of the Indian Penal Code, the commission of an offence punishable under this Act or the rules made under this Act, or attempts to commit any such offence and in such attempt does any act towards the commission of the same, shall be punished as if he had committed the offence.

13. Whoever is found committing any act for which he is punishable under this Act or the rules under this Act, and which tends to cause explosion or fire in or about any place where an explosive is manufactured or stored, or any railway or port, or any carriage, ship or boat, may be apprehended without a warrant by a Police-officer, or by the occupier of, or the agent or servant of, or other person authorized by the occupier of, that place or by any agent or servant of, or other person authorized by, the railway administration or conservator of the port and be removed from the place, where he is arrested, and conveyed as soon as conveniently may be before a Magistrate.

14. Nothing in this Act shall apply to the manufacture, possession, use, sale, transport or importation of any explosive—

- (a) by order of the Government, or
- (b) by any person employed under the Government in the execution of this Act, or as a keeper of a magazine, artizan, soldier, sailor, policeman or otherwise, or enrolled as a volunteer under the Indian Volunteers Act, 1869, in the course of his employment or duty as such.

XX of 1869.

15. Nothing in this Act shall affect the provisions of the Indian Arms Act, 1878;

XI of 1878.

Provided that an authority granting a license under this Act for the manufacture, possession, sale, transport or importation of an explosive may, if empowered in this behalf by the rules under which the license is granted, direct by an order written on the license that it shall have the effect of a like license granted under the said Indian Arms Act.

16. Nothing in this Act or the rules under this Act shall prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or those rules, or from being liable under that other law to any other or higher punishment or penalty than that provided by this Act or those rules.

Provided that a person shall not be punished twice for the same offence.

17. The Governor General in Council may, from time to time, by notification in the *Gazette of India*, declare that any substance which appears to the Governor General in Council to be specially dangerous to life or property, by reason either of its explosive properties or of any process in the manufacture thereof being liable to explosion, shall be deemed to be an explosive within the meaning of this Act; and the provisions of this Act (subject to such exceptions, limitations and restrictions as may be specified in the notification) shall accordingly extend to that substance in like manner as if it were included in the definition of the term "explosive" in this Act.

18. (1) An authority making rules under this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(2) The publication shall be made in such manner as the Governor General in Council, from time to time, by notification in the *Gazette of India*, prescribes.

(3) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(4) The authority making the rules shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) A rule made under this Act shall not take effect if it is made by the Governor General in Council until it has been published in the *Gazette of India*, and if it is made by the Local Government until it has been published in the local official Gazette.

(6) The publication in the *Gazette* of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made, and, if it requires sanction, that it has been duly sanctioned.

(7) All powers to make rules conferred by this Act may be exercised from time to time as occasion requires.

D. FITZPATRICK,

Secretary to the Government of India.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 29th February 1884, and was promulgated for general information in the *Gazette of India* on the 1st March 1884.

Act No. VI of 1884.

THE INLAND STEAM-VESSELS
ACT, 1884.

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FIRST SCHEDULE — ACTS REPEALED.

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An Act to amend the law relating to the Survey, and the Examination and Grant of Certificates to Engineers, of Inland Steam-vessels, and to provide for certain other matters relating to those vessels.

WHEREAS it is expedient to amend the law relating to the survey of inland steam-vessels and the examination and grant of certificates to engineers of those vessels;

And whereas it is also expedient to provide for the grant of certificates to the masters of inland steam-vessels, and for investigations into casualties affecting, and into charges against masters and engineers of, those vessels, and for the protection of passengers and goods carried thereon from danger by fire and for the regulation of the carriage of passengers therein;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Inland Steam-vessels Act, 1884.

(2) It extends in the first instance to the whole of British India, except the territories administered by the Governor of Fort St. George in Council.

(3) But the Governor of Fort St. George in Council may, at any time, by notification in the local official Gazette, extend this Act or any part thereof to the whole or any part of the territories under his administration.

2. (1) This Act shall come into force in the whole of British India, except the territories administered by the Governor of Fort St. George in Council, on such day as the Governor General in Council, by notification in the *Gazette of India*, directs.

(2) If the Governor of Fort St. George in Council extends this Act or any part thereof to the whole or any part of the territories under his administration, the Act or part so extended shall come into force in the local area to which it is so extended on such day as the Governor in Council, by the notification extending the Act or part, directs.

(3) Provided that any notification, rule or appointment may be made under this Act at any time after the passing thereof, but, except in the case of a notification under section sixty-nine, subsection (2), shall not take effect until the Act or part thereof, under which the notification, rule or appointment is made, comes into force.

3. (1) On and from the day on which this Act comes into force, elsewhere than in the territories administered by the Governor of Fort St. George in Council, the Acts mentioned in the first column of the first schedule hereto annexed shall be repealed to the extent mentioned in the third column thereof.

(2) But all proceedings commenced, investigations held, and certificates granted, cancelled or suspended under any of the said Acts shall be deemed to have been respectively commenced, held granted, cancelled or suspended under this Act or under the Indian Steam-ships Act, 1884, VII. of 1884 as the case may be.

Inland Steam-vessels Act.

Chapter II.—Survey of Inland Steam-vessels.

(3) For the purposes of the last foregoing subsection, a certificate granted to the commander of an inland steam-vessel under Bengal Act VII of 1879 (to provide for the proper management of certain inland steam-vessels) shall be deemed to be a first class master's certificate granted under this Act; and an engineer's certificate, whether of competency or service, granted under any other of the Acts repealed by this Act shall be deemed to be an engineer's certificate granted under this Act or a first-class engineer's certificate granted under the Indian Steam-ships Act, 1884, as the case may be.

I. of 1884

4. When in any Act, Regulation or Notification passed or issued before this Act comes into force, reference is made to any Act repealed by this Act, the reference shall, so far as may be practicable, be read as applying to this Act or the Indian Steam-ships Act, 1884, or the corresponding part of this Act or that Act, as the case may be.

I. of 1884.

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

(1) "vessel" includes anything made for the conveyance by water of human beings or of property:

(2) "steam-vessel" means every description of vessel propelled wholly or in part by the agency of steam:

(3) "inland water" means any canal, river, navigable lake or water in British India:

(4) "inland steam-vessel" means a steam-vessel which ordinarily plies on inland water.

(5) "voyage" includes also the plying of a vessel at or about any place:

(6) "master" means any person (except a pilot or harbour-master) having for the time being the charge or control of a vessel:

(7) "passenger" includes any person carried in a steam-vessel other than the master and crew and the owner, his family and servants and

(8) "prescribed" means prescribed by a rule made by the Local Government under this Act.

CHAPTER II.

SURVEY OF INLAND STEAM-VESSELS.

6 (1) An inland steam-vessel shall not proceed on any voyage unless she has a certificate of survey under this Act in force and applicable to the voyage on which she is about to proceed or the service on which she is about to be employed.

(2) Nothing in this section shall apply to any steam-vessel proceeding on a voyage during the interval between the time at which her certificate under this Act expires and the time at which it is first practicable to have the certificate renewed.

7. (1) The Local Government may, from time to time, appoint so many persons as it thinks fit to be surveyors for the purposes of this Act at such places within the territories under its administration as it, from time to time, appoints to be places of survey.

(2) Every surveyor appointed under this Act may be suspended or removed by the Local Government which appointed him.

(3) Every surveyor appointed under this Act shall, for the purposes of any survey made by him, be deemed to be a public servant within the meaning of the Indian Penal Code.

XLV of 1860.

8 (1) For the purposes of a survey under this Act, any surveyor appointed under this Act may, at any reasonable time, go on board any inland steam-vessel, and may inspect the steam-vessel and every part thereof, and the machinery, equipments or articles on board thereof

Provided that he does not unnecessarily hinder the loading or unloading of the steam-vessel, or unnecessarily detain or delay her from proceeding on any voyage.

(2) The owner, master and officers of the steam-vessel shall afford to the surveyor all reasonable facilities for a survey, and all such information respecting the steam-vessel, and her machinery and equipments, or any part thereof, respectively, as he reasonably requires

9 When a survey under this Act is completed, the surveyor making it shall forthwith, if satisfied that he can with propriety do so, give to the owner or master of the steam-vessel surveyed a declaration in the prescribed form containing the following particulars, namely,—

(a) that the hull and machinery of the steam-vessel are sufficient for the service intended and in good condition,

(b) that the equipments of the steam-vessel and the certificates of the master and engineer or engine-driver are such and in such condition as are required by any law for the time being in force and applicable to the steam-vessel;

(c) the time (if less than one year) for which the hull, machinery and equipments of the steam-vessel will be sufficient;

(d) the limit (if any) beyond which, as regards the hull, machinery or equipments, the steam-vessel is in the surveyor's judgment not fit to ply,

(e) the number of passengers (if any) which the steam-vessel is in the judgment of the surveyor fit to carry, distinguishing, if necessary, between the respective numbers to be carried on the deck and in the cabins, and in different parts of the deck and cabins, the number to be subject to such conditions and variations, according to the time of year, the nature of the voyage, the cargo carried or other circumstances as the case requires; and

(f) any other prescribed particulars.

*Inland Steam-vessels Act.**Chapter II.—Survey of Inland Steam-vessels.*

10. (1) The owner or master to whom a declaration is given under the last foregoing section shall, within fourteen days after the date of the receipt thereof, send the declaration to such officer as the Local Government, from time to time, appoints in this behalf.

(2) If he fails to do so, he shall forfeit a sum not exceeding five rupees for every day during which the sending of the declaration is delayed.

(3) The owner or master shall pay the sum so forfeited on the delivery of the certificate of survey in addition to the fee payable for the certificate.

11. (1) Upon receipt of a declaration by the officer appointed in this behalf under the last foregoing section, the Local Government shall, if satisfied that the provisions of this Act have been complied with, cause a certificate in duplicate to be prepared and delivered, through such officer at the place at which the steam-vessel was surveyed as the Local Government, from time to time, appoints in this behalf, to the owner or master of the steam-vessel surveyed, on his applying and paying the fees and other sums (if any) in this Act mentioned as payable on delivery of a certificate.

(2) A certificate granted under this section shall be in such form as the Governor General in Council, from time to time, directs, shall contain a statement to the effect that the provisions of this Act with respect to the survey of the steam-vessel and the transmission of the declaration in respect thereof have been complied with; and shall set forth—

- (a) the particulars concerning the steam-vessel which clauses (c), (d) and (e) of section nine require the declaration by the surveyor to contain, and
- (b) any other prescribed particulars.

(3) When a certificate is ready for delivery under this section, the Local Government shall cause notice thereof to be given by post or otherwise to the owner or master of the steam-vessel to which the certificate relates

12. For every certificate of survey granted by the Local Government under this Act the owner or master of the steam-vessel surveyed shall pay to the officer through whom the certificate is delivered to him—

(a) a fee calculated on the tonnage of the steam-vessel according to the rates in the second schedule hereto annexed or according to any other prescribed rates, and

(b) when the survey is made in any place of survey other than Calcutta, Madras, Bombay or Rangoon, such additional fee, in respect of the expense (if any) of the journey of the surveyor to the place, as the Local Government, from time to time, by notification in the official Gazette, directs

13. The owner or master of every steam-vessel for which a certificate of survey has been granted under this Act shall forthwith, on the receipt of the certificate, cause one of the duplicates thereof to be affixed, and kept affixed so long as it remains in force and the steam-vessel is in use, on some conspicuous part of the steam-vessel where it may be easily read by all persons on board thereof.

14. A certificate of survey granted under this Act shall not be in force—

- (a) after the expiration of one year from the date thereof, or
- (b) after the expiration of the period, if less than one year, for which the hull, boilers, engines or any of the equipments have been stated in the certificate to be sufficient; or
- (c) after notice has been given by the Local Government, to the owner or master of the steam-vessel to which the certificate relates, that the Local Government has cancelled or suspended it

15. Any certificate of survey granted under this Act may be cancelled or suspended by a Local Government if it has reason to believe—

(a) that the declaration by the surveyor of the sufficiency and good condition of the hull, boilers, engines or any of the equipments of the steam-vessel has been fraudulently or erroneously made, or

(b) that the certificate has otherwise been granted upon false or erroneous information, or

(c) that since the making of the declaration, the hull, boilers, engines or any of the equipments of the steam-vessel have sustained any injury, or have otherwise become insufficient

16. The Local Government may require any certificate of survey which has expired or has been cancelled or suspended to be delivered up to such person as it, from time to time, directs.

17. If the Local Government which cancels or suspends a certificate of survey granted under this Act is not the Local Government which granted the certificate, the Local Government cancelling or suspending the certificate shall report the fact of cancellation or suspension, together with the reasons therefor, to the Local Government which granted the certificate.

18. A survey under this Act shall ordinarily be made by one surveyor, but two surveyors may be employed if the Local Government, by order in writing, so directs, either generally in the case of all steam-vessels at any place of survey, or specially in the case of any particular steam-vessel or class of steam-vessels at any such place.

Sending of declaration by owner or master to Local Government

Grant of certificate of survey by Local Government.

Certificate of survey to be affixed in conspicuous part of steam-vessel

Term of certificates of survey.

Cancellation or suspension of certificate of survey by Local Government.

Power to require delivery of expired or cancelled certificate

Report of cancellation or suspension of certain certificates.

Power for local Government to direct that two surveyors be employed.

Inland Steam-vessels Act.

Chapter III.—Masters and Engineers of Inland Steam-vessels.

19 (1) If the surveyor or surveyors making a survey under this Act refuses or refuse to give a declaration under section nine with regard to any steam-vessel, or gives or give a declaration with which the owner or master of the steam-vessel surveyed is dissatisfied, the Local Government may, on the application of the owner or master, direct two other surveyors appointed under this Act to survey the steam-vessel.

(2) The surveyors so directed shall forthwith survey the steam-vessel, and may, after the survey, either refuse to give a declaration or give such declaration as under the circumstances seems to them proper; and their decision shall be final.

20. When a survey is made under either of the last two foregoing sections by two surveyors, each of the surveyors making the survey shall perform a prescribed portion of the duties assigned by this Act or the rules made under this Act to a surveyor making a survey

21. (1) The Local Government may make rules to regulate the making of surveys under this Act

(2) Rules under this section may, among other matters,—

- (a) declare the times and places at which, and the manner in which, surveys are to be made;
- (b) regulate the duties of the surveyor making a survey, and, where two surveyors are employed, assign the respective duties of each of the surveyors employed;
- (c) declare the form in which the declarations of surveyors and certificates of survey granted under this Act are to be framed, and the nature of the particulars which are to be stated therein, respectively;
- (d) fix the rates according to which the fees payable for certificates of surveys are to be calculated in the case of all or any of the places of survey within the territories under its administration; and
- (e) define the cases in, and the extent to, which under ordinary circumstances a survey may be dispensed with before the grant of a new certificate.

CHAPTER III.

MASTERS AND ENGINEERS OF INLAND STEAM-VESSELS

22 The Local Government may, from time to time, appoint persons for the purpose of examining the qualifications of persons desirous of obtaining certificates of competency as masters or as engineers or engine-drivers of inland steam-vessels.

23. (1) The Local Government shall grant to every person who is reported by the examiners to possess the necessary

qualifications, a certificate of competency to the effect that he is competent to act as a first class master or as a second-class master of an inland steam-vessel, as the case may be.

(2) Every certificate granted under this section shall be in the prescribed form.

24. (1) The Local Government shall grant to

every person who is reported by the examiners to possess the necessary

qualifications, a certificate of competency to the effect that he is competent to act as an engineer or as an engine-driver of an inland steam-vessel, as the case may be

(2) Every certificate granted under this section shall be in the prescribed form.

25 Before granting a certificate under either

of the last two foregoing sections, the Local Government may, if it has

reason to believe that the report of the examiners regarding any applicant has been unduly made, require a re-examination of the applicant or a further inquiry into his testimonials and character

26 Every certificate of competency granted

under this Act shall be made in duplicate, and one copy shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded in the prescribed manner.

27 Whenever a master or an engineer or an engine-driver proves, to the satisfaction of the Local Government which

granted his certificate, that he has, without fault on his part, lost or been deprived of it, a copy of the certificate to which, by the record kept as provided by law, he appears to be entitled, shall be granted to him, and shall have all the effect of the original

28 (1) An inland steam-vessel having engines

of eighty nominal horse-power or upwards shall not proceed on any voyage unless she has—

(a) as her master a person possessing a first-class master's certificate granted under this Act or a master's certificate granted under Act I of 1859 (for the amendment of the law relating to Merchant Seamen) or the Merchant Shipping Acts, 1854 to 1883, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869; and

(b) as her engineer a person possessing an engineer's certificate granted under this Act or the Indian Steam-ships Act, 1884, or the Merchant Shipping Acts, 1854 to 1883, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869.

(2) An inland steam-vessel having engines of under eighty nominal horse-power shall not proceed on any voyage unless she has—

(a) as her master a person possessing a second-class master's certificate granted under this Act or a certificate of the higher grade of the nature referred to in clause (a) of sub-section (1), and

Power for Local Government to order a second survey

Division of duties when two surveyors employed

Power for Local Government to make rules as to surveys

Power for local Government to require re-examination or further inquiry.

Certificates to be made in duplicate

Copy of certificate to be granted in certain cases.

Number of engineers and nature of certificates necessary in case of different steam-vessels

32 & 33 Vic., c. 11

VII of 1884.

Inland Steam-vessels Act.

Chapter IV.—Investigations into Casualties.

VII of 1884.

(b) as her engineer a person possessing an engine-driver's certificate granted under this Act or the Indian Steam-ships Act, 1884, or a certificate of the higher grade of the nature referred to in clause (b) of sub-section (1).

Provided that a steam-vessel shall be deemed to have complied with this sub-section if she has as her master and engineer a person possessing both a second-class master's certificate and an engine-driver's certificate granted under this Act.

29. The Local Government may make rules to regulate the granting of certificates of competency under this Act, and may by such rules—

Power for Local Government to make rules as to grant of certificates of competency.

- (a) provide for the conduct of the examination of persons desirous of obtaining certificates of competency as masters, engineers or engine-drivers under this Act;
- (b) prescribe the qualifications to be respectively required of persons desirous of obtaining first-class masters' certificates, second-class masters' certificates, engineers' certificates and engine-drivers' certificates, respectively;
- (c) fix the fees to be paid by all applicants for examination, and
- (d) prescribe the form in which certificates are to be framed, and the manner in which the copy of the certificate which is kept by the Local Government is to be recorded.

CHAPTER IV.

INVESTIGATIONS INTO CASUALTIES.

30 (1) Whenever—

Report of casualties to be made to Local Government

- (a) any inland steam-vessel has been wrecked, abandoned or materially damaged, or
 - (b) by reason of any casualty happening to or on board of any inland steam-vessel, loss of life has ensued, or
 - (c) any inland steam-vessel has caused loss or material damage to any other vessel,
- the master of the steam-vessel shall forthwith give notice of the wreck, abandonment, damage, casualty or loss to the officer in charge of the nearest police-station.

31. (1) If in any case a formal investigation into the facts referred to in the last foregoing section appears to the Local Government to be requisite or expedient, the Local Government may appoint a special Court, consisting of not less than two nor more than four persons, and direct the Court to make the investigation, and may fix the place for making the same.

(2) One of the members of the Court shall be a Magistrate, another shall be some person conversant with maritime affairs or the navigation of inland steam-vessels, and the other or others (if any) shall be conversant with either maritime or mercantile affairs or with the navigation of inland steam-vessels.

32. Any principal Court of ordinary criminal jurisdiction and the Court of any District Magistrate may, when so directed by the Local Government, make the investigation referred to the last foregoing section.

Power for principal Court of ordinary criminal jurisdiction to hold investigations into casualties when so directed.

33. (1) Any Court making an investigation under either of the last two foregoing sections may inquire into any charge of incompetency or misconduct arising in the course of the investigation against any master, engineer or engine-driver, as well as into any charge of a wrongful act or default on his part causing any wreck, abandonment, damage, casualty or loss referred to in section thirty.

Power for Court of Investigation to inquire into charges against masters, engineers and engine-drivers.

(2) In every case in which any such charge, whether of incompetency or misconduct, or of a wrongful act or default as aforesaid, arises against any master, engineer or engine-driver in the course of an investigation, the Court shall, before the commencement of the inquiry into the charge, cause to be furnished to him a copy of the report or statements of the case upon which the investigation has been directed.

34. (1) If the Local Government has reason to believe that there are grounds for charging any master, engineer or engine-driver of an inland steam-vessel with incompetency or misconduct, otherwise than in the course of an investigation under section thirty-one or section thirty-two, it may send a statement of the case to the principal Court of ordinary criminal jurisdiction, or the Court of the District Magistrate, at or nearest to the place at which it may be convenient for the parties and witnesses to attend, and may direct the Court to make an investigation into the charge.

Power for Local Government to direct investigation into charges of incompetency or misconduct.

(2) Before commencing the investigation, the Court shall cause the master or engineer or engine-driver so charged to be furnished with a copy of the statement sent by the Local Government.

35. For the purpose of an investigation under this chapter into any charge against a master, engineer or engine-driver the Court may summon him to appear, and shall give him full opportunity of making a defence, either in person or otherwise.

Person accused to be heard.

36. (1) When any investigation involves, or appears likely to involve, any question as to the cancelling or suspension of the certificate of a master, engineer or engine-driver, the Court making the investigation shall constitute as its assessors, for the purposes of the investigation, two persons having experience in the merchant service or in the navigation of inland steam-vessels; and in every other investigation the Court making it may, if it thinks fit, constitute as its assessor, for the purposes of the investigation, any person conversant with maritime affairs or the navigation of inland steam-vessels and willing to act as assessor.

Assessors

Inland Steam-vessels Act.

Chapter V.—Suspension and Cancellation of Masters' and Engineers' Certificates.

(2) Every person appointed under this section shall attend during the investigation and deliver his opinion in writing, to be recorded on the proceedings. But the exercise of all powers conferred on the Court by this Act shall rest with the Court.

37. For the purpose of any investigation under this chapter, the Court making the investigation, so far as relates to compelling the attendance and examination of witnesses and the production of documents and the regulation of the proceedings, shall have—

- (a) if the Court is a special Court—the same powers as are exercisable by the principal Court of ordinary criminal jurisdiction for the place at which the investigation is made, and
- (b) if the Court is a principal Court of ordinary criminal jurisdiction or the Court of the District Magistrate—the same powers as are exercisable respectively by either Court in the exercise of its criminal jurisdiction.

38 (1) If any Court making an investigation under this chapter thinks it necessary for obtaining evidence that any person should be arrested, it may issue a warrant for his arrest, and may, for the purpose of effecting the arrest, authorize any officer (subject, nevertheless, to any general or special instructions from the Local Government) to enter any vessel.

(2) Any officer so authorized may, for the purpose of enforcing the entry, call to his aid any officers of Police or Customs, or any other persons, and may seize and detain the vessel for such time as is reasonably necessary to effect the arrest; and every such officer or other person shall be deemed to be a public servant within the meaning of the Indian Penal Code

(3) No person shall be detained by virtue of this section for more than forty-eight hours.

39. (1) Whenever, in the course of any investigation, it appears that any person has committed, within the jurisdiction of any Court in British India, an offence punishable under any law in force in British India, the Court making the investigation may (subject to such rules consistent with this Act as the High Court may, from time to time, prescribe) cause him to be arrested, or commit him or hold him to bail to take his trial before the proper Court, and may bind over any person to give evidence at the trial, and may, for the purposes of this section, exercise all the powers of a Magistrate of the first class or of a Presidency Magistrate.

(2) For the purposes of this section the Recorder of Rangoon shall, within the local limits of the territories for the time being administered by the Chief Commissioner of British Burma, be deemed to be the High Court.

40 (1) Whenever, in the course of any such trial, the testimony of any witness is required in relation to the subject-matter, any deposition previously made by him in relation to the same

subject-matter before any Court making an investigation under this chapter shall, if authenticated by the signature of the Magistrate or presiding Judge, be admissible in evidence on proof—

(a) that the witness cannot be found within the jurisdiction of the Court before which the trial is held, and

(b) that it was made in the presence of the person accused, and that he had an opportunity of cross-examining the witness.

(2) A certificate by the Magistrate or presiding Judge that the deposition was made in the presence of the accused and that he had that opportunity shall, unless the contrary be proved, be sufficient evidence that it was so made and that he had that opportunity.

41 The Court shall, in the case of every investigation under this chapter, transmit to the Local Government a full report of the conclusions at which it has arrived, together with the evidence.

42. (1) Whenever any explosion occurs on board any inland steam-vessel, the Local Government may, if it thinks fit, direct that an investigation into the cause of the explosion be made by such person or persons as it thinks fit.

(2) The person or persons so directed may enter into and upon the steam-vessel, with all necessary workmen and labourers, and remove any portion of the steam-vessel, or of the machinery thereof, for the purpose of the investigation, and shall report to the Local Government what in his or their opinion was the cause of the explosion.

(3) Every person making an investigation under this section shall be deemed to be a public servant within the meaning of the Indian Penal Code.

CHAPTER V.

SUSPENSION AND CANCELLATION OF MASTERS' AND ENGINEERS' CERTIFICATES

43. Any certificate granted under this Act to any master, engineer or engine-driver may be suspended or cancelled by the Local Government which granted it, or by any other Local Government, in the following cases, that is to say—

(a) if, on any investigation made under this Act, the Court reports that the wreck or abandonment of, or loss or damage to, any inland steam-vessel, or loss of life, has been caused by his wrongful act or default, or that he is incompetent, or has been guilty of any gross act of drunkenness, tyranny or other misconduct, or

(b) if he is proved to have been convicted of any non-bailable offence or

(c) if in the case of a second-class master or an engine-driver, the master or engine-driver is or has become, in the opinion of the Local Government, unfit to act as a second-class master or engine-driver.

Inland Steam-vessels Act.

Chapter VII—Carriage of Passengers in Inland Steam-vessels.

Provided that, in any case in which an investigation has been made into a charge against any master, engineer or engine-driver, a certificate shall not be suspended or cancelled under clause (a) of this section unless the Local Government is satisfied that the holder of the certificate has been furnished before the commencement of the investigation with the copy of the report or statement required by section thirty-three or section thirty-four, as the case may be

44. Every master, engineer or engine-driver whose certificate is cancelled or suspended under the last foregoing section shall deliver it to such person as the Local Government which cancelled or suspended it from time to time directs

45. If the Local Government which cancels or suspends a certificate under section forty-three is not the Local Government which granted the certificate, the Local Government so cancelling or suspending the certificate shall report the proceedings, and the fact of cancellation or suspension, to the Local Government which granted the certificate.

46. (1) Any Local Government may at any time revoke any order of cancellation or suspension which it may have made under section forty-three, or grant, without examination, to any person whose certificate it has so cancelled, a new certificate

(2) A certificate so granted shall have the same effect as if it had been granted after examination.

CHAPTER VI.

PROTECTION OF INLAND STEAM-VESSELS FROM DANGER BY FIRE

47. The Governor General in Council may, from time to time, by notification in the *Gazette of India*, declare what shall be deemed to be, for the purposes of this Act, dangerous goods.

48. (1) A person shall not take with him on board an inland steam-vessel, and a person shall not deliver or tender for carriage on an inland steam-vessel, any dangerous goods without giving notice of their nature to the owner or master of the steam vessel, or, in the case of goods delivered or tendered for carriage, without distinctly marking their nature on the outside of the package containing the goods.

(2) The owner or master of an inland steam-vessel may refuse to carry upon an inland steam-vessel any luggage or parcel which he suspects to contain dangerous goods, and may require the luggage or parcel to be opened to ascertain the fact previously to carrying the same, and, in case any such luggage or parcel is received for the purpose of being carried in any inland steam-vessel, the owner or master of the vessel may stop the transit thereof, until he is satisfied as to the nature of its contents.

49. Where any dangerous goods have been sent or brought on board any inland steam-vessel in contravention of the last foregoing section, the owner or master of the steam-vessel may, if he thinks fit, cause the goods to be thrown overboard, together with any package or receptacle in which they are contained, and neither the owner nor the master shall, in respect of his having so thrown the goods overboard, be subject to any liability, civil or criminal, in any Court.

50. (1) The Local Government may make rules for the protection of inland steam-vessels from danger by explosion or fire.

(2) Rules under this section may provide for the following among other matters, that is to say—

- (a) the conditions on, and subject to, which dangerous goods may be carried on board inland steam-vessels;
- (b) the precautions to be taken to prevent explosions or fires on board inland steam-vessels; and
- (c) the apparatus for the purpose of extinguishing fires which is to be kept on board inland steam-vessels.

(3) Any rule under this section may contain a provision that any person committing a breach of it shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

CHAPTER VII.

CARRIAGE OF PASSENGERS IN INLAND STEAM-VESSELS.

51. (1) The Local Government may make rules to regulate the carriage of passengers in inland steam-vessels.

(2) Rules under this section may provide for the following among other matters, that is to say:—

- (a) the cases in which passengers may be refused admission to, or may be required to leave, inland steam-vessels,
- (b) the payment of fares and the exhibition of tickets or receipts (if any) showing the payment of their fares by passengers in inland steam-vessels, and
- (c) the regulation generally of the conduct of passengers in inland steam-vessels

(3) Any rule under this section may contain a provision that any person committing a breach of it shall be punished with fine which may extend to twenty rupees.

(4) The master or any other officer of an inland steam-vessel, and any person called by him to his assistance, may arrest any person who has committed a breach of any rule made under this section, and whose name and address are unknown to the master or other officer.

Inland Steam-vessels Act.

Chapter VIII.—Penalties and Legal Proceedings.

x of 1882 (5) The procedure prescribed by section 59 of the Code of Criminal Procedure in the case of arrests by private persons shall apply to every arrest under this section.

CHAPTER VIII.

PENALTIES AND LEGAL PROCEEDINGS.

52. (1) If any inland steam-vessel proceeds on a voyage in contravention of section six, the owner and master of the steam-vessel shall each be liable to a fine which may extend to one thousand rupees.

(2) If the master or any other officer on board of an inland steam-vessel which proceeds on a voyage in contravention of section six is a licensed pilot, he shall be liable to have his license as a pilot cancelled, or suspended for any period, by the Local Government, as the Local Government sees fit to order.

53. If the certificate of survey granted under this Act is not affixed in an inland steam-vessel in the manner provided by this Act, the owner and master of the steam-vessel shall each be liable to a fine which may extend to one hundred rupees.

54. If the owner or master of an inland steam-vessel, without reasonable cause, neglects or refuses to deliver up a certificate of survey when required under this Act to do so, he shall be punished with fine which may extend to one hundred rupees.

55. (a) If any person who has been engaged to serve as master, engineer or engine-driver of an inland steam-vessel, proceeds on any voyage in that steam-vessel as master, engineer or engine-driver, as the case may be, without being at the time entitled to, and possessed of, the certificate required under this Act, and

(b) if any person employs any person as a master, engineer or engine-driver of an inland steam-vessel without ascertaining that he is at the time entitled to, and possessed of, the master's, engineer's or engine-driver's certificate, as the case may be, required under this Act, he shall be punished with fine which may extend to five hundred rupees.

56. If any master wilfully fails to give notice as required by section thirty, of any wreck, abandonment, damage, casualty or loss, he shall be punished with fine which may extend to five hundred rupees, and in default of payment to simple imprisonment for a term which may extend to three months.

57. If any master, engineer or engine-driver whose certificate is cancelled or suspended under this Act fails to deliver the certificate to such

person as the Local Government which cancelled or suspended it directs, he shall be punished with fine which may extend to five hundred rupees.

58. If any person, in contravention of section forty-eight, takes with him on board any inland steam-vessel any dangerous goods, or delivers or tenders any such goods for the purpose of being carried on any inland steam-vessel, he shall be punished with fine which may extend to two hundred rupees, and the goods shall be forfeited to Her Majesty.

59. If any person employed or engaged in any capacity on board an inland steam-vessel by wilful breach of duty, or by neglect of duty, or by reason of drunkenness.

(a) does any act tending to the immediate wreck, destruction or material damage of the vessel, or tending immediately to endanger the life or limb of any person belonging to or on board the vessel, or

(b) refuses or omits to do any lawful act proper and requisite to be done by him for preserving the vessel from immediate wreck, destruction or material damage, or for preserving any person belonging to or on board of the vessel from immediate danger to life or limb,

he shall be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to two years, or with both.

60. Where the owner or master of an inland steam vessel is convicted of an offence under this Act or the rules made under this Act committed on board of, or in relation to, that steam-vessel, and sentenced to pay a fine, the Magistrate may, in addition to any other power he may have for the purpose of compelling payment of the fine, direct the amount thereof to be levied by distress and sale of the vessel and the tackle, apparel and furniture thereof, or so much thereof as is necessary.

61. Except in the case of offences under rules made under section fifty-one, no magistrate shall try an offence under this Act, or the rules under it, unless he is a Presidency Magistrate, or a Magistrate whose powers are not less than those of a Magistrate of the first class.

62. If any person commits an offence against this Act or the rules made under this Act, he shall be triable for the offence in any place in which he may be found or which the Local Government, from time to time, by notification in the official Gazette, directs in this behalf, or in any other place in which he might be tried under any other law for the time being in force.

63. Nothing in this Act shall prevent any person from being prosecuted under any other law for any act or omission

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Chapter IX.—Supplemental.

which constitutes an offence against this Act or the rules made under this Act, or from being liable under that other law to any other or higher punishment or penalty than that provided by this Act or the rules made under this Act :

Provided that a person shall not be punished twice for the same offence.

CHAPTER IX.
SUPPLEMENTAL.

64. The Local Government may, from time to time, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, declare that all or any of the provisions of Chapters II and III of this Act shall not apply in the case of any specified class of steam-vessels; or shall apply to them with such modifications as the Local Government prescribes.

65. The Local Government may, from time to time, by notification in the official Gazette, define how much of any tidal water shall be deemed to be an inland water for the purposes of this Act.

66. All fees payable under this Act may be recovered as fines under this Act.

67. Nothing in this Act or in any rule made under this Act shall apply to any steam-vessel belonging to, or in the service of, Her Majesty or the Government of India.

68. Every master of an inland steam-vessel who possesses a master's certificate duly granted under this Act and then in force shall, in ports to

XII of 1875. which section 38 of the Indian Ports Act, 1875, has been extended, be deemed, for the purposes of that section, to be the pilot of the steam-vessel of which he is in charge

(2) Nothing in this section shall be deemed to affect the provisions of Bombay Act I of 1863, which require persons in charge of vessels passing through any of the channels or tidal channels at the mouths of the river Indus to pay fees for pilotage.

69. (1) A Local Government making rules under this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(2) The publication shall be made in such manner as the Governor General in Council, from time to time, by notification in the *Gazette of India*, prescribes

(3) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration

(4) The Local Government shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) A rule made under this Act shall not take effect until it has been sanctioned by the Governor General in Council and published in the local official Gazette.

(6) The publication in the Gazette of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made and sanctioned.

(7) All powers to make rules conferred by this Act may be exercised from time to time as occasion requires.

THE FIRST SCHEDULE.

ACTS REPEALED.

(See Section 3.)

(a) Act of the Governor General in Council.

Number and year.	Subject or short title.	Extent of repeal
XVI of 1871.	The Burmese Steamer Survey Act.	The whole.

(b) Acts of the Governor of Bombay in Council.

Number and year	Subject or short title.	Extent of repeal
II of 1864	To provide for the periodical survey of steam-vessels in the ports, harbours, rivers or waters of the Presidency of Bombay	The whole, except section 15.
IV of 1873	To amend Bombay Act II of 1864, providing for the periodical survey of steam-vessels, and to provide for the examination of engineers of steam-vessels.	The whole.

(c) Acts of the Lieutenant-Governor of Bengal in Council.

Number and year	Subject or short title.	Extent of repeal
V of 1862	To provide for the periodical survey of steam-vessels in the port of Calcutta.	The whole.
I of 1868	The Steam-boat Survey Amendment Act, 1868.	So much as has not been repealed.
III of 1871	To increase the fees for the survey of steam-vessels	The whole.
VII of 1879	To provide for the proper management of certain inland steam-vessels.	The whole.

THE SECOND SCHEDULE.

(See Section 12.)

RATES OF FEES.

	Tons.	Rs
For steam-vessels of less than 100 tons and up to	100	25
" " 100 tons and up to	200	40
" " 200 " " "	350	50
" " 350 " " "	700	60
" " 700 " " "	1,000	80
" " 1,000 " " "	1,500	100
" " 1,500 " and upwards	..	120

D. FITZPATRICK,

Secy to the Govt of India.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 29th February, 1884, and was promulgated for general information in the *Gazette of India* on the 1st March 1884.—

Act No. VII of 1884.

THE INDIAN STEAM-SHIPS ACT,
1884.

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THE SCHEDULE.—RATES OF FEES.

Indian Steam-ships Act.

Chapter I.—Preliminary.

An Act to amend the law relating to the Survey of Steam-ships and the Grant of Certificates to Engineers of those Ships.

WHEREAS it is expedient to amend the law relating to the survey of steam-ships and the grant of certificates to engineers of those ships: It is hereby enacted as follows.—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Indian Steam-ships Act, 1884, and
Short title
(2) It extends to the
Extent. whole of British India
- 2 (1) This Act shall come into force on such
Commencement day as the Governor General in Council, by notification in the *Gazette of India*, appoints.

(2) Provided that any notification, rule or appointment may be made under this Act at any time after the passing thereof, but except in the case of a notification under section forty-two, sub-section (2), shall not take effect until the Act comes into force.

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

(1) "steam-ship" means every description of vessel used in navigation and propelled wholly or in part by the agency of steam:

(2) "British steam-ship" includes a steam-ship registered under Act XIX of 1838, Act X of 1841 or Act XI of 1850, or under any other law passed by the Governor General in Council and for the time being in force for the registration of ships in India.

Indian Steam-ships Act.

Chapter II.—Survey of Steam-ships.

(3) "master" means any person (except a pilot or harbour-master) having for the time being control or charge of a steam-ship.

(4) "passenger" includes any person carried in a steam-ship other than the master and crew and the owner, his family and servants and

(5) "prescribed" means prescribed by a rule made by the Local Government under this Act.

CHAPTER II.

SURVEY OF STEAM-SHIPS

4. A steam-ship shall not carry more than twelve passengers between places in British India, and a British steam-ship shall not carry more than twelve passengers to or from any place in British India from or to any place out of British India, unless she has a certificate of survey under this Act in force and applicable to the voyage on which she is about to proceed or the service on which she is about to be employed.

5 Nothing in the last foregoing section shall apply to—

(a) any steam-ship having a certificate of survey granted by the board of Trade or any British Colonial Government, unless it appears from the certificate that it is inapplicable to the voyage on which the steam-ship is about to proceed, or the service on which she is about to be employed, or unless there is reason to believe that the steam-ship has, since the grant of the certificate, sustained injury or damage, or been found unseaworthy or otherwise inefficient, or

(b) any steam-ship having a certificate of survey granted under the Inland Steam-vessels Act, 1884, in force and applicable to the voyage on which the steam-ship is about to proceed or the service on which she is about to be employed, or

(c) any steam-ship belonging to, or in the service of, Her Majesty or the Government of India, or

(d) any steam-ship belonging to any foreign Prince or State when employed mainly on the public service of the Prince or State, or

(e) any steam-ship carrying passengers during the interval between the time at which her certificate of survey under this Act expires and the time at which it is first practicable to have the certificate renewed.

6 (1) If any steam-ship carries or attempts to carry passengers in contravention of section four of the steam-ship shall each be liable to a fine which may extend to one thousand rupees.

(2) If the master or any other officer of any steam-ship which carries or attempts to carry passengers in contravention of section four is a licensed pilot, he shall be liable to have his license as a pilot cancelled or suspended for any period by the Local Government, as the Local Government sees fit to order.

7 No officer of Customs shall grant a port-clearance, nor shall any pilot be assigned, to any steam-ship for which a

certificate of survey is required by section four, until after the production by the owner or master thereof of a certificate under this Act in force and applicable to the voyage on which she is about to proceed and the service on which she is about to be employed.

8. If any steam-ship for which a certificate of survey is required by section four leaves or attempts to leave any port of survey without a certificate, any officer of Customs or any pilot on board the steam-ship may detain her until she obtains a certificate

9. (1) The Local Government may, from time to time, appoint so many persons as it thinks fit to be surveyors for the purposes of this Act at such ports within the territories under its administration as it, from time to time, appoints to be ports of survey.

(2) Every surveyor appointed under this Act may be suspended or removed by the Local Government which appointed him.

(3) Every surveyor appointed under this Act shall, for the purposes of any survey made by him, be deemed to be a public servant within the meaning of the Indian Penal Code.

10. (1) For the purposes of a survey under this Act, any surveyor appointed under this Act may, at any reasonable time, go on board a steam-ship, and may inspect the steam-ship and every part thereof, and the machinery, equipments or articles on board thereof:

Provided that he does not unnecessarily hinder the loading or unloading of the steam-ship, or unnecessarily detain or delay her from proceeding on any voyage.

(2) The owner, master and officers of the steam-ship shall afford to the surveyor all reasonable facilities for a survey, and all such information respecting the steam-ship and her machinery and equipments, or any part thereof, respectively, as he reasonably requires.

11. When a survey under this Act is completed, the surveyor making it shall forthwith, if satisfied that he can with propriety do so, give to the owner or master of the steam-ship surveyed a declaration in the prescribed form containing the following particulars, namely:—

(a) that the hull and machinery of the steam-ship are sufficient for the service intended and in good condition;

(b) that the equipments of the steam-ship and the certificates of the master, mate or mates, and engineer or engineers or engine-driver, are such and in such condition as are required by any law for the time being in force and applicable to the steam-ship;

(c) the time (if less than one year) for which the hull, machinery and equipments of the steam-ship will be sufficient;

(d) the limit (if any) beyond which, as regards the hull, machinery or equipments, the steam-ship is in the surveyor's judgment not fit to ply;

Indian Steam-ships Act.

Chapter II.—Survey of Steam-ships.

(e) the number of passengers which the steam-ship is in the judgment of the surveyor fit to carry, distinguishing, if necessary, between the respective numbers to be carried on the deck and in the cabins and in different parts of the deck and cabins; the number to be subject to such conditions and variations, according to the time of year, the nature of the voyage, the cargo carried or other circumstances as the case requires, and

(f) any other prescribed particulars.

12. (1) The owner or master to whom a declaration is given under the last foregoing section shall, within fourteen days after the date of the receipt thereof, send the declaration to such officer as the Local Government, from time to time, appoints in this behalf

(2) If he fails to do so, he shall forfeit a sum not exceeding five rupees for every day during which the sending of the declaration is delayed

(3) The owner or master shall pay the sum so forfeited on the delivery of the certificate of survey in addition to the fee payable for the certificate.

13. (1) Upon receipt of a declaration by the officer appointed in this behalf under the last foregoing section, the Local Government shall, if satisfied that the provisions of this Act have been complied with, cause a certificate in duplicate to be prepared and delivered, through such officer at the port at which the steam-ship was surveyed as the Local Government, from time to time, appoints in this behalf, to the owner or master of the steam-ship surveyed, on his applying and paying the fees and other sums (if any) mentioned in this Act as payable on delivery of a certificate.

(2) A certificate granted under this section shall be in such form as the Governor General in Council, from time to time, directs; shall contain a statement to the effect that the provisions of this Act with respect to the survey of the steam-ship and the transmission of the declaration in respect thereof have been complied with; and shall set forth—

(a) the particulars concerning the steam-ship which clauses (c), (d) and (e) of section eleven require the declaration by the surveyor to contain; and

(b) any other prescribed particulars.

(3) When a certificate is ready for delivery under this section, the Local Government shall cause notice thereof to be given by post or otherwise to the owner or master of the steam-ship to which the certificate relates.

14. For every certificate of survey granted by the Local Government under this Act the owner or master of the steam-ship surveyed shall pay to the officer through whom the certificate is delivered to him—

(a) a fee calculated on the tonnage of the steam-ship according to the rates in the schedule hereto annexed, or according to any other prescribed rates, and

(b) when the survey is made in any port of survey other than Calcutta, Madras, Bombay or Rangoon, such additional fee, in respect of the expense, if any, of the journey of the surveyor to the port, as the Local Government, from time to time, by notification in the official Gazette, directs.

15. (1) The owner or master of every steam-ship for which a certificate of survey has been granted under this Act shall forthwith, on the receipt of the certificate, cause one of the duplicates thereof to be affixed, and kept affixed so long as the certificate remains in force and the steam-ship is in use, on some conspicuous part of the steam-ship where it may be easily read by all persons on board thereof.

(2) If the certificate is not so kept affixed, the owner and master of the steam-ship shall each be liable to a fine which may extend to one hundred rupees

16. A certificate of survey granted under this Act shall not be in force—

(a) after the expiration of one year from the date thereof, or

(b) after the expiration of the period, if less than one year, for which the hull, boilers, engines or any of the equipments have been stated in the certificate to be sufficient, or

(c) after notice has been given by the Local Government, to the owner or master of the steam-ship to which the certificate relates, that the Local Government has cancelled or suspended it.

17. Any certificate of survey granted under this Act may be cancelled or suspended by a Local Government if it has reason to believe—

(a) that the declaration by the surveyor of the sufficiency and good condition of the hull, boilers, engines or any of the equipments of the steam-ship has been fraudulently or erroneously made, or

(b) that the certificate has otherwise been issued upon false or erroneous information; or

(c) that, since the making of the declaration, the hull, boilers, engines or any of the equipments of the steam-ship have sustained any injury, or have otherwise become insufficient.

18. (1) The Local Government may require any certificate of survey granted under this Act which has expired, or has been cancelled or suspended, to be delivered up to such person as it, from time to time, directs.

(2) If the owner or master of a steam-ship, without reasonable cause, neglects or refuses to

Indian Steam-ships Act.

Chapter III.—Examination and Certificates of Engineers and Engine-drivers.

deliver up a certificate as required under this section, he shall be punished with fine which may extend to one hundred rupees.

19. If the Local Government which cancels or suspends a certificate of survey granted under this Act is not the Local Government which granted the certificate, the Local Government cancelling or suspending the certificate shall report the fact of cancellation or suspension, together with the reasons therefor, to the Local Government which granted the certificate.

20. A survey under this Act shall ordinarily be made by one surveyor, but two surveyors may be employed if the Local Government, by order in writing, so directs, either generally in the case of all steam-ships at any port of survey, or specially in the case of any particular steam-ship or class of steam-ships at any such port

21. (1) If the surveyor or surveyors making a survey under this Act refuses or refuse to give a declaration under section eleven with regard to any steam-ship, or gives or give a declaration with which the owner or master of the steam-ship surveyed is dissatisfied, the Local Government may, on the application of the owner or master, direct two other surveyors appointed under this Act to survey the steam-ship

(2) The surveyors so directed shall forthwith survey the steam-ship, and may, after the survey, either refuse to give a declaration or give such declaration as under the circumstances seems to them proper; and their decision shall be final.

22. When a survey is made under either of the last two foregoing sections by two surveyors, each of the surveyors making the survey shall perform a prescribed portion of the duties assigned by this Act or the rules made under this Act to a surveyor making a survey.

23. When a foreign steam-ship requires to be furnished with a certificate of survey under this Act, and the Local Government is satisfied, by the production of a certificate of survey attested by a British Consular Officer at the port of survey, that the ship has been officially surveyed at a foreign port, and that the requirements of this Act are proved by that survey to have been substantially complied with, the Local Government may, if it thinks fit, dispense with any further survey of the ship in respect of the requirements so complied with, and give a certificate which shall have the same effect as a certificate given after survey under this Act.

Provided that this section shall not apply in the case of an official survey at any foreign port with respect to which Her Majesty has by Order in Council directed that section 19 of the Merchant Shipping Act, 1876, shall not apply.

24. (1) The Local Government may make rules to regulate the making of surveys under this Act.

(2) Rules under this section may, among other matters,—

(a) declare the times and places at which, and the manner in which, surveys are to be made;

(b) regulate the duties of the surveyor making a survey, and, where two surveyors are employed, assign the respective duties of each of the surveyors employed;

(c) declare the form in which the declarations of surveyors and certificates of survey under this Act are to be framed, and the nature of the particulars which are to be stated therein, respectively; and

(d) fix the rates according to which the fees payable for certificates of survey are to be calculated in the case of all or any of the ports of survey within the territories under its administration.

25. The Local Government may, from time to time, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, declare that all or any of the provisions of this chapter shall not apply in the case of any specified class of steam-ships, or shall apply to them with such modifications as the Local Government prescribes.

CHAPTER III.

EXAMINATION AND CERTIFICATES OF ENGINEERS AND ENGINE-DRIVERS.

26. The Local Government may, from time to time, appoint persons for the purpose of examining the qualifications of persons desirous of obtaining certificates of competency as engineers or engine-drivers.

27. (1) The Local Government shall grant to every person who is reported by the examiners to possess the necessary qualifications a certificate of competency to the effect that he is competent to act as a first-class engineer or as a second-class engineer or as an engine-driver, as the case may be.

Provided that the Local Government may, in any case in which it has reason to believe that the report has been unduly made, require, before granting a certificate, a re-examination of the applicant or a further inquiry into his testimonials and character.

(2) Every certificate granted under this section shall be in the prescribed form

28. Notwithstanding anything contained in the Indian Merchant Shipping Act, 1883, or any other law for the time being in force, the Local Government may at any time, without any formal investigation, suspend or cancel any,

*Indian Steam-ships Act.

Chapter III.—Examinations and Certificates of Engineers and Engine-drivers.

engine-driver's certificate granted by it under this Act, if in its opinion the holder is, or has become, unfit to act as an engine-driver.

29. Every certificate of competency granted under this Act shall be made in duplicate, and one copy shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded in the prescribed manner.

30. Whenever an engineer or engine-driver proves to the satisfaction of the Local Government which granted his certificate that he has, without fault on his part, lost or been deprived of it, a copy of the certificate to which, by the record kept as provided by law, he appears to be entitled shall be granted to him, and shall have all the effect of the original.

31. (1) A British steam-ship shall not proceed from any port in British India to any port or place not being either in British India, or on the continent of India, or in the Island of Ceylon, unless she has—

(a) if the steam-ship has engines of one hundred nominal horse-power or upwards, as her first and second engineers two certificated engineers, the first possessing a first-class engineer's certificate and the second a second-class engineer's certificate or a certificate of the higher grade, granted under this Act or the Merchant Shipping Acts, 1854 to 1883, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869,

(b) if the steam-ship has engines of under one hundred nominal horse-power, as her only or first engineer an engineer possessing a second-class engineer's certificate or a certificate of the higher grade of the nature referred to in clause (a)

(2) A foreign steam-ship having engines of fifty nominal horse-power or upwards shall not carry passengers from any port in British India to any other port in British India, and a British steam-ship having engines of a like horse-power shall not proceed from any port in British India to any other port in British India or to any port or place on the continent of India or in the Island of Ceylon, unless she has as her only or first engineer an engineer possessing a second class engineer's certificate or a certificate of the higher grade of the nature referred to in clause (a) of sub-section (1).

32. (1) On and from such day as the Local Government, by notification in the official Gazette directs in this behalf, a foreign steam-ship having engines of under fifty nominal horse-power shall not carry passengers from any port within the territories administered by that Local Government to any other port in British India, and a British steam-ship having engines of a like horse-power shall not proceed from any port within those territories to any

other port in British India or to any port or place on the continent of India or in the island of Ceylon, unless she has as her engineer a person possessing an engine-driver's certificate granted under this Act or an engineer's certificate of either of the grades referred to in the last foregoing section.

(2) The Local Government may at any time, by a like notification, cancel any notification issued by it under this section.

33. Nothing in section thirty-one or section thirty-two shall apply to any steam-ship to which the provisions of the Inland Steam-vessels Act, 1884, are applicable. VI. of 1884.

34. (a) If any person, who has been engaged to serve in any of the capacities referred to in section thirty-one or section thirty-two in any steam-ship to which those sections apply, respectively, proceeds in the steam-ship in that capacity without being at the time entitled to, and possessed of, the certificate required by those sections, and

(b) if any person employs any person in any capacity referred to in section thirty-one or section thirty-two in any steam-ship to which those sections apply, respectively, without ascertaining that he is at the time entitled to, and possessed of, the certificate required by those sections,

he shall be punished with fine which may extend to five hundred rupees

35. The provisions of Act I of 1859 (for the amendment of the law relating to Merchant Seamen) with respect to the certificates of competency or service of the master and mate contained in section 31 and section 32 of that Act shall apply to certificates of competency granted under this Act in the same manner as if certificates of competency granted to engineers under this Act were specially mentioned and included in those sections.

36. The Local Government may make rules to regulate the granting of certificates of competency under this Act, and may by such rules—

(a) provide for the conduct of the examinations of persons desirous of obtaining certificates of competency as engineers or engine-drivers under this Act,

(b) prescribe the qualifications to be respectively required of persons desirous of obtaining first class engineers' certificates, second-class engineers' certificates and engine-drivers' certificates, respectively,

(c) fix the fees to be paid by all applicants for examination, and

(d) prescribe the form in which certificates are to be framed, and the manner in which the copy of the certificate which is kept by the Local Government is to be recorded.

*Indian Steam-ships Act.**Chapter IV.—Investigations into Explosions.**Chapter V.—Supplemental.**The Schedule.—Rates of Fees.*

CHAPTER IV.

INVESTIGATIONS INTO EXPLOSIONS.

37. (1) Whenever any explosion occurs on board any steam-ship on or near the coasts of British India, the Local Government may, if it thinks fit, direct that an investigation into the cause of the explosion be made by such person or persons as it thinks fit.

Power to investigate causes of explosions on board steam-ships.

(2) The person or persons so directed may enter into and on the steam-ship with all necessary workmen and labourers, and remove any portion of the steam-ship, or of the machinery thereof, for the purpose of the investigation, and shall report to the Local Government what, in his or their opinion, was the cause of the explosion.

(3) Every person making an investigation under this section shall be deemed to be a public servant within the meaning of the Indian Penal Code.

XLV of 1860.

CHAPTER V.

SUPPLEMENTAL.

38. No Magistrate shall try any offence under this act unless he is a Presidency Magistrate or a Magistrate whose powers are not less than those of a Magistrate of the first class.

39. If any person commits an offence against this Act, he shall be triable for the offence in any place in which he may be found, or which the Local Government, from time to time, by notification in the official Gazette, directs in this behalf, or in any other place in which he might be tried under any other law for the time being in force.

40. Where the owner or master of a steam-ship is adjudged under this Act to pay a fine for an offence committed with, or in relation to, that steamship, the Court may, in addition to any other power it may have for the purpose of compelling payment of the fine, direct that it be levied by distress and sale of the steamship and the tackle, apparel and furniture thereof, or so much thereof as is necessary.

41. In section 13, clause (b), of the Native Passenger Ships Act, VIII of 1876, for the words "six months" the words "one year" shall be substituted; and after the word "sailing" the words "in force and applicable to the voyage on which the ship is about to proceed or the service on which she is about to be employed" shall be added.

42. (1) A Local Government making rules under this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(2) The publication shall be made in such manner as the Governor-General in Council, from time to time, by notification in the *Gazette of India*, prescribes.

(3) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(4) The Local Government shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) A rule made under this Act shall not take effect until it has been sanctioned by the Governor General in Council and published in the local official Gazette.

(6) The publication in the Gazette of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made and sanctioned.

(7) All powers to make rules conferred by this Act may be exercised from time to time as occasion requires.

THE SCHEDULE.

(See Section 14.)

RATES OF FEES.

	Tons	Rs.
For steam-ships of less than	200	40
" " 200 tons and up to	350	50
" " 350 " " "	700	60
" " 700 " " "	1,000	80
" " 1,000 " " "	1,500	100
" " 1,500 " and upwards ...		120

D. FITZPATRICK,

Secretary to the Government of India,

[Published with the "Bombay Government Gazette" on the 20th March 1884.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 26th February, 1884, and was promulgated for general information in the *Gazette of India* on the 1st March 1884:—

Act No. IV. of 1884.

THE INDIAN EXPLOSIVES ACT, 1884.

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SECTION.

1. Short title.
2. Local extent.
3. Commencement.
3. Repeal of portions of Act XII of 1875.
4. Definitions.
5. Power to make rules as to licensing of the manufacture, possession, use, sale, transport and importation of explosives.
6. Power for Governor General in Council to prohibit the importation, manufacture or possession of specially dangerous explosives.
7. Power to make rules conferring powers of inspection, search, seizure, detention and removal.
8. Notice of accidents.
9. Inquiry into accidents.
10. Forfeiture of explosives.
11. Distress of vessel.
12. Abetment and attempts.
13. Power to arrest without warrant persons committing dangerous offences.
14. Saving for manufacture, possession, use, sale, transport or importation by Government.
15. Saving of Indian Arms Act, 1878.
16. Saving as to liability under other law.
17. Extension of definition of "explosive" to other explosive substances.
18. Procedure for making publication and confirmation of rules.

An Act to regulate the manufacture, possession, use, sale, transport and importation of Explosives.

WHEREAS it is expedient to regulate the manufacture, possession, use, sale, transport and importation of explosives; It is hereby enacted as follows:—

Short title.

1. (1) This Act may be called the Indian Explosives Act, 1884; and

Local extent.

(2) It extends to the whole of British India.

IV.—7-6

2. (1) This Act shall come into force on such day as the Governor General in Council, by notification in the *Gazette of India*, appoints:

(2) Provided that any notification or rule may be made under this Act at any time after the passing thereof, but, except in the case of a notification under section 18, sub-section (2), shall not take effect until the Act comes into force.

3. On and from the day on which this Act comes into force, section seven, clause (o), and sections twenty-eight to thirty-four (both inclusive), of the Indian Ports Act, 1875, shall be repealed. XII. of 1875

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

(1) "explosive"—

(a) means gunpowder, nitro-glycerine, dynamite, gun-cotton, blasting powders, fulminate of mercury or of other metals, coloured fires and every other substance, whether similar to those above-mentioned or not, used or manufactured with a view to produce a practical effect by explosion, or a pyrotechnic effect; and

(b) includes fog-signals, fireworks, fuzes, rockets, percussion-caps, detonators, cartridges, ammunition of all descriptions, and every adaptation or preparation of an explosive as above defined:

(2) "manufacture" includes the process of dividing into its component parts, or otherwise breaking up or unmaking, any explosive, or making fit for use any damaged explosive, and the process of re-making, altering or repairing any explosive:

(3) "vessel" includes every ship, boat and other vessel used in navigation, whether propelled by oars or otherwise:

(4) "carriage" includes any carriage, wagon, cart, truck, vehicle or other means of conveying goods or passengers by land, in whatever manner the same may be propelled:

(5) "master" includes every person (except a pilot or harbour-master) having for the time being command or charge of a vessel, provided that, in reference to any boat belonging to a ship, "master" shall mean the master of the ship;

(6) "import" means to bring into British India by sea or land.

5. (1) The Governor General in Council may for any part of British India, and each Local Government, with the previous sanction of the Governor General in Council, may for any part of the territories under its administration, make rules consistent with this Act to regulate or prohibit, except under and in accordance with the conditions of a license granted as provided by those rules, the manufacture, possession, use, sale, transport and importation of explosives, or any specified class of explosives.

(2) Rules under this section may provide for all or any of the following, among other matters, that is to say:—

- (a) the authority by which licenses may be granted;
- (b) the fees to be charged for licenses, and the other sums (if any) to be paid for expenses by applicants for licenses;
- (c) the manner in which applications for licenses must be made, and the matters to be specified in such applications;
- (d) the form in which, and the conditions on and subject to which, licenses must be granted;
- (e) the period for which licenses are to remain in force; and
- (f) the exemption absolutely or subject to conditions of any explosives from the operation of the rules.

(3) The authority making rules under this section may by the rules impose penalties on all persons manufacturing, possessing, using, selling, transporting or importing explosives in breach of the rules, or otherwise contravening the rules:

Provided that the maximum penalty which may be imposed by any such rules shall not exceed—

- (a) in the case of a person so importing or manufacturing an explosive, a fine which may extend to three thousand rupees;
- (b) in the case of a person so possessing, using or transporting an explosive, a fine which may extend to one thousand rupees;
- (c) in the case of a person so selling an explosive, a fine which may extend to five hundred rupees; and
- (d) in any other case, two hundred rupees.

6 (1) Notwithstanding anything in the rules under the last foregoing section, the Governor General in Council may, from time to time, by notification in the *Gazette of India*,

(a) prohibit, either absolutely or subject to conditions, the manufacture, possession or importation of any explosive which is of so dangerous a character that, in the opinion of the Governor General in Council, it is expedient for the public safety to issue the notification; and

(b) cancel any notification under this section.

(2) The officers of sea customs at every port shall have the same power in respect of any explosive with regard to the importation of which

a notification has been issued under this section and the vessel containing the explosive as they have for the time being in respect of any article the importation of which is prohibited or regulated by the law relating to sea customs and the vessel containing the same; and the enactments for the time being in force relating to sea customs or any such article or vessel shall apply accordingly.

(3) Any person manufacturing, possessing or importing an explosive in contravention of a notification issued under this section shall be punished with fine which may extend to three thousand rupees, and, in the case of importation by water, the owner and master of the vessel in which the explosive is imported shall, in the absence of reasonable excuse, each be punished with fine which may extend to three thousand rupees.

7. (1) The Governor General in Council, or the Local Government with the previous sanction of the Governor General in Council, may make rules consistent with this Act authorizing any officer, either by name or in virtue of his office—

(a) to enter, inspect and examine any place, carriage or vessel in which an explosive is being manufactured, possessed, used, sold, transported or imported under a license granted under this Act, or in which he has reason to believe that an explosive has been or is being manufactured, possessed, used, sold, transported or imported in contravention of this Act, or of the rules made under this Act;

(b) to search for explosives therein;

(c) to take samples of any explosive found therein on payment of the value thereof; and

(d) to seize, detain, remove and, if necessary, destroy any explosive found therein.

(2) The provisions of the Code of Criminal Procedure relating to searches under that Code shall, so far as the same are applicable, apply to searches by officers authorized by rules under this section. X. of 1862.

8. Whenever there occurs in or about, or in connection with, any place in which an explosive is manufactured, possessed or used, or any carriage or vessel either conveying an explosive or on or from which an explosive is being loaded or unloaded, any accident by explosion or by fire attended with loss of human life or serious injury to person or property, or of a description usually attended with such loss or injury, the occupier of the place, or the master of the vessel, or the person in charge of the carriage, as the case may be, shall forthwith give notice thereof to the officer in charge of the nearest police-station.

9. (1) Whenever, in the opinion of a District Magistrate, Sub-divisional Magistrate or any other Magistrate specially empowered by the Local Government in this behalf, an enquiry is necessary into the cause of any accident of the description mentioned in section 8, he may either himself make the inquiry or direct a Magistrate subordinate to himself to make the inquiry.

(2) Any Magistrate making an inquiry under this section shall, for the purposes of conducting the inquiry, have all the powers which he would have in holding an inquiry into an offence under the Code of Criminal Procedure.

X. of 1882.

(3) The powers conferred on a Magistrate by this section may in a Presidency-town be exercised by the Commissioner of Police as well as by any Magistrate specially empowered in this behalf under sub-section (1)

10. When a person is convicted of an offence punishable under this Act or the rules made under this Act, the Court before which he is convicted may direct that the explosive, or ingredient of the explosive, or the substance, (if any) in respect of which the offence has been committed, or any part of that explosive, ingredient or substance, shall, with the receptacles containing the same, be forfeited.

11. Where the owner or master of a vessel is adjudged under this Act to pay a fine for an offence committed with, or in relation to, that vessel, the Court may, in addition to any other power it may have for the purpose of compelling payment of the fine, direct it to be levied by distress and sale of the vessel, and the tackle, apparel and furniture thereof, or so much thereof as is necessary.

XIV. of 1860.

12. Whoever abets, within the meaning of the Indian Penal Code, the commission of an offence punishable under this Act or the rules made under this Act, or attempts to commit any such offence and in such attempt does any act towards the commission of the same, shall be punished as if he had committed the offence.

13. Whoever is found committing any act for which he is punishable under this Act or the rules under this Act, and which tends to cause explosion or fire in or about any place, where an explosive is manufactured or stored, or any railway or port, or any carriage, ship or boat, may be apprehended without a warrant by a Police-officer, or by the occupier of, or the agent or servant of, or other person authorized by the occupier of, that place or by any agent or servant of, or other person authorized by, the railway administration or conservator of the port and be removed from the place where he is arrested, and conveyed as soon as conveniently may be before a Magistrate.

14. Nothing in this Act shall apply to the manufacture, possession, use, sale, transport or importation of any explosive—

(a) by order of the Government, or

(b) by any person employed under the Government in the execution of this Act, or as a keeper of a magazine, artizan, soldier, sailor, policeman or otherwise, or enrolled as a volunteer under the Indian Volunteers Act, 1869, in the course of his employment or duty as such.

XX. of 1869.

15. Nothing in this Act shall affect the provisions of the Indian Arms Act, 1878.

Provided that an authority granting a license under this Act for the manufacture, possession, sale, transport or importation of an explosive may, if empowered in this behalf by the rules under which the license is granted, direct by an order written on the license that it shall have the effect of a like license granted under the said Indian Arms Act.

16. Nothing in this Act or the rules under this Act shall prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or those rules, or from being liable under that other law to any other or higher punishment or penalty than that provided by this Act or those rules:

Provided that a person shall not be punished twice for the same offence.

17. The Governor General in Council may, from time to time, by notification in the *Gazette of India*, declare that any substance which appears to the Governor General in Council to be specially dangerous to life or property, by reason either of its explosive properties or of any process in the manufacture thereof being liable to explosion, shall be deemed to be an explosive within the meaning of this Act; and the provisions of this Act (subject to such exceptions, limitations and restrictions as may be specified in the notification) shall accordingly extend to that substance in like manner as if it were included in the definition of the term "explosive" in this Act.

18. (1) An authority making rules under this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(2) The publication shall be made in such manner as the Governor General in Council, from time to time, by notification in the *Gazette of India*, prescribes.

(3) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(4) The authority making the rules shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) A rule made under this Act shall not take effect if it is made by the Governor General in Council until it has been published in the *Gazette of India*, and if it is made by the Local Government until it has been published in the local official Gazette.

(6) The publication in the Gazette of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made, and, if it requires sanction, that it has been duly sanctioned.

(7) All powers to make rules conferred by this Act may be exercised from time to time as occasion requires.

D. FITZPATRICK,
Secretary to the Government of India.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 29th February 1884, and was promulgated for general information in the *Gazette of India* on the 1st March 1884.

Act No. VI of 1884.

**THE INLAND STEAM-VESSELS
ACT, 1884.**

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An Act to amend the law relating to the Survey, and the Examination and Grant of Certificates to Engineers, of Inland Steam-vessels, and to provide for certain other matters relating to those vessels.

WHEREAS it is expedient to amend the law relating to the survey of inland steam-vessels and the examination and grant of certificates to engineers of those vessels,

And whereas it is also expedient to provide for the grant of certificates to the masters of inland steam-vessels, and for investigations into casualties affecting, and into charges against masters and engineers of, those vessels, and for the protection of passengers and goods carried thereon from danger by fire and for the regulation of the carriage of passengers therein;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Inland Short title and extent. Steam-vessels Act, 1884.

(2) It extends in the first instance to the whole of British India, except the territories administered by the Governor of Fort St. George in Council.

(3) But the Governor of Fort St. George in Council may, at any time, by notification in the local official Gazette, extend this Act or any part thereof to the whole or any part of the territories under his administration.

2. (1) This Act shall come into force in the whole of British India, Commencement. except the territories administered by the Governor of Fort St. George in Council, on such day as the Governor General in Council, by notification in the *Gazette of India*, directs.

(2) If the Governor of Fort St. George in Council extends this Act or any part thereof to the whole or any part of the territories under his administration, the Act or part so extended shall come into force in the local area to which it is so extended on such day as the Governor in Council, by the notification extending the Act or part, directs.

(3) Provided that any notification, rule or appointment may be made under this Act at any time after the passing thereof, but, except in the case of a notification under section sixty-nine, subsection (2), shall not take effect until the Act or part thereof, under which the notification, rule or appointment is made, comes into force.

3. (1) On and from the day on which this Act comes into force, elsewhere than in the territories administered by the Governor of Fort St. George in Council, the Acts mentioned in the first column of the first schedule hereto annexed shall be repealed to the extent mentioned in the third column thereof.

(2) But all proceedings commenced, investigations held, and certificates granted, cancelled or suspended under any of the said Acts shall be deemed to have been respectively commenced, held granted, cancelled or suspended under this Act or under the Indian Steam-ships Act, 1884, VII. of 1884, as the case may be.

Inland Steam-vessels Act.

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(3) For the purposes of the last foregoing subsection, a certificate granted to the commander of an inland steam-vessel under Bengal Act VII of 1879 (to provide for the proper management of certain inland steam-vessels) shall be deemed to be a first-class master's certificate granted under this Act; and an engineer's certificate, whether of competency or service, granted under any other of the Acts repealed by this Act shall be deemed to be an engineer's certificate granted under this Act or a first-class engineer's certificate granted under the Indian Steam-ships Act, 1884, as the case may be.

VII. of 1884.

4. When in any Act, Regulation or Notification passed or issued before this Act comes into force, reference is made to any Act repealed by this Act, the reference shall, so far as may be practicable, be read as applying to this Act or the Indian Steam-ships Act, 1884, or the corresponding part of this Act or that Act, as the case may be.

VII of 1884.

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

Definitions

(1) "vessel" includes anything made for the conveyance by water of human beings or of property:

(2) "steam-vessel" means every description of vessel propelled wholly or in part by the agency of steam:

(3) "inland water" means any canal, river, navigable lake or water in British India:

(4) "inland steam-vessel" means a steam-vessel which ordinarily plies on inland water:

(5) "voyage" includes also the plying of a vessel at or about any place:

(6) "master" means any person (except a pilot or harbour-master) having for the time being the charge or control of a vessel:

(7) "passenger" includes any person carried in a steam-vessel other than the master and crew and the owner, his family and servants: and

(8) "prescribed" means prescribed by a rule made by the Local Government under this Act.

CHAPTER II.

SURVEY OF INLAND STEAM-VESSLS.

6 (1) An inland steam-vessel shall not proceed on any voyage unless she has a certificate of survey under this Act in force and applicable to the voyage on which she is about to proceed or the service on which she is about to be employed.

(2) Nothing in this section shall apply to any steam-vessel proceeding on a voyage during the interval between the time at which her certificate under this Act expires and the time at which it is first practicable to have the certificate renewed.

7. (1) The Local Government may, from time to time, appoint so many persons as it thinks fit to be surveyors for the purposes of this Act at such places within the territories under its administration as it, from time to time, appoints to be places of survey.

(2) Every surveyor appointed under this Act may be suspended or removed by the Local Government which appointed him.

(3) Every surveyor appointed under this Act shall, for the purposes of any survey made by him, be deemed to be a public servant within the meaning of the Indian Penal Code.

XLY of 1860.

8 (1) For the purposes of a survey under this Act, any surveyor appointed under this Act may, at any reasonable time, go on board any inland steam-vessel, and may inspect the steam-vessel and every part thereof, and the machinery, equipments or articles on board thereof.

Provided that he does not unnecessarily hinder the loading or unloading of the steam-vessel, or unnecessarily detain or delay her from proceeding on any voyage.

(2) The owner, master and officers of the steam-vessel shall afford to the surveyor all reasonable facilities for a survey, and all such information respecting the steam-vessel, and her machinery and equipments, or any part thereof, respectively, as he reasonably requires.

9. When a survey under this Act is completed, the surveyor making it shall forthwith, if satisfied that he can with propriety do so, give to the owner or master of the steam-vessel surveyed a declaration in the prescribed form containing the following particulars, namely:—

(a) that the hull and machinery of the steam-vessel are sufficient for the service intended and in good condition;

(b) that the equipments of the steam-vessel and the certificates of the master and engineer or engine-driver are such and in such condition as are required by any law for the time being in force and applicable to the steam-vessel;

(c) the time (if less than one year) for which the hull, machinery and equipments of the steam-vessel will be sufficient,

(d) the limit (if any) beyond which, as regards the hull, machinery or equipments, the steam-vessel is in the surveyor's judgment not fit to ply;

(e) the number of passengers (if any) which the steam-vessel is in the judgment of the surveyor fit to carry, distinguishing, if necessary, between the respective numbers to be carried on the deck and in the cabins, and in different parts of the deck and cabins, the number to be subject to such conditions and variations, according to the time of year, the nature of the voyage, the cargo carried or other circumstances as the case requires; and

(f) any other prescribed particulars.

Inland Steam-vessels Act.

Chapter II.—Survey of Inland Steam-vessels.

10. (1) The owner or master to whom a declaration is given under the last foregoing section shall, within fourteen days after the date of the receipt thereof, send the declaration to such officer as the Local Government, from time to time, appoints in this behalf.

(2) If he fails to do so, he shall forfeit a sum not exceeding five rupees for every day during which the sending of the declaration is delayed.

(3) The owner or master shall pay the sum so forfeited on the delivery of the certificate of survey in addition to the fee payable for the certificate.

11. (1) Upon receipt of a declaration by the officer appointed in this behalf under the last foregoing section, the Local Government shall, if satisfied that the provisions of this Act have been complied with, cause a certificate in duplicate to be prepared and delivered, through such officer at the place at which the steam-vessel was surveyed as the Local Government, from time to time, appoints in this behalf, to the owner or master of the steam-vessel surveyed, on his applying and paying the fees and other sums (if any) in this Act mentioned as payable on delivery of a certificate.

(2) A certificate granted under this section shall be in such form as the Governor-General in Council, from time to time, directs; shall contain a statement to the effect that the provisions of this Act with respect to the survey of the steam-vessel and the transmission of the declaration in respect thereof have been complied with; and shall set forth—

- (a) the particulars concerning the steam-vessel which clauses (c), (d) and (e) of section nine require the declaration by the surveyor to contain, and
- (b) any other prescribed particulars.

(3) When a certificate is ready for delivery under this section, the Local Government shall cause notice thereof to be given by post or otherwise to the owner or master of the steam-vessel to which the certificate relates.

12. For every certificate of survey granted by the Local Government under this Act the owner or master of the steam-vessel surveyed shall pay to the officer through whom the certificate is delivered to him—

(a) a fee calculated on the tonnage of the steam-vessel according to the rates in the second schedule hereto annexed, or according to any other prescribed rates; and

(b) when the survey is made in any place of survey other than Calcutta, Madras, Bombay or Rangoon, such additional fee, in respect of the expense (if any) of the journey of the surveyor to the place, as the Local Government, from time to time, by notification in the official Gazette, directs.

13. The owner or master of every steam-vessel for which a certificate of survey has been granted under this Act shall forthwith, on the receipt of the certificate, cause one of the duplicates thereof to be affixed, and kept affixed so long as it remains in force and the steam-vessel is in use, on some conspicuous part of the steam-vessel where it may be easily read by all persons on board thereof.

14. A certificate of survey granted under this Act shall not be in force—

- (a) after the expiration of one year from the date thereof; or
- (b) after the expiration of the period, if less than one year, for which the hull, boilers, engines or any of the equipments have been stated in the certificate to be sufficient; or
- (c) after notice has been given by the Local Government, to the owner or master of the steam-vessel to which the certificate relates, that the Local Government has cancelled or suspended it

15. Any certificate of survey granted under this Act may be cancelled or suspended by a Local Government if it has reason to believe—

- (a) that the declaration by the surveyor of the sufficiency and good condition of the hull, boilers, engines or any of the equipments of the steam-vessel has been fraudulently or erroneously made; or
- (b) that the certificate has otherwise been granted upon false or erroneous information; or
- (c) that since the making of the declaration, the hull, boilers, engines or any of the equipments of the steam-vessel have sustained any injury, or have otherwise become insufficient.

16. The Local Government may require any certificate of survey which has expired or has been cancelled or suspended to be delivered up to such person as it, from time to time, directs.

17. If the Local Government which cancels or suspends a certificate of survey granted under this Act is not the Local Government which granted the certificate, the Local Government cancelling or suspending the certificate shall report the fact of cancellation or suspension, together with the reasons therefor, to the Local Government which granted the certificate.

18. A survey under this Act shall ordinarily be made by one surveyor, but two surveyors may be employed if the Local Government, by order in writing, so directs, either generally in the case of all steam-vessels at any place of survey, or specially in the case of any particular steam-vessel or class of steam-vessels at any such place.

Inland Steam-vessels Act.

Chapter III.—Masters and Engineers of Inland Steam-vessels.

19. (1) If the surveyor or surveyors making a survey under this Act refuses or refuse to give a declaration under section nine with regard to any steam-vessel, or gives or give a declaration with which the owner or master of the steam-vessel surveyed is dissatisfied, the Local Government may, on the application of the owner or master, direct two other surveyors appointed under this Act to survey the steam-vessel.

(2) The surveyors so directed shall forthwith survey the steam-vessel, and may, after the survey, either refuse to give a declaration or give such declaration as under the circumstances seems to them proper; and their decision shall be final.

20. When a survey is made under either of the last two foregoing sections by two surveyors, each of the surveyors making the survey shall perform a prescribed portion of the duties assigned by this Act or the rules made under this Act to a surveyor making a survey

21. (1) The Local Government may make rules to regulate the making of surveys under this Act.

(2) Rules under this section may, among other matters,—

- (a) declare the times and places at which, and the manner in which, surveys are to be made;
- (b) regulate the duties of the surveyor making a survey, and, where two surveyors are employed, assign the respective duties of each of the surveyors employed;
- (c) declare the form in which the declarations of surveyors and certificates of survey granted under this Act are to be framed, and the nature of the particulars which are to be stated therein, respectively;
- (d) fix the rates according to which the fees payable for certificates of surveys are to be calculated in the case of all or any of the places of survey within the territories under its administration; and
- (e) define the cases in, and the extent to, which under ordinary circumstances a survey may be dispensed with before the grant of a new certificate.

CHAPTER III.

MASTERS AND ENGINEERS OF INLAND STEAM-VESSELS.

22. The Local Government may, from time to time, appoint persons for the purpose of examining the qualifications of persons desirous of obtaining certificates of competency as masters or as engineers or engine-drivers of inland steam-vessels.

23. (1) The Local Government shall grant to every person who is reported by the examiners to possess the necessary

qualifications, a certificate of competency to the effect that he is competent to act as a first-class master or as a second-class master of an inland steam-vessel, as the case may be.

(2) Every certificate granted under this section shall be in the prescribed form.

24. (1) The Local Government shall grant to every person who is reported by the examiners to possess the necessary qualifications, a certificate of competency to the effect that he is competent to act as an engineer or as an engine-driver of an inland steam-vessel, as the case may be

(2) Every certificate granted under this section shall be in the prescribed form.

25. Before granting a certificate under either of the last two foregoing sections, the Local Government may, if it has reason to believe that the report of the examiners regarding any applicant has been unduly made, require a re-examination of the applicant or a further inquiry into his testimonials and character.

26. Every certificate of competency granted under this Act shall be made in duplicate, and one copy shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded in the prescribed manner

27. Whenever a master or an engineer or an engine-driver proves, to the satisfaction of the Local Government which granted his certificate, that he has, without fault on his part, lost or been deprived of it, a copy of the certificate to which, by the record kept as provided by law, he appears to be entitled, shall be granted to him, and shall have all the effect of the original.

28. (1) An inland steam-vessel having engines of eighty nominal horse-power or upwards shall not proceed on any voyage unless she has—

(a) as her master a person possessing a first-class master's certificate granted under this Act or a master's certificate granted under Act I of 1859 (for the amendment of the law relating to Merchant Seamen) or the Merchant Shipping Acts, 1854 to 1883, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869, and

(b) as her engineer a person possessing an engineer's certificate granted under this Act or the Indian Steam-ships Act, 1884, or the Merchant Shipping Acts, 1854 to 1883, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869

(2) An inland steam-vessel having engines of under eighty nominal horse-power shall not proceed on any voyage unless she has—

(a) as her master a person possessing a second-class master's certificate granted under this Act or a certificate of the higher grade of the nature referred to in clause (a) of sub-section (1), and

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VII of 1864.

Inland Steam-vessels Act.

Chapter IV.—Investigations into Casualties.

VII of 1884.

(b) as her engineer a person possessing an engine-driver's certificate granted under this Act or the Indian Steam-ships Act, 1884, or a certificate of the higher grade of the nature referred to in clause (b) of sub-section (1):

Provided that a steam-vessel shall be deemed to have complied with this sub-section if she has as her master and engineer a person possessing both a second-class master's certificate and an engine-driver's certificate granted under this Act.

29. The Local Government may make rules to regulate the granting of certificates of competency under this Act, and may by such rules—

- Power for Local Government to make rules as to grant of certificates of competency.
- (a) provide for the conduct of the examination of persons desirous of obtaining certificates of competency as masters, engineers or engine-drivers under this Act,
 - (b) prescribe the qualifications to be respectively required of persons desirous of obtaining first-class masters' certificates, second-class masters' certificates, engineers' certificates and engine-drivers' certificates, respectively,
 - (c) fix the fees to be paid by all applicants for examination, and
 - (d) prescribe the form in which certificates are to be framed, and the manner in which the copy of the certificate which is kept by the Local Government is to be recorded.

CHAPTER IV.

INVESTIGATIONS INTO CASUALTIES.

30 (1) Whenever—

- Report of casualties to be made to Local Government.
- (a) any inland steam-vessel has been wrecked, abandoned or materially damaged, or
 - (b) by reason of any casualty happening to or on board of any inland steam-vessel, loss of life has ensued, or
 - (c) any inland steam-vessel has caused loss or material damage to any other vessel,
- the master of the steam-vessel shall forthwith give notice of the wreck, abandonment, damage, casualty or loss to the officer in charge of the nearest police-station,

31. (1) If in any case a formal investigation into the facts referred to in the last foregoing section appears to the Local Government to be requisite or expedient, the Local Government may appoint a special Court, consisting of not less than two nor more than four persons, and direct the Court to make the investigation, and may fix the place for making the same.

(2) One of the members of the Court shall be a Magistrate; another shall be some person conversant with maritime affairs or the navigation of inland steam-vessels, and the other or others (if any) shall be conversant with either maritime or mercantile affairs or with the navigation of inland steam-vessels.

32. Any principal Court of ordinary criminal jurisdiction and the Court of any District Magistrate may, when so directed by the Local Government, make the investigation referred to in the last foregoing section.

33. (1) Any Court making an investigation under either of the last two foregoing sections may inquire into any charge of incompetency or misconduct arising in the course of the investigation against any master, engineer or engine-driver, as well as into any charge of a wrongful act or default on his part causing any wreck, abandonment, damage, casualty or loss referred to in section thirty.

(2) In every case in which any such charge, whether of incompetency or misconduct, or of a wrongful act or default as aforesaid, arises against any master, engineer or engine-driver in the course of an investigation, the Court shall, before the commencement of the inquiry into the charge, cause to be furnished to him a copy of the report or statements of the case upon which the investigation has been directed.

34. (1) If the Local Government has reason to believe that there are grounds for charging any master, engineer or engine-driver of an inland steam-vessel with incompetency or misconduct, otherwise than in the course of an investigation under section thirty-one or section thirty-two, it may send a statement of the case to the principal Court of ordinary criminal jurisdiction, or the Court of the District Magistrate, at or nearest to the place at which it may be convenient for the parties and witnesses to attend, and may direct the Court to make an investigation into the charge.

(2) Before commencing the investigation, the Court shall cause the master or engineer or engine-driver so charged to be furnished with a copy of the statement sent by the Local Government.

35. For the purpose of an investigation under this chapter into any charge against a master, engineer or engine-driver the Court may summon him to appear, and shall give him full opportunity of making a defence, either in person or otherwise.

36. (1) When any investigation involves, or appears likely to involve, any question as to the cancelling or suspension of the certificate of a master, engineer or engine-driver, the Court making the investigation shall constitute as its assessors, for the purposes of the investigation, two persons having experience in the merchant service or in the navigation of inland steam-vessels; and in every other investigation the Court making it may, if it thinks fit, constitute as its assessor, for the purposes of the investigation, any person conversant with maritime affairs or the navigation of inland steam-vessels and willing to act as assessor.

Inland Steam-vessels Act.

Chapter V.—Suspension and Cancellation of Masters' and Engineers' Certificates.

(2) Every person appointed under this section shall attend during the investigation and deliver his opinion in writing, to be recorded on the proceedings. But the exercise of all powers conferred on the Court by this Act shall rest with the Court.

37. For the purpose of any investigation under this chapter, the Court Power of Court as to evidence and regulation of proceedings, making the investigation, so far as relates to compelling the attendance and examination of witnesses and the production of documents and the regulation of the proceedings, shall have—

- (a) if the Court is a special Court—the same powers as are exercisable by the principal Court of ordinary criminal jurisdiction for the place at which the investigation is made; (b) if the Court is a principal Court of ordinary criminal jurisdiction or the Court of the District Magistrate—the same powers as are exercisable respectively by either Court in the exercise of its criminal jurisdiction.

38. (1) If any Court making an investigation Power to arrest witnesses and cause entry and detention of vessels, under this chapter thinks it necessary for obtaining evidence that any person

should be arrested, it may issue a warrant for his arrest, and may, for the purpose of effecting the arrest, authorize any officer (subject, nevertheless, to any general or special instructions from the Local Government) to enter any vessel.

(2) Any officer so authorized may, for the purpose of enforcing the entry, call to his aid any officers of Police or Customs, or any other persons, and may seize and detain the vessel for such time as is reasonably necessary to effect the arrest, and every such officer or other person shall be deemed to be a public servant within the meaning of the Indian Penal Code.

(3) No person shall be detained by virtue of this section for more than forty-eight hours.

39. (1) Whenever, in the course of any investigation, it appears that any person has committed, Power to commit for trial and bind over witnesses within the jurisdiction of any Court in British India, an offence punishable under any law in force in British India, the Court making the investigation may (subject to such rules consistent with this Act as the High Court may, from time to time, prescribe) cause him to be arrested, or commit him or hold him to bail to take his trial before the proper Court; and may bind over any person to give evidence at the trial, and may, for the purposes of this section, exercise all the powers of a Magistrate of the first class or of a Presidency Magistrate

(2) For the purposes of this section the Recorder of Rangoon shall, within the local limits of the territories for the time being administered by the Chief Commissioner of British Burma, be deemed to be the High Court.

40. (1) Whenever, in the course of any such trial, the testimony of any witness is required in relation to the subject-matter, any deposition previously made by him in relation to the same

subject-matter (before any Court making an investigation under this chapter shall, if authenticated by the signature of the Magistrate or presiding Judge, be admissible in evidence on proof—

- (a) that the witness cannot be found within the jurisdiction of the Court before which the trial is held; and (b) that it was made in the presence of the person accused, and that he had an opportunity of cross-examining the witness.

(2) A certificate by the Magistrate or presiding Judge that the deposition was made in the presence of the accused and that he had that opportunity shall, unless the contrary be proved, be sufficient evidence that it was so made and that he had that opportunity

41. The Court shall, in the case of every investigation under this chapter, transmit to the Local Government a full report of the conclusions at which it has arrived, together with the evidence.

42. (1) Whenever any explosion occurs on board any inland steam-vessel, Power to investigate causes of explosions on board inland steam-vessels, the Local Government may, if it thinks fit, direct that an investigation into the cause of the explosion be made by such person or persons as it thinks fit.

(2) The person or persons so directed may enter into and upon the steam-vessel, with all necessary workmen and labourers, and remove any portion of the steam-vessel, or of the machinery thereof, for the purpose of the investigation, and shall report to the Local Government what in his or their opinion was the cause of the explosion

(3) Every person making an investigation under this section shall be deemed to be a public servant within the meaning of the Indian Penal Code.

CHAPTER V.

SUSPENSION AND CANCELLATION OF MASTERS' AND ENGINEERS' CERTIFICATES

43 Any certificate granted under this Act to any master, engineer or engine-driver may be suspended or cancelled by the Local Government which granted it, or by any other Local Government, in the following cases, that is to say—

(a) if, on any investigation made under this Act, the Court reports that the wreck or abandonment of, or loss or damage to, any inland steam-vessel, or loss of life, has been caused by his wrongful act or default, or that he is incompetent, or has been guilty of any gross act of drunkenness, tyranny or other misconduct, or

(b) if he is proved to have been convicted of any non-bailable offence, or

(c) if in the case of a second-class master or an engine-driver, the master or engine-driver is or has become, in the opinion of the Local Government, unfit to act as a second-class master or engine-driver:

Inland Steam-vessels Act.

Chapter VII.—Carriage of Passengers in Inland Steam-vessels.

Provided that, in any case in which an investigation has been made into a charge against any master, engineer or engine-driver, a certificate shall not be suspended or cancelled under clause (a) of this section unless the Local Government is satisfied that the holder of the certificate has been furnished before the commencement of the investigation with the copy of the report or statement required by section thirty-three or section thirty-four, as the case may be.

44. Every master, engineer or engine-driver whose certificate is cancelled or suspended under the last foregoing section shall deliver it to such person as the Local Government which cancelled or suspended it from time to time directs

45. If the Local Government which cancels or suspends a certificate under section forty-three is not the Local Government which granted the certificate, the Local Government so cancelling or suspending the certificate shall report the proceedings, and the fact of cancellation or suspension, to the Local Government which granted the certificate.

46. (1) Any Local Government may at any time revoke any order of cancellation or suspension which it may have made under section forty-three, or grant, without examination, to any person whose certificate it has so cancelled, a new certificate

(2) A certificate so granted shall have the same effect as if it had been granted after examination.

CHAPTER VI.

PROTECTION OF INLAND STEAM-VESSELS FROM DANGER BY FIRE.

47. The Governor General in Council may, from time to time, by notification in the *Gazette of India*, declare what shall be deemed to be, for the purposes of this Act, dangerous goods.

48. (1) A person shall not take with him on board an inland steam-vessel, and a person shall not deliver or tender for carriage on an inland steam-vessel, any dangerous goods without giving notice of their nature to the owner or master of the steam vessel, or, in the case of goods delivered or tendered for carriage, without distinctly marking their nature on the outside of the package containing the goods.

(2) The owner or master of an inland steam-vessel may refuse to carry upon an inland steam-vessel any luggage or parcel which he suspects to contain dangerous goods, and may require the luggage or parcel to be opened to ascertain the fact previously to carrying the same; and, in case any such luggage or parcel is received for the purpose of being carried in any inland steam-vessel, the owner or master of the vessel may stop the transit thereof, until he is satisfied as to the nature of its contents.

49. Where any dangerous goods have been sent or brought on board any inland steam-vessel in contravention of the last foregoing section, the owner or master of the steam-vessel may, if he thinks fit, cause the goods to be thrown overboard, together with any package or receptacle in which they are contained, and neither the owner nor the master shall, in respect of his having so thrown the goods overboard, be subject to any liability, civil or criminal, in any Court.

50. (1) The Local Government may make rules for the protection of inland steam-vessels from danger by explosion or fire.

(2) Rules under this section may provide for the following among other matters, that is to say:—

- (a) the conditions on, and subject to, which dangerous goods may be carried on board inland steam-vessels;
- (b) the precautions to be taken to prevent explosions or fires on board inland steam-vessels; and
- (c) the apparatus for the purpose of extinguishing fires which is to be kept on board inland steam-vessels.

(3) Any rule under this section may contain a provision that any person committing a breach of it shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

CHAPTER VII.

CARRIAGE OF PASSENGERS IN INLAND STEAM-VESSELS.

51. (1) The Local Government may make rules to regulate the carriage of passengers in inland steam-vessels.

(2) Rules under this section may provide for the following among other matters, that is to say:—

- (a) the cases in which passengers may be refused admission to, or may be required to leave, inland steam-vessels;
- (b) the payment of fares and the exhibition of tickets or receipts (if any) showing the payment of their fares by passengers in inland steam-vessels, and
- (c) the regulation generally of the conduct of passengers in inland steam-vessels.

(3) Any rule under this section may contain a provision that any person committing a breach of it shall be punished with fine which may extend to twenty rupees.

(4) The master or any other officer of an inland steam-vessel, and any person called by him to his assistance, may arrest any person who has committed a breach of any rule made under this section, and whose name and address are unknown to the master or other officer.

Inland Steam-vessels Act.

Chapter VIII.—Penalties and Legal Proceedings.

x of 1882. (5) The procedure prescribed by section 59 of the Code of Criminal Procedure in the case of arrests by private persons shall apply to every arrest under this section.

CHAPTER VIII.

PENALTIES AND LEGAL PROCEEDINGS.

52. (1) If any inland steam-vessel proceeds on a voyage in contravention of section six, the owner and master of the steam-vessel shall each be liable to a fine which may extend to one thousand rupees.

(2) If the master or any other officer on board of an inland steam-vessel which proceeds on a voyage in contravention of section six is a licensed pilot, he shall be liable to have his license as a pilot cancelled, or suspended for any period, by the Local Government, as the Local Government sees fit to order.

53. If the certificate of survey granted under this Act is not kept affixed in an inland steam-vessel in the manner provided by this Act, the owner and master of the steam-vessel shall each be liable to a fine which may extend to one hundred rupees.

54. If the owner or master of an inland steam-vessel, without reasonable cause, neglects or refuses to deliver up a certificate of survey when required under this Act to do so, he shall be punished with fine which may extend to one hundred rupees.

55 (a) If any person who has been engaged to serve as master, engineer or engine-driver of an inland steam-vessel, proceeds on any voyage in that steam-vessel as master, engineer or engine-driver, as the case may be, without being at the time entitled to, and possessed of, the certificate required under this Act, and

(b) if any person employs any person as a master, engineer or engine-driver of an inland steam-vessel without ascertaining that he is at the time entitled to, and possessed of, the master's, engineer's or engine-driver's certificate, as the case may be, required under this Act, he shall be punished with fine which may extend to five hundred rupees.

56. If any master wilfully fails to give notice as required by section thirty, of any wreck, abandonment, damage, casualty or loss, he shall be punished with fine which may extend to five hundred rupees, and in default of payment to simple imprisonment for a term which may extend to three months.

57. If any master, engineer or engine-driver whose certificate is cancelled or suspended under this Act fails to deliver the certificate to such

person as the Local Government which cancelled or suspended it directs, he shall be punished with fine which may extend to five hundred rupees.

58. If any person, in contravention of section forty-eight, takes with him on board any inland steam-vessel any dangerous goods, or delivers or tenders any such goods for the purpose of being carried on any inland steam-vessel, he shall be punished with fine which may extend to two hundred rupees, and the goods shall be forfeited to Her Majesty.

59. If any person employed or engaged in any capacity on board an inland steam-vessel by wilful breach of duty, or by neglect of duty, or by reason of drunkenness—

(a) does any act tending to the immediate wreck, destruction or material damage of the vessel, or tending immediately to endanger the life or limb of any person belonging to or on board the vessel, or

(b) refuses or omits to do any lawful act proper and requisite to be done by him for preserving the vessel from immediate wreck, destruction or material damage, or for preserving any person belonging to or on board of the vessel from immediate danger to life or limb,

he shall be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to two years, or with both

60. Where the owner or master of an inland steam-vessel is convicted of an offence under this Act or the rules made under this Act committed on board of, or in relation to, that steam-vessel, and sentenced to pay a fine, the Magistrate may, in addition to any other power he may have for the purpose of compelling payment of the fine, direct the amount thereof to be levied by distress and sale of the vessel and the tackle, apparel and furniture thereof, or so much thereof as is necessary.

61. Except in the case of offences under rules made under section fifty-one, no Magistrate shall try an offence under this Act, or the rules under it, unless he is a Presidency Magistrate, or a Magistrate whose powers are not less than those of a Magistrate of the first class

62. If any person commits an offence against this Act or the rules made under this Act, he shall be triable for the offence in any place, in which he may be found or which the Local Government, from time to time, by notification in the official Gazette, directs in this behalf, or in any other place in which he might be tried under any other law for the time being in force.

63. Nothing in this Act shall prevent any person from being prosecuted under any other law for any act or omission

Inland Steam-vessels Act.

Chapter IX.—Supplemental.

which constitutes an offence against this Act or the rules made under this Act, or from being liable under that other law to any other or higher punishment or penalty than that provided by this Act or the rules made under this Act:

Provided that a person shall not be punished twice for the same offence.

CHAPTER IX.
SUPPLEMENTAL.

64. The Local Government may, from time to time, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, declare that all or any of the provisions of Chapters II and III of this Act shall not apply in the case of any specified class of steam-vessels, or shall apply to them with such modifications as the Local Government prescribes

65. The Local Government may, from time to time, by notification in the official Gazette, define how much of any tidal water shall be deemed to be an inland water for the purposes of this Act.

66. All fees payable under this Act may be recovered as fines under this Act.

67. Nothing in this Act or in any rule made under this Act shall apply to any steam-vessel belonging to, or in the service of, Her Majesty or the Government of India.

68. (1) Every master of an inland steam-vessel who possesses a master's certificate duly granted under this Act and then in force shall, in ports to

XII of 1875. which section 38 of the Indian Ports Act, 1875, has been extended, be deemed, for the purposes of that section, to be the pilot of the steam-vessel of which he is in charge

(2) Nothing in this section shall be deemed to affect the provisions of Bombay Act I of 1863, which require persons in charge of vessels passing through any of the channels or tidal channels at the mouths of the river Indus to pay fees for pilotage.

69. (1) A Local Government making rules under this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(2) The publication shall be made in such manner as the Governor General in Council, from time to time, by notification in the Gazette of India, prescribes.

(3) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(4) The Local Government shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified

(5) A rule made under this Act shall not take effect until it has been sanctioned by the Governor General in Council and published in the local official Gazette.

(6) The publication in the Gazette of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made and sanctioned.

(7) All powers to make rules conferred by this Act may be exercised from time to time as occasion requires.

THE FIRST SCHEDULE.

ACTS REPEALED.

(See Section 3.)

(a) Act of the Governor General in Council.

Number and year.	Subject or short title.	Extent of repeal.
XVI of 1871.	The Burmese Steamer Survey Act.	The whole.

(b) Acts of the Governor of Bombay in Council.

Number and year.	Subject or short title.	Extent of repeal.
II of 1864	To provide for the periodical survey of steam-vessels in the ports, harbours, rivers or waters of the Presidency of Bombay	The whole, except section 15.
IV of 1873	To amend Bombay Act II of 1864, providing for the periodical survey of steam-vessels, and to provide for the examination of engineers of steam-vessels.	The whole.

(c) Acts of the Lieutenant-Governor of Bengal in Council.

Number and year.	Subject or short title.	Extent of repeal.
V of 1862	To provide for the periodical survey of steam-vessels in the port of Calcutta.	The whole.
I of 1868	The Steam-boat Survey Amendment Act, 1868.	So much as has not been repealed.
III of 1871	To increase the fees for the survey of steam-vessels	The whole.
VII of 1879	To provide for the proper management of certain inland steam-vessels.	The whole.

THE SECOND SCHEDULE.

(See Section 12.)

RATES OF FEES.

	Tons.	Rs.
For steam-vessels of less than	100	25
" " 100 tons and up to	200	40
" " 200 " " "	350	50
" " 350 " " "	700	60
" " 700 " " "	1,000	80
" " 1,000 " " "	1,500	100
" " 1,500 " and upwards	..	120

D. FITZPATRICK,

Secy to the Govt. of India.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 29th February, 1884, and was promulgated for general information in the *Gazette of India* on the 1st March 1884.—

Act No. VII of 1884.

**THE INDIAN STEAM-SHIPS ACT,
1884.**

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THE SCHEDULE.—RATES OF FEES.

Indian Steam-ships Act.

Chapter I.—Preliminary.

An Act to amend the law relating to the Survey of Steam-ships and the Grant of Certificates to Engineers of those Ships

WHEREAS it is expedient to amend the law relating to the survey of steam-ships and the grant of certificates to engineers of those ships: It is hereby enacted as follows.—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Indian Steam-ships Act, 1884, and
Short title. (2) It extends to the whole of British India.
Extent.
2. (1) This Act shall come into force on such day as the Governor
Commencement General in Council, by notification in the *Gazette of India*, appoints:

(2) Provided that any notification, rule or appointment may be made under this Act at any time after the passing thereof, but except in the case of a notification under section forty-two, sub-section (2), shall not take effect until the Act comes into force.

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

(1) "steam-ship" means every description of vessel used in navigation and propelled wholly or in part by the agency of steam:

(2) "British steam-ship" includes a steam-ship registered under Act XIX of 1838, Act X of 1841 or Act XI of 1850, or under any other law passed by the Governor General in Council and for the time being in force for the registration of ships in India:

Indian Steam-ships Act.

Chapter II.—Survey of Steam-ships.

(3) "master" means any person (except a pilot or harbour-master) having for the time being control or charge of a steam-ship :

(4) "passenger" includes any person carried in a steam-ship other than the master and crew and the owner, his family and servants : and

(5) "prescribed" means prescribed by a rule made by the Local Government under this Act.

CHAPTER II

SURVEY OF STEAM-SHIPS.

4. A steam-ship shall not carry more than twelve passengers between places in British India, and a British steam-ship shall not carry more than twelve passengers to or from any place in British India from or to any place out of British India,

unless she has a certificate of survey under this Act in force and applicable to the voyage on which she is about to proceed or the service on which she is about to be employed.

5. Nothing in the last foregoing section shall apply to—

(a) any steam-ship having a certificate of survey granted by the board of Trade or any British Colonial Government, unless it appears from the certificate that it is inapplicable to the voyage on which the steam-ship is about to proceed, or the service on which she is about to be employed, or unless there is reason to believe that the steam-ship has, since the grant of the certificate, sustained injury or damage, or been found unseaworthy or otherwise inefficient, or

(b) any steam-ship having a certificate of survey granted under the Inland Steam-vessels Act, 1884, in force and applicable to the voyage on which the steam-ship is about to proceed or the service on which she is about to be employed ; or

(c) any steam-ship belonging to, or in the service of, Her Majesty or the Government of India, or

(d) any steam-ship belonging to any foreign Prince or State when employed mainly on the public service of the Prince or State ; or

(e) any steam-ship carrying passengers during the interval between the time at which her certificate of survey under this Act expires and the time at which it is first practicable to have the certificate renewed.

6 (1) If any steam-ship carries or attempts to carry passengers in contravention of section four the owner and master

of the steam-ship shall each be liable to a fine which may extend to one thousand rupees.

(2) If the master or any other officer of any steam-ship which carries or attempts to carry passengers in contravention of section four is a licensed pilot, he shall be liable to have his license as a pilot cancelled or suspended for any period by the Local Government, as the Local Government sees fit to order.

7. No officer of Customs shall grant a port-clearance, nor shall any pilot be assigned, to any steam-ship for which a

certificate of survey is required by section four, until after the production by the owner or master thereof of a certificate under this Act in force and applicable to the voyage on which she is about to proceed and the service on which she is about to be employed.

8. If any steam-ship for which a certificate of survey is required by section four leaves or attempts to leave any port of survey without a certificate, any officer of Customs or any pilot on board the steam-ship may detain her until she obtains a certificate.

9. (1) The Local Government may, from time to time, appoint so many persons as it thinks fit to be surveyors for the purposes of this Act at such ports within the territories under its administration as it, from time to time, appoints to be ports of survey.

(2) Every surveyor appointed under this Act may be suspended or removed by the Local Government which appointed him.

(3) Every surveyor appointed under this Act shall, for the purposes of any survey made by him, be deemed to be a public servant within the meaning of the Indian Penal Code.

10. (1) For the purposes of a survey under this Act, any surveyor appointed under this Act may, at any reasonable time, go on board a steam-ship, and may inspect the steam-ship and every part thereof, and the machinery, equipments or articles on board thereof :

Provided that he does not unnecessarily hinder the loading or unloading of the steam-ship, or unnecessarily detain or delay her from proceeding on any voyage.

(2) The owner, master and officers of the steam-ship shall afford to the surveyor all reasonable facilities for a survey, and all such information respecting the steam-ship and her machinery and equipments, or any part thereof, respectively, as he reasonably requires.

11. When a survey under this Act is completed, the surveyor making it shall forthwith, if satisfied that he can with propriety do so, give to the owner or master of the steam-ship surveyed a declaration in the prescribed form containing the following particulars, namely :—

(a) that the hull and machinery of the steam-ship are sufficient for the service intended and in good condition ;

(b) that the equipments of the steam-ship and the certificates of the master, mate or mates, and engineer or engineers or engine-driver, are such and in such condition as are required by any law for the time being in force and applicable to the steam-ship ;

(c) the time (if less than one year) for which the hull, machinery and equipments of the steam-ship will be sufficient ;

(d) the limit (if any) beyond which, as regards the hull, machinery or equipments, the steam-ship is in the surveyor's judgment not fit to ply ;

Indian Steam-ships Act.

Chapter II.—Survey of Steam-ships.

(e) the number of passengers which the steam-ship is in the judgment of the surveyor fit to carry, distinguishing, if necessary, between the respective numbers to be carried on the deck and in the cabins and in different parts of the deck and cabins, the number to be subject to such conditions and variations, according to the time of year, the nature of the voyage, the cargo carried or other circumstances as the case requires; and

(f) any other prescribed particulars.

12. (1) The owner or master to whom a declaration is given under the last foregoing section shall, within fourteen days after the date of the receipt thereof, send the declaration to such officer as the Local Government, from time to time, appoints in this behalf

(2) If he fails to do so, he shall forfeit a sum not exceeding five rupees for every day during which the sending of the declaration is delayed

(3) The owner or master shall pay the sum so forfeited on the delivery of the certificate of survey in addition to the fee payable for the certificate.

13. (1) Upon receipt of a declaration by the officer appointed in this behalf under the last foregoing section, the Local Government shall, if satisfied that the provisions of this Act have been complied with, cause a certificate in duplicate to be prepared and delivered, through such officer at the port at which the steam-ship was surveyed as the Local Government, from time to time, appoints in this behalf, to the owner or master of the steam-ship surveyed, on his applying and paying the fees and other sums (if any) mentioned in this Act as payable on delivery of a certificate.

(2) A certificate granted under this section shall be in such form as the Governor General in Council, from time to time, directs, shall contain a statement to the effect that the provisions of this Act with respect to the survey of the steam-ship and the transmission of the declaration in respect thereof have been complied with, and shall set forth—

(a) the particulars concerning the steam-ship which clauses (c), (d) and (e) of section eleven require the declaration by the surveyor to contain; and

(b) any other prescribed particulars.

(3) When a certificate is ready for delivery under this section, the Local Government shall cause notice thereof to be given by post or otherwise to the owner or master of the steam-ship to which the certificate relates.

14. For every certificate of survey granted by the Local Government under this Act the owner or master of the steam-ship surveyed shall pay to the officer through whom the certificate is delivered to him—

(a) a fee calculated on the tonnage of the steam-ship according to the rates in the schedule hereto annexed, or according to any other prescribed rates; and

(b) when the survey is made in any port of survey other than Calcutta, Madras, Bombay or Rangoon, such additional fee, in respect of the expense, if any, of the journey of the surveyor to the port, as the Local Government, from time to time, by notification in the official Gazette, directs.

15. (1) The owner or master of every steam-ship for which a certificate of survey has been granted under this Act shall forthwith, on the receipt of the certificate, cause one of the duplicates thereof to be affixed, and kept affixed so long as the certificate remains in force and the steam-ship is in use, on some conspicuous part of the steam-ship where it may be easily read by all persons on board thereof.

(2) If the certificate is not so kept affixed, the owner and master of the steam-ship shall each be liable to a fine which may extend to one hundred rupees

16. A certificate of survey granted under this Act shall not be in force—

(a) after the expiration of one year from the date thereof, or

(b) after the expiration of the period, if less than one year, for which the hull, boilers, engines or any of the equipments have been stated in the certificate to be sufficient, or

(c) after notice has been given by the Local Government, to the owner or master of the steam-ship to which the certificate relates, that the Local Government has cancelled or suspended it

17. Any certificate of survey granted under this Act may be cancelled or suspended by a Local Government if it has reason to believe—

(a) that the declaration by the surveyor of the sufficiency and good condition of the hull, boilers, engines or any of the equipments of the steam-ship has been fraudulently or erroneously made; or

(b) that the certificate has otherwise been issued upon false or erroneous information; or

(c) that, since the making of the declaration, the hull, boilers, engines or any of the equipments of the steam-ship, have sustained any injury, or have otherwise become insufficient.

18. (1) The Local Government may require any certificate of survey granted under this Act which has expired, or has been cancelled or suspended, to be delivered up to such person as it, from time to time, directs.

(2) If the owner or master of a steam-ship, without reasonable cause, neglects or refuses to

*Indian Steam-ships Act.**Chapter III.—Examination and Certificates of Engineers and Engine-drivers.*

deliver up a certificate as required under this section, he shall be punished with fine which may extend to one hundred rupees.

19. If the Local Government which cancels or suspends a certificate of survey granted under this Act is not the Local Government which granted the certificate, the Local Government cancelling or suspending the certificate shall report the fact of cancellation or suspension, together with the reasons therefor, to the Local Government which granted the certificate.

20. A survey under this Act shall ordinarily be made by one surveyor, but two surveyors may be employed if the Local Government, by order in writing, so directs, either generally in the case of all steam-ships at any port of survey, or specially in the case of any particular steam-ship or class of steam-ships at any such port.

21. (1) If the surveyor or surveyors making a survey under this Act refuses or refuse to give a declaration under section eleven with regard to any steam-ship, or gives or give a declaration with which the owner or master of the steam-ship surveyed is dissatisfied, the Local Government may, on the application of the owner or master, direct two other surveyors appointed under this Act to survey the steam-ship.

(2) The surveyors so directed shall forthwith survey the steam-ship, and may, after the survey, either refuse to give a declaration or give such declaration as under the circumstances seems to them proper, and their decision shall be final.

22. When a survey is made under either of the last two foregoing sections by two surveyors, each of the surveyors making the survey shall perform a prescribed portion of the duties assigned by this Act or the rules made under this Act to a surveyor making a survey.

23. When a foreign steam-ship requires to be furnished with a certificate of survey under this Act, and the Local Government is satisfied, by the production of a certificate of survey attested by a British Consular Officer at the port of survey, that the ship has been officially surveyed at a foreign port, and that the requirements of this Act are proved by that survey to have been substantially complied with, the Local Government may, if it thinks fit, dispense with any further survey of the ship in respect of the requirements so complied with, and give a certificate which shall have the same effect as a certificate given after survey under this Act:

Provided that this section shall not apply in the case of an official survey at any foreign port with respect to which Her Majesty has by Order in Council directed that section 19 of the Merchant Shipping Act, 1876, shall not apply.

24. (1) The Local Government may make rules to regulate the making of surveys under this Act.

(2) Rules under this section may, among other matters,—

(a) declare the times and places at which, and the manner in which, surveys are to be made;

(b) regulate the duties of the surveyor making a survey, and, where two surveyors are employed, assign the respective duties of each of the surveyors employed;

(c) declare the form in which the declarations of surveyors and certificates of survey under this Act are to be framed, and the nature of the particulars which are to be stated therein, respectively; and

(d) fix the rates according to which the fees payable for certificates of survey are to be calculated in the case of all or any of the ports of survey within the territories under its administration.

25. The Local Government may, from time to time, with the previous sanction of the Governor General in Council, by notification

in the local official Gazette, declare that all or any of the provisions of this chapter shall not apply in the case of any specified class of steam-ships, or shall apply to them with such modifications as the Local Government prescribes.

CHAPTER III

EXAMINATION AND CERTIFICATES OF ENGINEERS AND ENGINE-DRIVERS.

26. The Local Government may, from time to time, appoint persons for the purpose of examining the qualifications of persons desirous of obtaining certificates of competency as engineers or engine-drivers.

27. (1) The Local Government shall grant to every person who is reported by the examiners to possess the necessary qualifications a certificate of competency to the effect that he is competent to act as a first-class engineer or as a second-class engineer or as an engine-driver, as the case may be:

Provided that the Local Government may, in any case in which it has reason to believe that the report has been unduly made, require, before granting a certificate a re-examination of the applicant or a further inquiry into his testimonials and character.

(2) Every certificate granted under this section shall be in the prescribed form.

28. Notwithstanding anything contained in the Indian Merchant Shipping Act, 1883, or any other law for the time being in force, the Local Government may at any time, without any formal investigation, suspend or cancel any

Report of cancellation or suspension of certain certificates.

Power for Local Government to direct that two surveyors be employed.

Power for Local Government to order a second survey.

Division of duties when two surveyors employed.

Survey of foreign steam-ships.

Power for Local Government to make rules as to surveys.

Power for Local Government to exempt certain steam-ships.

Appointment of Examiners.

Grant of engineers' and engine-drivers' certificates of competency.

Power for Local Government to cancel engine-drivers' certificates.

Indian Steam-ships Act.

Chapter III.—Examination and Certificates of Engineers and Engine-drivers.

engine-driver's certificate granted by it under this Act, if in its opinion the holder is, or has become, unfit to act as an engine-driver.

29 Every certificate of competency granted under this Act shall be made in duplicate, and one copy shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded in the prescribed manner.

30 Whenever an engineer or engine-driver proves to the satisfaction of the Local Government which granted his certificate that he has, without fault on his part, lost or been deprived of it, a copy of the certificate to which, by the record kept as provided by law, he appears to be entitled shall be granted to him, and shall have all the effect of the original.

31. (1) A British steam-ship shall not proceed from any port in British India to any port or place not being either in British India, or on the continent of India, or in the Island of Ceylon, unless she has—

(a) if the steam-ship has engines of one hundred nominal horse-power or upwards, as her first and second engineers two certificated engineers, the first possessing a first-class engineer's certificate and the second a second-class engineer's certificate or a certificate of the higher grade, granted under this Act or the Merchant Shipping Acts, 1854 to 1883, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869;

(b) if the steam-ship has engines of under one hundred nominal horse-power, as her only or first engineer an engineer possessing a second-class engineer's certificate or a certificate of the higher grade of the nature referred to in clause (a).

(2) A foreign steam-ship having engines of fifty nominal horse-power or upwards shall not carry passengers from any port in British India to any other port in British India, and a British steam-ship having engines of a like horse-power shall not proceed from any port in British India to any other port in British India or to any port or place on the continent of India or in the island of Ceylon, unless she has as her only or first engineer an engineer possessing a second class engineer's certificate or a certificate of the higher grade of the nature referred to in clause (a) of sub-section (1).

32. (1) On and from such day as the Local Government, by notification in the official Gazette directs in this behalf, a foreign steam-ship having engines of under fifty nominal horse-power shall not carry passengers from any port within the territories administered by that Local Government to any other port in British India, and a British steam-ship having engines of a like horse-power shall not proceed from any port within those territories to any

other port in British India or to any port or place on the continent of India or in the island of Ceylon, unless she has as her engineer a person possessing an engine-driver's certificate granted under this Act or an engineer's certificate of either of the grades referred to in the last foregoing section

(2) The Local Government may at any time, by a like notification, cancel any notification issued by it under this section.

33 Nothing in section thirty-one or section thirty-two shall apply to any steam-ship to which the provisions of the Inland Steam-vessels Act, 1884, are applicable VI. of 1884.

34. (a) If any person, who has been engaged to serve in any of the capacities referred to in section thirty-one or section thirty-two in any steam-ship to which those sections apply, respectively, proceeds in the steam-ship in that capacity without being at the time entitled to, and possessed of, the certificate required by those sections, and

(b) if any person employs any person in any capacity referred to in section thirty-one or section thirty-two in any steam-ship to which those sections apply, respectively, without ascertaining that he is at the time entitled to, and possessed of, the certificate required by those sections,

he shall be punished with fine which may extend to five hundred rupees

35. The provisions of Act I of 1859 (for the amendment of the law relating to Merchant Seamen) with respect to the certificates of competency or service of the master and mate contained in section 31 and section 32 of that Act shall apply to certificates of competency granted under this Act in the same manner as if certificates of competency granted to engineers under this Act were specially mentioned and included in those sections

36. The Local Government may make rules to regulate the granting of certificates of competency under this Act, and may by such rules—

(a) provide for the conduct of the examinations of persons desirous of obtaining certificates of competency as engineers or engine-drivers under this Act,

(b) prescribe the qualifications to be respectively required of persons desirous of obtaining first class engineers' certificates, second-class engineers' certificates and engine-drivers' certificates, respectively;

(c) fix the fees to be paid by all applicants for examination; and

(d) prescribe the form in which certificates are to be framed, and the manner in which the copy of the certificate which is kept by the Local Government is to be recorded.

*Indian Steam-ships Act.**Chapter IV.—Investigations into Explosions.**Chapter V.—Supplemental.**The Schedule.—Rates of Fees.*

CHAPTER IV.

INVESTIGATIONS INTO EXPLOSIONS.

37. (1) Whenever any explosion occurs on board any steam-ship on or near the coasts of British India, the Local Government may, if it thinks fit, direct that an investigation into the cause of the explosion be made by such person or persons as it thinks fit.

(2) The person or persons so directed may enter into and on the steam-ship with all necessary workmen and labourers, and remove any portion of the steam-ship, or of the machinery thereof, for the purpose of the investigation, and shall report to the Local Government what, in his or their opinion, was the cause of the explosion.

(3) Every person making an investigation under this section shall be deemed to be a public servant within the meaning of the Indian Penal Code.

CHAPTER V.

SUPPLEMENTAL.

38. No Magistrate shall try any offence under this Act unless he is a Presidency Magistrate or a Magistrate whose powers are not less than those of a Magistrate of the first class.

39. If any person commits an offence against this Act, he shall be triable for the offence in any place in which he may be found, or which the Local Government, from time to time, by notification in the official Gazette, directs in this behalf, or in any other place in which he might be tried under any other law for the time being in force.

40. Where the owner or master of a steam-ship is adjudged under this Act to pay a fine for an offence committed with, or in relation to, that steamship, the Court may, in addition to any other power it may have for the purpose of compelling payment of the fine, direct that it be levied by distress and sale of the steamship and the tackle, apparel and furniture thereof, or so much thereof as is necessary.

41. In section 13, clause (b), of the Native Passenger Ships Act, VIII of 1876. Amendment of section 13 of Act VIII of 1876. 1876, for the words "six months" the words "one year" shall be substituted; and after the word "sailing" the words "in force and applicable to the voyage on which the ship is about to proceed or the service on which she is about to be employed" shall be added.

42. (1) A Local Government making rules under this Act shall, before publication and confirmation of rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(2) The publication shall be made in such manner as the Governor-General in Council, from time to time, by notification in the *Gazette of India*, prescribes.

(3) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(4) The Local Government shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) A rule made under this Act shall not take effect until it has been sanctioned by the Governor General in Council and published in the local official Gazette.

(6) The publication in the Gazette of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made and sanctioned.

(7) All powers to make rules conferred by this Act may be exercised from time to time as occasion requires.

THE SCHEDULE.

(See Section 14.)

RATES OF FEES.

	Tons.	Rs
For steam-ships of less than	200	40
" " 200 tons and up to	350	50
" " 350 " " "	700	60
" " 700 " " "	1,000	80
" " 1,000 " " "	1,500	100
" " 1,500 " and upwards	..	120

D. FITZPATRICK,

Secretary to the Government of India.

[Published with the "Bombay Government Gazette" on the 27th March 1884.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 23rd January 1884, and the assent of His Excellency the Viceroy and Governor General on the 5th March 1884, and is published for general information:—

Bombay Act No. I. of 1884. A C

The Bombay Local Boards Act, 1884.

[Second publication.]

The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 21st March 1884.

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Bombay Act No. I. of 1884.

An Act to make better provision for the Administration of Local Funds in the Presidency of Bombay.

WHEREAS it is expedient to amend the law relating to the administration of local funds by district and taluka committees; It is enacted as follows:—

I.—PRELIMINARY.

1. This Act may be called "The Bombay Local Boards Act, 1884."

It extends to the whole of the Presidency of Bombay, except the City of Bombay and Aden.

2. From the date notified by the Governor in Council under section 13 for each district the enactments mentioned in the schedule hereto annexed shall be repealed in such district to the extent specified in the third column thereof, but not so as to render invalid anything done in accordance with any of them: Provided that

all debts and obligations incurred, all contracts entered into and all matters and things engaged to be done by, with or for the committee or authority heretofore charged, in the local area over which the authority of any local board established under this Act extends, with the administration of local funds under Bombay Act VIII. of 1865 (which Act may be called "The Sind Local Funds Act, 1865,") or the Bombay Local Funds Act, 1869, shall be deemed to have been incurred, entered into, or engaged to be done by, with or for the local board so established;

and all sums of money due to the said committee or authority shall be deemed to be due to the said local board;

and all suits or other legal proceedings, civil or criminal, instituted, or which might, but for the passing of this Act, have been instituted by or against any such committee or authority may be continued or instituted by or against the said local board;

and all rules or orders made under any enactment hereby repealed and all other rules, if any, now in force and relating to any of the matters hereinafter dealt with shall, so far as they are consistent with this Act, be deemed to have been made hereunder.

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

(1) the term "official gazette" means, in Sind, the *Sind Official Gazette*, and elsewhere, the *Bombay Government Gazette*;

(2) the word "Commissioner" means, in Sind, the Commissioner in Sind, and elsewhere, the Commissioner of a division appointed under the Bombay Land Revenue Code, 1879;

(3) the words "salaried servant of Government" do not include a retired servant of Government in receipt of a pension;

(4) the word "taluka" means any local area for which a taluka local board is established, inclusive of the portion of such area, if any, for the time being within a municipal district or a military cantonment;

(5) any word or expression which is defined in the Bombay Land Revenue Code, 1879, and is not hereinbefore defined, shall be deemed to have the meaning given to it by that code.

II.—OF LOCAL BOARDS.

Constitution of the Boards.

4. Local funds shall be administered by local boards established for this purpose as hereinafter provided. There shall be one local board for each district and also one for each taluka as constituted under the Bombay Land Revenue Code, 1879, or for such area consisting of one or more such talukas or portions of such talukas as the Governor in Council shall deem fit.

Each district local board shall have authority for the purposes of this Act over the entire district and each taluka local board over the entire taluka for which they are respectively

established, except such portions thereof as are for the time being within a municipal district or a military cantonment.

Constitution of local boards.

5. Every district and taluka local board shall consist of

(a) elective members, and

(b) such persons, if any, as the Governor in Council or any officer whom he authorizes in this behalf from time to time appoints, who shall be called "nominated members":

Provided that the number of elective members shall be not less than one-half of the whole board exclusive of the president, and that not more than one-half of the nominated members shall be salaried servants of Government.

Elective members of taluka local boards by whom to be elected.

6. The elective members of taluka local boards shall be as follows:—

(a) one member for each municipal district within the taluka for which a taluka local board has been established containing more than five thousand inhabitants, elected by the commissioners of such district from amongst their own number;

(b) one member (qualified as hereinafter provided) for each of the several groups into which for the purposes of this clause the Governor in Council shall from time to time deem fit to cause the villages in the area subject to the authority of such board to be divided, elected by persons qualified, as hereinafter provided, to vote at such elections;

(c) one member elected by the holders of entire alienated villages, if any, within the taluka, from amongst their own number or, if there is but one such holder in the taluka, such holder himself or any person whom he nominates as his representative.

Elective members of district local boards by whom to be elected.

7. The elective members of district local boards shall be as follows:—

(a) one member or, if Government so direct, two or more members for each taluka local board in the district, or one member for two or more taluka local boards in the district, united for this purpose into a joint board, elected by the members of such board or joint board from amongst their own number;

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(b) one member for each municipal district within the district containing not less than eighteen thousand inhabitants elected by the commissioners of such district from amongst their own number;

(c) one member elected by the holders of entire alienated villages, if any, within the district, from amongst their own number, or, if there is but one such holder in the district, such holder himself, or any person whom he nominates as his representative:

Provided that the person to be elected by any taluka local board under clause (a) may not be a Mamlatdar having jurisdiction in the area subject to the authority of such board.

8. The Governor in Council may at any time by notification in the *Bombay Government Gazette* direct that the provisions of sections 5, 6 and 7, and the subsequent provisions of this Act which refer to those sections or any one or more of the said provisions shall not apply to the local board of any district or taluka to which for exceptional reasons which shall be set forth in the said notification he shall deem such provisions to be unsuitable

In the said notification or any subsequent notification published as aforesaid the Governor in Council may prescribe such provision or provisions as he deems fit in substitution for the provision or provisions declared inapplicable to any local board and the provision or provisions so prescribed shall have effect, so far as concerns such board, as if the same were inserted in this Act.

It shall be competent to the Governor in Council at any time to alter or rescind any notification issued by him under this section, and in the event of any notification under the first paragraph being rescinded the local board affected thereby shall, from a date to be fixed in this behalf by the Governor in Council, be constituted in accordance with sections 5, 6 and 7 and the subsequent provisions of this Act having reference thereto.

9. Every local board shall be a body corporate by the name of "The District Local Board of" or "The Taluka Local Board of", as the case may be, and shall have perpetual succession and a common seal and may sue and be sued in its corporate name,

Incorporation of local boards

and shall be competent to acquire and hold property, both moveable and immoveable, to lease, sell or otherwise transfer any moveable or immoveable property which may have become vested in or been acquired by them, and to contract and to do all other things necessary for the purposes of this Act:

Provided that no lease of immoveable property for a term exceeding three years and no sale or other transfer of any such property shall be valid unless such lease, sale or other transfer shall have been made with the previous sanction of the Commissioner.

Qualifications and disqualifications of Members.

10. Unless disqualified on any of the grounds set forth in the next following section, the following persons shall be entitled to have their names entered in the List No. I., to be prepared as hereinafter provided, qualifying them to be elected under section 6 (b) members of a taluka local board, namely:—

Qualifications necessary for certain members of taluka local boards

(1) land-holders, whose holdings situate within the taluka are assessed (or in the case of alienated lands, would be assessed, if they were not alienated) to the land revenue at not less than forty-eight rupees per annum or such smaller minimum as the Governor in Council shall from time to time prescribe for each taluka;

(2) persons who own immoveable property within the taluka, other than a holding described in clause (1) of this section, estimated by the Collector to be not less than five thousand rupees in value;

(3) persons, residing within the taluka, whose annual net earnings from any occupation are estimated by the Collector to be not less than five hundred rupees;

(4) pensioned Government servants, residing within the taluka, whose pensions are not less than rupees fifty per mensem;

(5) honorary magistrates residing within the taluka;

(6) officiating revenue or police patels of villages within the taluka;

(7) such other persons, if any, residing within the taluka, as the Governor in Council shall from time to time by notification in the official gazette direct.

General disqualifications.

11. No female and no person

(a) who is less than twenty-one years of age, or

(b) who is a District or a Subordinate Judge or is acting in either of those capacities, or

(c) who has been convicted by any criminal court of an offence which may not lawfully be compounded, such conviction not having been subsequently reversed or quashed, or

(d) who is an uncertificated bankrupt or an undischarged insolvent, may be a member of a local board; and no person—

(e) who is a subordinate officer or servant of a local board, or

(f) who has directly or indirectly any share or interest in any work done by order of a local board, or in any contract or employment with or under a local board,

may be a member of such board;

and any member of a local board who, during the term for which he has been elected or appointed,

(g) becomes disqualified for any of the above reasons, or

(h) is absent for more than four consecutive months from the limits of the district in which the board is established, shall cease to be a member and his office shall become vacant.

12. A person who has already been elected or appointed a member of a board on one or more occasions shall, if otherwise duly qualified, be eligible at any time for re-election or re-appointment.

Terms of office, casual vacancies.

13. The members of the first local boards to be established under this Act shall commence their terms of office on such date as shall be notified in this behalf for each district by the Governor in Council.

14. Except as is otherwise provided in the next following section, members of local boards shall, unless they become in the meantime disqualified, hold office for a term of three years.

Term of office.

First local boards from what date to take office.

15. In the event of the death, resignation or disqualification of a member of a local board or of his becoming incapable of acting previous to the expiry of his term of office, the vacancy shall be filled up, as soon as it conveniently may be, by the election or appointment, as the case may be, of a person thereto who shall hold office so long only as the member in whose place he is elected or appointed would have held it if the vacancy had not occurred.

Elections of Members.

16. Every election requisite for the purposes of this Act shall be held on such date as the Collector shall fix in this behalf: provided that when the elections are for the first boards to be established in any local area under this Act or for filling the places of members whose terms of office have expired, such dates shall be:

(a) if the elections are under section 7 (a), as early as conveniently may be after the elections and appointments to the taluka local boards by which such elections are to be made, are completed and before the commencement of the term of office of the district local board to which such elections are to be made;

(b) in any other case, not sooner than three months and not later than one month before the commencement of the term of office of the members of the board to which such elections are to be made.

17. The Collector shall, subject to the orders of Government, from time to time determine what persons are entitled to vote and what persons are qualified to be elected under section 6 (c) and section 7 (c) respectively, and his decision shall be conclusive.

When an election has to be made under section 6 (c) or section 7 (c), the Collector shall, not less than ten days before the date fixed for the election, cause a list of the persons qualified to be elected to be left at the usual residence of each of the persons entitled to vote at such election, together with a notice inviting the last-named persons, before the day fixed for the election, to make each a written return to him of the name of any one of the persons mentioned in the said list for whom they wish to vote.

On the day fixed for the election, or as soon as may be thereafter, the Collector shall inspect all returns duly made as aforesaid and shall record in writing under his signature the result of the election.

18. Unless disqualified under the next following section, the persons following persons shall be entitled to have their names entered in the List No. II, to be prepared as hereinafter provided, qualifying them to vote at elections of members of taluka local boards under clause (b) of section 6, namely:

(1) every person possessing the qualifications described in any of the clauses (1) to (7) of section 10: provided that such person resides within the group of villages for which such list is prepared and that if his qualification is under clause (1) or clause (2) of that section, the holding or immoveable property in respect of which he is so qualified is without the limits of a municipal district containing more than five thousand inhabitants;

(2) all other persons, if any, residing within the group of villages for which the list is to be prepared to whom the Governor in Council shall by notification in the official gazette from time to time deem fit to extend the franchise:

Provided always that no alteration in, or addition to, the qualifications entitling persons as aforesaid, made at any time after the first elections have been held in any district under section 6 (b), shall take effect in such district within six months from the date on which such alteration or addition is made.

19. No person who is less than twenty-one years of age shall be entitled to have his name entered in the said List No. II

20. The Collector shall, as soon as may be after the coming into force of this Act, prepare

(a) a list (which shall be called "List No. I.") for each taluka, of the persons qualified to be members of the local board of that taluka; and

(b) a list (which shall be called "List No. II.") for each of the groups of villages into which for the purposes of clause (b) of section 6 the area subject to the authority of the said board has

been divided, of the persons qualified to vote in such group at elections of members of the taluka local board under the said clause.

The said lists shall be prepared in the first instance from such information as shall be available in the records of the Collector and of the officers subordinate to him.

Similar new lists shall be prepared by the Collector whenever Government so direct and at least once in every three years; and such new lists shall be based upon information available as aforesaid and also upon the past decisions of the Collector under section 22.

21. The lists so prepared shall be published by affixing a copy of each of them in some conspicuous place in or near the office of the Mamlatdar, or of each Mamlatdar, having jurisdiction in the taluka to which they relate and by affixing in the chavdi or some other public building of each town or village in the taluka a copy of List No. I, and of so much of List No. II, as affects such town or village.

The publication aforesaid shall be made in the vernacular language of the taluka and at least two months before the date fixed for the election of members to the first local board to be established in the taluka, and, thereafter, at least two months before the date fixed for any election of persons to fill the places of members whose terms of office have expired.

22. The Collector may, on application being made to him at any time within one month after the publication of the lists aforesaid by any person claiming to be qualified to be a member, or to vote at an election of members of the taluka local board, correct any erroneous entry in either of the said lists, or insert therein the name of any applicant who satisfies him of his right to have it so entered.

23. No person whose name is not in the revised List No. I. last published before the date of any election under clause (b) of section 6 shall be qualified to be elected a member of the taluka local board for the taluka to which it refers;

and no person whose name is not in the revised list No. II. last published before the date of any such election for any group of villages shall be qualified to vote at the election of a member for such group.

24. If at any election of a member of a local board under this Act there is an equal number of votes in favour of each of two or more persons who are willing to take office, the selection of one of such persons shall be made by the Collector, or by such officer as he may empower in this behalf, by lot in such manner as the Collector, or the officer so empowered, shall deem fit.

If the person in whose favour the highest number of votes is recorded at any such election declines to take office, the person, if any, in whose favour the next highest number of votes has been recorded and willing to take office shall be deemed to be the member elected.

If at any election no votes are recorded, or if for any reason the election does not result in the return of any qualified person willing to take office, the Collector, in the case of a taluka local board, and the Commissioner, in the case of a district local board, shall, with the approval of Government, appoint some person who would have been qualified to be elected, and the person so appointed shall be deemed to be a member of the local board as if he had been duly elected.

25. If the validity of any election of a member of a local board, or the legality of any order or proceeding made or held under the last preceding section, is brought in question by any person qualified either to be elected or to vote at the election to which such question refers, such person may, at any time within fifteen days after the date of the declaration of the result of the election, or the date of the proceeding or order, apply to the District Judge of the district within which the election has been or should have been held.

The District Judge may, after such inquiry as he deems necessary, pass an order for confirming or amending the declared result of the election, or the order of the Collector under the last preceding section, or for setting the election aside.

For the purposes of the said inquiry the District Judge may exercise any of the powers of a civil court, and his decision shall be conclusive.

If he sets aside an election a date shall forthwith be fixed and the necessary steps taken for holding a fresh one.

26. The names of all members finally elected to any local board, as well as the names of the nominated members, if any, appointed thereto shall be published, as soon as conveniently may be, in the official gazette.

Publication of names of members in the official gazette.

Presidents and Vice-Presidents.

27. Every local board shall be presided over by a president who shall be one of the members of the local board and shall be appointed by the Government or, if the Governor in Council so directs, elected by the local board.

Nomination of presidents,

If the president so appointed or elected is a salaried servant of Government, the board shall elect one of its members to be vice-president; unless the Governor in Council otherwise directs, no appointment of a vice-president shall be valid until it is approved by the Government, or by such other authority as the Government prescribe in this behalf.

and of vice-presidents.

Every president's and vice-president's term of office shall cease on the expiry of his term of office as a member of the local board over which he presides: provided that he shall be removable from office, as such president or vice-president, by the Government for misconduct, or neglect of, or incapacity to perform his duty.

In the event of the death, resignation, or removal from office of a president or vice-president, or of his becoming incapable of acting, or disqualified to be a member of the local board, previous to the expiry of his term of office, the vacancy shall be filled up, as soon as it conveniently may be, by the appointment or election, as the case may be, of some other member of the board thereto.

Casual vacancies in their office how to be filled up.

28. The president of a local board shall

Functions of presidents.

- (a) preside at the meetings of the board;
- (b) watch over the financial and executive administration of the board and submit to the board all questions connected therewith which shall appear to him to require its orders;

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(c) exercise supervision and control over the acts and proceedings of all officers and servants of the board in matters of executive administration, and in matters concerning the accounts and records of the board; and, subject to the regulations at the time being in force framed by the board under section 39, dispose of all questions relating to the service of the said officers and servants, and their pay, privileges, and allowances;

(d) furnish to the Collector or to such other officer as the Collector shall from time to time nominate in this behalf, a copy of every resolution passed at any meeting of the board and any extract from the minutes of the board's proceedings, or other document or thing which the Collector may from time to time call for under section 62.

When the president of a board is a salaried servant of Government and has been appointed to be president by the Government, he shall not vote upon any question which comes before such board for decision unless there is an equality of votes for and against the proposition under consideration, in which case he shall have a casting vote.

President in certain cases to have only a casting vote.

29. Vice-presidents of local boards shall

Functions of vice-presidents.

- (a) in the absence of the president preside at the meetings of the board; and
- (b) exercise such of the powers and perform such of the duties of the president as the president from time to time deposes to him.

Duties of Local Boards.

30. It shall be the duty of local boards, so far as the local fund at their disposal will allow, to make adequate provision for the areas respectively subject to their authority in regard to the following matters, namely:—

- (a) the construction of roads and other means of communication and the maintenance and repair of all roads and other means of communication vesting in them;

- (b) the construction and repair of hospitals, dispensaries, markets, dharmshálas and other public buildings, and the visiting, management and maintenance of these institutions ;
- (c) the construction and repair of public tanks, wells and water works, the supply of water from them and from other sources, and the construction and maintenance of works for the preservation of water for drinking and cooking purposes from pollution ;
- (d) the provision of suitable accommodation for, the visiting and maintenance of, and the training of teachers for, primary schools, and the general development and extension of primary education ;
- (e) public vaccination and sanitary works and measures necessary for the public health ;
- (f) the planting and preservation of trees by the side or in the vicinity of roads vesting in such boards ; and
- (g) the maintenance of any property vesting in them ;

and local boards may at their discretion provide out of the said fund for the following matters, namely :—

- Discretionary powers of expenditure.
- (h) the establishment and maintenance of model farms, the acclimatization of exotics, the importation and distribution of superior kinds of seed, the improvement of the breed of cattle and horses, and the introduction and preservation of fish ;
- (i) the establishment and maintenance of relief and local relief works in time of famine or scarcity ;
- (j) educational objects other than those set forth in clause (d) of this section, and
- (k) any other local works or measures likely to promote the health, comfort or convenience of the public.

31. Subject to the control of the district Relative duties of local board and, as taluka and district local boards. regards educational matters, to the provisions of section 48, clause (b), each taluka local board shall, within the area subject to its authority, have the control and administration of all purely local roads, works and buildings maintained at its cost, and also of all local services and institutions except such as the district local board thinks fit to take under its own direct control and administration.

In respect of roads, works, buildings, services and institutions in the control and administration of the district local board, each taluka local board shall, if the district local board so desires, be the agent of the district local board and, as such agent, shall exercise such authority and perform such duties as the district local board may from time to time in writing delegate to it.

Conduct of Business.

32. The following provisions shall be observed with respect to the proceedings of a local board ; namely :

- (a) The board shall meet together and shall from time to time transact business as they think fit, but make regulations, consistent with this Act, and with any rules or orders made by Government under section 69 with respect to the place, day, hour, notice, management, and adjournment of such meetings, and generally with respect to the transaction of business, as they think fit, subject to the following conditions, namely :—

(1) that the president may, whenever he thinks fit, and shall, upon the written request of not less than one-fourth of the members, call a special meeting ;

(2) that no business shall be transacted at any meeting unless at least one-third of the members are present from the beginning to the end of such meeting ;

(3) that every meeting shall be open to the public unless the presiding authority deems any inquiry or deliberation pending before the board such as should be held in private, and provided that the said authority may at any time cause any person to be removed who interrupts the proceedings ;

(4) that every meeting shall be presided over by the president, if he is present at the time appointed for holding the same, and, every meeting to be presided over by the president, and

meetings must ordinarily be open to the public, and

- if he is absent, by the vice-president, and if both the president and vice-president are absent, by such one of the members present as may be chosen by the meeting to be chairman for the occasion;
- (5) that, except as is otherwise provided in section 28, all questions shall be decided by a majority of votes of the members present, the president, vice-president, or chairman, having a second or casting vote in all cases of equality of votes;
- (6) that the board may delegate any of their duties or powers to committees consisting of such members as they think fit; and that any committee so formed shall conform to any instructions that may from time to time be given to them by the board, and the board may at any time discontinue or alter the constitution of any committee so formed;
- (7) that a committee may elect a chairman of their meetings, and if no such chairman is elected, or if he is not present at the time appointed for holding any meeting, the members present shall choose one of their members to be chairman of such meeting;
- (8) that committees may meet and adjourn as they think proper, but the president of the board may, whenever he thinks fit, and shall, upon the written request of not less than two members of a committee, call a special meeting of such committee;
- (9) that questions at any meeting of a committee shall be decided by a majority of votes of the members present, and in case of an equal division of votes, the chairman of the meeting shall have a second or casting vote, but no business shall be transacted at any such meeting unless at least two-thirds of the members of the committee are present from the beginning to the end thereof;
- (10) that, except for reasons which the presiding authority deems emergent, no business relating to any work which is being executed, or which under section 61 may only be executed for the board by the Government Executive Engineer of the district, or to any educational matter, shall be transacted at any meeting of a local board or of a committee, unless at least fifteen days previous to such meeting a letter has been addressed to any officer of the Government Public Works and Educational Departments, respectively, who is not a member of the board, but is entitled under section 33 to be present at such meeting, informing him of the intention to transact such business thereat and of the motions or propositions to be brought forward concerning such business;
- (11) that minutes shall be kept of the names of the members and of the Government officers, if any, present under the provisions of section 33, and of the proceedings at each meeting of the board and each committee's meeting, and, if any member present at the meeting so desire, of the names of the members voting, respectively, for or against any resolution in a book to be provided for this purpose, which shall be signed, as soon as practicable, by the president or vice-president or chairman of such meeting, and shall at all reasonable times be open to inspection by any member of the board or by any inhabitant of the district;
- (12) that every regulation made under this section by a taluka local board shall be subject to the approval of the district local board to which such taluka local board is subordinate.
- (b) During any vacancy in the board, the continuing members may act as if no vacancy had occurred.
- notice must be given to Public Works and Educational officers when they are entitled under section 33 to be present, and
- all questions must be decided by a majority of votes, and
- board may delegate their functions to committees, and
- Committees' meetings to be presided over by a chairman, and
- minutes of proceedings shall be kept, and
- all regulations made by a taluka local board to be subject to the approval of the district local board.
- Vacancy not to affect board's proceedings.

(c) No act of the board, or of any committee, or

Acts of board, &c., of any person not to be invalidated by acting as a member or as

a president, vice-president, or chairman, shall be deemed to be invalid by reason only of some defect in the appointment of such board, committee, president, vice-president, chairman, or member, or on the ground that they, or any of them, were disqualified for the office of member, or that formal notice of the intention to hold a meeting of a board or of a committee was not duly given, or for any other such mere informality.

33. The Executive Engineer, the Edu-

Certain Government officers may attend meetings of district local boards;

cational Inspector and the Deputy Sanitary Commissioner of a district, and the

Civil Surgeon in a district, when charged with any of the duties of a health officer therein, if not members of a district local board, shall have the right of being present at any meeting of the said board, or of any committee thereof, and, with the consent of the board or committee, each of them may take part at such meeting in the discussion or consideration of any question on which in virtue of the duties of his office he considers his opinion or the information which he can supply will be useful to such board or committee: provided that the said officers shall not, unless they are members of the board, be entitled to vote upon any such question.

Any officer of the Government Public Works Department

and certain Government officers may attend meetings of taluka local boards,

not lower in rank than an overseer employed in a taluka, and any officer of the Govern-

ment Educational Department not lower in rank than the Deputy Educational Inspector of a taluka may, under the like circumstances and subject to the same proviso, take part in the discussion or consideration of any such question as aforesaid at any meeting of the taluka local board of such taluka or of any committee of the said board.

If it shall appear to a district local board or to a taluka local board that the presence of any of the above officers respectively is desirable for the purpose

aforesaid at any future meeting of such board, or of any committee thereof, it shall be competent to such board by letter addressed to such officer not less than fifteen days previous to the intended meeting to require his presence thereat; and the said officer, unless prevented by sickness or other reasonable cause, shall be bound to attend such meeting.

34. Whenever it appears to the president of a local board, President may circulate written propositions or to the chairman of a committee, unnecessarily to convene a meeting, he may instead of so doing circulate a written proposition of his own, or of any other member of such board or committee, or of any executive officer of the board for the observations and votes of the members.

Previous to circulating any such proposition for the votes of members the president or chairman may, if he thinks fit, and if the business to which it relates is of the nature described in clause (10) of section 32, shall obtain thereupon the remarks, if any, which any Government officer, not a member of the board, who is entitled under the provisions of section 33 to be present at any meeting at which such proposition might be considered, desires to record.

The decision on any proposition so circulated shall be in accordance with the majority of votes of the members who vote upon it, unless a special meeting is convened to consider the proposition under clause (1) or clause (8) of section 32.

Every decision arrived at by the board under this section shall be recorded in the minute-book kept under clause (11) of section 32.

35. The president of a local board may, Mode of executing contracts. on behalf of the board, enter into any contract or agreement in such manner and form as, according to the law for the time being in force, would bind him if such contract or agreement were on his own behalf: provided that the amount or value of such contract or agreement shall not exceed five hundred rupees in the case of a district local board, or two hundred rupees in the case of a taluka local board.

Every other contract or agreement on behalf of a local board shall be in writing and shall be signed by the president and by two other members of the board and shall be sealed with the common seal of the board.

No contract or agreement not executed as in this section provided shall be binding on a local board.

Joint Committees.

36. A district local board may, from time to time, concur with any other district local board or with any municipality or cantonment committee, or with more than one such local board, municipality or committee :

Joint committees of two or more local bodies.

- (a) in appointing out of their respective bodies a joint committee for any purpose in which they are jointly interested and in appointing a chairman of such committee ; and,
- (b) in delegating to any such committee power to frame terms binding on each such body as to the construction and future maintenance of any joint work and any power which might be exercised by either or any of such bodies ; and
- (c) in framing and modifying rules for regulating the proceedings of any such committee and the conduct of correspondence relating to the purpose for which the committee is appointed.

If any difference of opinion arises between local bodies acting under this section, the decision thereupon of Government shall be final.

Personal liability of Members.

37. Except as is hereinafter otherwise provided, no member of a local board shall be personally liable in respect of any contract or agreement made, or for any expense incurred by, or on behalf of such board ; the local fund at the disposal of each local board shall be liable for and be charged with all costs in respect of any such contract or agreement and all such expenses :

provided that every member of a local board shall be personally liable for the misapplication of any fund to which he shall have been a party, or which shall have happened through, or been facilitated by gross neglect of his duty as a member, and may be sued for recovery of the monies so misapplied as if such monies had been the property of the Government.

Local funds ordinarily hable for all costs and expenses incurred by boards ;

but members to be held responsible for misapplied funds.

III.—OF THE OFFICERS AND SERVANTS OF LOCAL BOARDS.

38. Every district local board may engage and pay such officers and servants as it shall deem necessary and proper to maintain for the efficient execution of its duties and the duties of the taluka local boards in the district under this Act, and shall from time to time prepare and sanction a schedule of the staff to be so maintained, setting forth the designations and grades of the different officers and servants, the boards under which they are to be respectively employed, their respective duties, and the amount and nature of the salaries, fees and allowances to be paid to each, and determining which of the said officers and servants are to be maintained permanently and which temporarily only.

Until a schedule is prepared and sanctioned under this section the establishment, if any, entertained in any district for the administration of local funds on the day previous to the date notified by the Governor in Council under section 13 for each district, shall be deemed to have been duly sanctioned and appointed under the foregoing provisions for such district.

39. Every district local board may from time to time frame regulations :

- (a) fixing the amount and nature of the security to be furnished by any officer or servant maintained by the board from whom it may be deemed expedient to require security ;
- (b) for regulating the grant of leave to the permanent officers and servants maintained by the board ;
- (c) for authorizing the payment of allowances to the said officers and servants or to certain of them, whilst absent on leave ;
- (d) for determining the remuneration to be paid to the persons appointed to act for any such officers or servants during their absence on leave ;

(e) for regulating the period of service of all such officers and servants;
for regulating length of service;

(f) for determining the conditions under which such officers and servants, or any of them, shall, on retirement, receive pensions, gratuities, or compassionate allowances, and the amount of such pensions, gratuities, or compassionate allowances;

(g) for authorizing the payment of contributions at certain prescribed rates and subject to certain prescribed conditions to any pension or provident fund which may, with the approval of the said board, be established by the said officers and servants:

Provided that:

(h) if an officer is lent to any local board by the Government; or if an officer is employed partly in the service of Government and partly in the service of a local board, such board shall contribute to his pension and leave allowances to such extent as may be required by the rules in this behalf from time to time in force and shall not, except with the assent of Government, dispense with his further services at any time without giving the Government six months' previous notice;

(j) no regulation made by any district local board under this section shall have effect unless and until it has been approved by the Governor in Council.

40. The power of punishing or dismissing any officer or servant maintained by a district local board shall, subject to any regulation framed under the last preceding section and to any rule or order made by the Governor in Council under section 69, vest in the said board.
Punishment and dismissal of officers and servants.

IV.—OF THE PROPERTY AND LIABILITIES OF LOCAL BOARDS.

Vesting of Property.

41. All such immoveable and other property as is held by boards of property and or in trust for any assets of superseded committees for the purposes of the Bombay Local Funds Act, 1869, or the Sind Local Funds Act, 1865, shall upon and after the date notified by the Governor in Council under section 13 for each district, vest in the district local board or the taluka local board established hereunder having authority over the same local area to which such committee's functions extended, but subject to all charges and liabilities affecting the same.
Transfer to local property as is held by boards of property and or in trust for any assets of superseded committees.

It shall be competent to the Governor in Council from time to time to direct whether any such property as aforesaid shall vest in the district local board or the taluka local board having authority as aforesaid and any such direction of the Governor in Council shall be conclusive.

42. The Governor in Council may from time to time direct that any property, moveable or immoveable, which is vested in Government and which is situate within the local area under the authority of any local board, shall, with the consent of such board and subject to such exceptions and conditions as the Governor in Council may impose, vest in that board; and thereupon that property shall vest in that local board for the purposes of this Act, subject to all exceptions and conditions so imposed and to all charges and liabilities affecting the same.
Government may vest other property in local boards.

Every road, building or other work constructed by a local board shall vest in the board by which it has been constructed.
Vesting of future local works.

Liabilities.

43. It shall be competent to the Governor in Council from time to time to direct whether the liability for any such debt or other obligation, or any such contract, matter or thing as is described in the proviso to section 2, shall fall upon the district local board or the taluka local board having authority in the local area in which such debt or other obligation was
Distribution of existing liabilities between district and taluka local boards.

incurred, or such contract entered into, or such matter or thing engaged to be done, and any such direction of the Governor in Council shall be conclusive.

V.—OF REVENUE AND EXPENDITURE.

Local Funds.

44. There shall be formed in each district a fund which shall be called "The Local Fund" and which shall be kept in the Government treasury.

Local funds where to be kept and of what to consist.

To it shall be credited :

(a) in Sind, the net proceeds (after deducting the expenses of assessment and collection) of the cess on land and of the shop-tax levied under the Sind Local Funds Act, 1865,

(b) elsewhere, the net proceeds (after deducting the expenses of assessment and collection) of the cess levied under the Bombay Local Funds Act, 1869, in the district; and

wherever this Act is in force :

(c) the net proceeds (after deducting the expenses, if any, of collection and of the maintenance of the ferries) of all public ferries established in the district under the Bombay Ferries Act, 1868, and all penalties inflicted and levied under the said Act in the district; and

(d) the net proceeds (after deducting the expenses, if any, of collection) of all tolls and leases of tolls on roads and bridges vested in the local boards under section 41, or by order of the Governor in Council under section 42, or constructed by the local boards at the cost of the local fund under this Act, levied in the district under Bombay Act III. of 1875; and

(e) such portion of the net proceeds of fees, fines and penalties levied under Bombay Act VIII. of 1866 (an Act to regulate and restrict the sale of poisons in the Bombay Presidency) as the Collector, under section 10 of the said Act, from time to time directs; and

(f) the proceeds of all fees levied in the district under the Bombay Land Revenue Code, 1879, for permission to remove sand or to quarry; and

(g) all sums placed by Government to the credit of the fund under section 1 (b) of Act XVIII. of 1883 or otherwise, or contributed by private persons; and

(h) all sums received by any local board in the district in execution of this Act :

Provided that when a public ferry, road or bridge is partly in one district and partly in another, the Governor in Council may assign to the local fund of each district such proportion of the net proceeds of such ferry, or of the toll, or of the lease of the tolls levied on such road or bridge as he shall think fit.

45. The local fund of a district shall be available for expenditure for any of the purposes of this Act as follows, namely :—

(a) by or under the direction of each taluka local board :—

(1) the whole of the sums described in clauses (e) and (f) of the last preceding section, levied in the taluka; and

(2) the portion accruing within the area subject to the authority of such board of any sums which may be placed by Government to the credit of the fund under section 1 (b) of Act XVIII. of 1883; and

(3) all other sums placed to the credit of the fund by the Government or contributed by private persons for expenditure by such board within the area subject to its authority; and

(4) all sums described in clause (h) of the last preceding section, received by it or on its account; and

(5) the balance of the revenue described in clause (a) or clause (b) of the last preceding section levied in the area subject to its authority, after the district local board shall have made provision therefrom for the portion to be devoted to educational purposes under section 48 and for such share of the charges payable by the district local board under sections 46 and 49 as the said board shall deem equitable;

(b) by or under the direction of the district local board, the remaining portion of the fund.

Expenditure by the local boards out of the local fund shall ordinarily be made within the areas respectively subject to

their authority only but may, with the sanction of Government and for the use or benefit of the said area, be made outside of that area on any of the purposes of this Act.

46. Every district local board shall, from the portion of the local fund at its disposal, defray :

General charges to be defrayed by district local boards

- (a) the salaries and other emoluments of all officers and servants maintained under section 38, and the pensions or other retiring allowances, if any, of such officers and servants ;
- (b) the expenses attending the audit of the accounts of the local boards of the district as hereinafter provided ; and
- (c) such sum as shall from time to time be fixed by Government for the payment of the salaries, allowances and contributions for pension according to the rules from time to time prescribed by Government, of any officers or servants employed in any Government office or elsewhere on the business of the local boards of the district, and of the incidental expenses, if any, incurred by Government or any of the officers of Government in the district, for any of the purposes of this Act.

47. Every district local board shall assign and cause to be paid to every municipality and cantonment committee within the district for which such board has been established, out of the district local fund, a sum equal to two-thirds of the amount of revenue described in clause (a) or clause (b) of section 44 levied from lands or shops within the municipal district or cantonment subject to such municipality or committee, and may, in its discretion, assign and pay to every such municipality or committee, the whole of the said amount (which amount shall, at the request of the district local board, be ascertained and certified by the Collector).

The sum so assigned and paid shall be expended by the municipality or cantonment committee only for such purposes as are described in section 30, or for the remuneration of officers and servants whom they entertain for any of the said purposes ; and a portion thereof equal to not less than one-third of the revenue described in clause (a) or clause (b) of section 44 levied

from lands or shops within the municipal district or cantonment subject to such municipality or committee, shall be expended by it for educational purposes only as defined in section 30, clause (d).

48. In every district the expenditure from the local fund for educational purposes to be made by district local boards only.

Expenditure for educational purposes as defined in section 30, clauses (d) and (j), shall be made by the district local board only, and for this purpose a sum equal to not less than one-third of the revenue described in clause (a) or clause (b) of section 44 (after deducting one-third of the amount thereof levied from lands or shops in any municipal district or cantonment), shall be set apart by the said board for expenditure by it on the said purposes : provided

- (a) that no portion of the revenue so set apart levied in the area subject to the authority of any taluka local board shall, except with such board's consent, be expended out of the said area ; and
- (b) that the charges to be necessarily defrayed by each district local board on account of primary education, the extent of the independent authority of district and taluka local boards in respect of education and their relations generally with the Government Educational Department and to each other in educational matters shall be from time to time prescribed by the Governor in Council.

The provisions of clause (b) of this section shall apply also to municipalities and cantonment committees in respect of the sums to be expended by them under section 47 for educational purposes.

49. The responsibility of district and taluka local boards, respectively, for expenditure in respect of matters other than education, shall be determined in accordance with the following provisions, namely :

Provisions for determining by which boards expenditure should be incurred for other purposes.

- (a) each local board shall be responsible for the maintenance of any building or other property which vests in it and of any work which has been executed at its cost ;
- (b) district local boards shall be responsible for the construction, maintenance and repair of the main roads and other means of through

communication in the district vesting in them, the maintenance of public vaccination and dispensaries and other similar local services and institutions of general benefit to the district, and for all matters in which two or more talukas are, or may be, interested;

(c) taluka local boards shall be responsible for the construction and maintenance of all other roads and works which are purely local and for all local services and institutions not maintained by the district local board;

(d) large works of the nature described in the last preceding clause, which are beyond the means at the disposal of a taluka local board, may be undertaken by the district local board at its own cost, or the district local board may assist the taluka local board in undertaking the same by a grant-in-aid conditional upon a certain portion of the cost being contributed by the taluka local board or by private persons, or by both.

If a difference of opinion arises between a district and a taluka local board as to which board is responsible for any charge or any work, institution or service the question shall be referred for the decision of the Commissioner, which shall be final.

50. Subject to the provisions of sections 65, 66 and 67, no payment shall be made from the Government treasury out of a local fund except upon a cheque or letter of credit signed by the president and one other member of the local board which requires such payment.

Payment of any sum in excess of fifty rupees shall be made by a local board by means of a cheque signed as aforesaid and not in any other way.

Sums not exceeding fifty rupees may be paid by the president, or by such officer as each local board appoints for this purpose, in cash, cheques for sums not in excess of three hundred rupees each, signed as aforesaid, being drawn from time to time to cover such payments.

Accounts.

51. Accounts of the receipts and expenditure of every local board shall be kept in such form as the Governor in Council

Accounts to be kept in form prescribed by Government.

iv.—13—5

from time to time prescribes and shall be balanced annually on the last day of every financial year, ending on the 31st March.

52. An abstract of the accounts of every local board showing the amounts drawn from the local fund, the charges for establishment, and for all other expenses, the works undertaken and the sums expended on each work and the balance, if any, in hand, shall be forwarded by the president of the board every year, as soon as may be after the 31st March, in such form as the Governor in Council from time to time prescribes, to the Collector or to such other officer as the Collector nominates in this behalf, and shall be published in the official gazette.

Annual Budget Estimates.

53. To enable local boards to prepare annual budget estimates, as hereinafter provided, the Collector shall annually render to each taluka local board in his district, not later than the 1st October, in such form as the Governor in Council from time to time directs, a return setting forth, for the taluka for which such board is established:

- | | |
|--|--|
| (a) the actual receipts in the last complete official year; | } from each of the sources from which the local fund is derived; |
| (b) a revised estimate of the receipts in the current official year, and | |
| (c) a first estimate of the probable receipts in the next following official year; | |

and, to the district local board, a similar return for the whole district.

The district local board shall, not later than the 1st November, communicate to each taluka local board in the district the probable amount of the revenue described in clause (a) or clause (b) of section 44 which will be at the disposal of such taluka local board in the next following official year, explaining the manner in which, with reference to section 45, clause (a), paragraph (5), the said amount has been fixed.

54. Every local board shall have prepared, on or before the fifteenth day of November every year, in such form as the Governor in Council from time to time prescribes, a budget estimate of the income

Preparation of annual budget estimates of income and expenditure.

and expenditure of the board for the next official year.

The board shall, on or as soon as may be after the said date, consider the budget estimate so prepared and approve of the same with or without modification as they shall think fit.

55. Every budget estimate, as approved by a taluka local board, shall be forthwith submitted to the district local board to which such taluka board is subordinate, which may

(a) as often as it thinks fit, send back such estimate to the taluka local board for revision, or

(b) sanction any budget estimate, or revised budget estimate submitted to it, either as it stands, or subject to such modification as it deems expedient.

56. Every local board may, at any time during the year for which any such budget estimate has been approved or sanctioned, cause a revised or supplementary budget estimate to be prepared. Every such revised or supplementary estimate shall be considered and approved by the local board, and in the case of a taluka local board, submitted to the district local board for sanction, in the same manner as if it were an original annual budget estimate.

Re-appropriations of funds in a budget estimate may be made from time to time subject to the same approval or sanction as is required for the budget estimate.

57. No budget estimate of a local board and no re-appropriation of a budget item shall be approved or sanctioned as aforesaid unless:

(a) provision is therein made for such an annual balance is provided for; and the end of the official year a balance of not less than five thousand rupees in the case of a district local board, and of two hundred rupees in the case of a taluka local board;

(b) for every work, whether of first construction or of repair, there is attached to the budget estimate in which provision is made therefor a detailed estimate of the cost of such work, which has been approved by the board and for which, in the case of a road of which the cost is to exceed, on an average, fifty rupees per mile or of any other work of which the total cost is to exceed five hundred rupees, plans and estimates have been prepared or approved by the Government Executive Engineer of the district.

A copy of every budget estimate and a statement of every re-appropriation as finally approved or sanctioned under the foregoing provisions shall be forwarded by the president of each local board without delay to the Collector, or such officer as he nominates in this behalf. Annual budget estimates shall be so forwarded not later than the 10th December.

58. Save in case of pressing emergency, no sum shall be expended by, or on behalf of, any local board, unless such sum is included in some budget estimate at the time in force which has been approved or sanctioned as aforesaid.

If any sum is so expended on a pressing emergency the circumstances shall be forthwith communicated in writing by the president to the Collector (through the district local board, if the sum has been expended by a taluka local board) together with an explanation of the way in which it is proposed by the local board to cover such extra expenditure.

59. Every budget estimate framed by, or binding upon any committee or authority heretofore charged with the administration of local

funds under the Bombay Local Funds Act, 1869, or the Sind Local Funds Act, 1865, and in force on the date which shall be notified by the Governor in Council under section 13 for each district shall be deemed to have been duly prepared and approved or sanctioned under this Act so far as it relates to the period which inter-

venes between the date aforesaid and the thirty-first day of March next following that date.

If any such budget estimate would, but for the passing of this Act, have force and effect after the said thirty-first day of March, the local board having authority over the local area in which it would so have effect and force, may set it aside as from that date; provided that works in progress at the said date under any such budget estimate shall not be discontinued except with the sanction of the Governor in Council.

Audit of Accounts.

60. The accounts of every local board shall be examined and audited at such intervals in such manner and by or under the superintendence of such auditor as the Governor in Council from time to time directs.

Every auditor appointed under this section shall have access to the accounts and to all books, deeds, contracts, vouchers and all other documents and records in the possession, or under the control of the local board, and the costs of audit shall be paid by the district local board at such rate as Government shall determine.

The report of the auditor on each local board shall be published in the official gazette and a copy thereof shall be sent to each board concerned and to the Collector. A copy of the report on every taluka local board shall also be sent to the district local board of the district.

VI.—EXECUTION OF WORKS.

61. Such of the works for which plans and estimates prepared or approved by the Government Executive Engineer of the district are required by section 57, clause (b), as the Governor in Council shall from time to time in a general or special order direct, shall be executed by the said Executive Engineer, who for this purpose shall exercise the same powers as if he were executing a work for the Government and shall have control over all officers and servants of a local board, if any, assisting in the execution of any of the said works.

All other works shall be executed by such agency and subject to such supervision as the local board at whose cost any such work is to be executed, thinks fit; provided that any such work shall, at the desire of the said board, be executed by the Government Executive Engineer of the district in the manner prescribed in the first paragraph of this section.

When any work is executed under this section by a Government Executive Engineer either wholly or partly with the aid of his own Government establishment, such charge shall be payable on account of such establishment by the local board at whose cost the work is being executed as shall be agreed upon between such board and the said Executive Engineer: provided that no charge shall in any case be made on account of the services of the Executive Engineer.

VII.—CONTROL.

62. The Collector shall have power:

- (a) to enter on and inspect, or cause to be entered on and inspected, any immovable property occupied by any local board, or any work in progress under it or under its direction;
- (b) to call for any extract from any local board's or any committee's proceedings, any book, or document in the possession of or under the control of a local board and any return, statement, account or report which he may think fit to require such board to furnish;
- (c) to require a local board to take into its consideration any objection which appears to him to exist to the doing of anything which is about to be done or is being done by such board, or any information which he is able to furnish and which appears to him to necessitate the doing of a certain thing by the board, and to make a written reply to him within a reasonable time stating its reasons for not desisting from doing, or for not doing, such thing.

All or any of the powers given to the Collector under this section may be delegated by him to the Assistant or Deputy Collector in charge of the taluka in the case of a taluka local board.

63. If in the opinion of the Commissioner the number of persons maintained by a district local board as officers or servants, or whom a district local board proposes to maintain, or the remuneration assigned by the board to those persons or to any particular person, is excessive, the said board shall on the requirement of the Commissioner, reduce the number or remuneration of the said persons or person:

provided that the district local board may appeal against any such requirement to the Governor in Council, whose decision shall be conclusive.

64. If, in the opinion of the Collector, the execution of any order or resolution of a local board, or the doing of anything which is about to be done or is being done, by or on behalf of a local board, is causing, or is likely to cause injury or annoyance to the public, or to lead to a breach of the peace, he may, by order in writing, under his signature, suspend the execution or prohibit the doing thereof.

When a Collector makes any order under this section, he shall forthwith forward to the Commissioner and to the local board affected thereby a copy of the order with a statement of the reasons for making it; and it shall be in the discretion of the Commissioner to rescind the order, or to direct that it continue in force with or without modification, permanently or for such period as he thinks fit.

The Commissioner shall forthwith submit to Government a report of every case occurring under this section, and the Government may revise or modify any order made therein, and make in respect thereof any other order which the Commissioner could have made.

65. In cases of emergency the Collector may provide for the execution of any work, or the doing of any act, which a local board is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the

health or safety of the public, and may direct that the expense of executing the work or doing the act, with a reasonable remuneration to the person appointed to execute or do it, shall be forthwith paid by the local board.

If the expense and remuneration are not so paid, the Collector may direct the officer in charge of the treasury in which the local fund is kept to pay the expense and remuneration, or as much thereof as is possible from the balance of such fund in his hands.

The Collector shall forthwith report to the Commissioner every case in which he uses the powers given to him by this section.

66. When the Governor in Council is informed, on complaint made, or otherwise, that a local board has made default in performing any duty imposed on it by or under this Act, the Governor in Council, if satisfied after due inquiry that the local board has been guilty of the alleged default, may fix a period for the performance of that duty.

If that duty is not performed within the period so fixed, the Governor in Council may appoint some person to perform it, and may direct that the expense of performing it, with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the local board.

If the expense and remuneration are not so paid, the Governor in Council may direct the officer in charge of the treasury in which the local fund is kept to pay the expense and remuneration, or as much thereof as is possible, from the balance of such fund in his hands.

67. If in the opinion of the Governor in Council a local board is not competent to perform, or persistently makes default in the performance of the duties imposed on it by or under this Act, or otherwise by law, or exceeds or abuses its powers, the Governor in Council may by an order published, with the reasons for making it, in the official gazette, declare the local board to be incompetent or in default, or to have exceeded or abused its powers, as the case may be, and supersede it for a period to be specified in the order.

When a local board is so superseded, the following consequences shall ensue:—

- (a) all members of the board shall, as from the date of the order, vacate their offices as such members;
- (b) all powers and duties of the board may, during the period of supersession, be exercised and performed by such person or persons as the Governor in Council, from time to time, appoints in that behalf;
- (c) where a local board is superseded, all property vested in it shall, during the period of supersession, vest in Government.

On the expiration of the period of supersession specified in the order, the board shall be re-established by the election or appointment of new members under the provisions of this Act applicable thereto.

68. In all matters connected with this Act, the Governor in Council and the Commissioners and Collectors shall have and exercise the same authority and control over the Commissioners, the Collectors and their subordinates, respectively, as they have and exercise over them in the general and revenue administration.

VIII.—RULES.

69. The Governor in Council may from time to time make and from time to time vary or rescind rules, or orders, consistent with this Act:

- (a) prescribing the number of members for each local board and the proportion of elective and nominated members for each;
- (b) determining the mode in which elections of members of local boards, other than elections under sections 6 (c) and 7 (c), and the places at which and the authorities, if any, under whose superintendence such elections shall be held, and the manner in which votes thereat shall be recorded and how and by whom the results of such elections shall be declared;
- (c) prescribing such general conditions as shall seem fit as to the manner in which the business of local boards shall be conducted and as to the appointment, control, punishment and dismissal of the officers and servants of local boards;
- (d) generally, for the guidance of local boards and Government offi-

cers in all matters connected with the administration of this Act and not therein specially provided for.

All rules and orders so made shall be published in the official gazette.

IX.—MISCELLANEOUS.

70. If any member of a local board or any officer or servant of a local board being interested in any contract, &c, with that board, directly or indirectly, any share or interest in any work done by order of the board of which he is a member or by which he is maintained or under which he is employed or in any contract with or under such board, he shall be liable, on conviction before a criminal court, to a fine which may extend to five hundred rupees:

provided that the penalty herein prescribed and the disqualification for membership of a local board prescribed in section 11, clause (f), shall not be deemed to apply by reason only of a person

- (a) having a share in any joint-stock company which shall contract with, or be employed by, or on behalf of the local board, or
- (b) having a share or interest in any newspaper in which any advertisement relating to the affairs of the local board may be inserted, or
- (c) holding a debenture or being otherwise concerned in any loan raised by or on behalf of the local board, or
- (d) being professionally engaged on behalf of the local board as a legal practitioner.

Nevertheless it shall not be lawful for a person having any share or interest such as is described in the above clauses (a) and (b) to act as a member of a local board in any matter relating to a contract or agreement between the local board and such company or the manager or publisher of such newspaper.

71. Every member of a local board and every officer and servant maintained by a district local board shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

72. When any land is required for the purposes of this Act, the Governor in Council may, on the request of the local board requiring it, proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and on payment by the local board of the compensation awarded under that Act, the land shall vest in the local board.

73. The powers and duties conferred and imposed by this Act on the Governor in Council or the Government, except those so conferred and imposed by sections 8, 63, 64, 67 and 68, shall, in Sind, be exercised and performed by the Commissioner.

74. No action shall be commenced against any local board, or against any officer or servant of a local board, or any person acting under the orders of a local board, for anything done, or purporting to have been done in pursuance of this Act, without giving to such local board, officer, servant, or person one month's previous notice in writing of the intended action and of the cause thereof, nor after three months from the date of the act complained of ;

and in the case of any such action for damages, if tender of sufficient amends shall have been made before the action was brought, the plaintiff shall not recover more than the amount so tendered and shall pay all costs incurred by the defendant after such tender.

Amendment of Bombay Act III. of 1869.

75. In the Bombay Local Funds Act, 1869 :

(a) the words : " Bombay Land Revenue Code, 1879 " shall be substituted for the words : " (Bombay) Act I. of 1865 " wherever they occur ; and

(b) the words " Commissioner of the division " shall be substituted in section 8 for the words " Revenue Commissioner " ; and

(c) the words " if no such rate is so recorded or if the rate so recorded is " shall be substituted in rule 3 of section 7 for the words " if this rate be. "

76. In the Sind Local Funds Act, 1865, section 2, the word " of " shall be substituted for the words " heretofore customarily levied, namely. "

77. For clause two of section three of Bombay Act III. of 1875 the following clause shall be substituted, namely :

" Clause 2. The word ' persons ' in this section shall be deemed to include local boards established under the Bombay Local Boards Act, 1884. "

SCHEDULE.

(See section 2.)

Enactment.	Subject.	Extent of repeal.
Bombay Act VIII. of 1865.	An Act to authorize taxation in the province of Sind for objects of public local utility and improvement.	In the preamble the words " and to aid in defraying the expense of the Department of Public Works in the Province of Sind. " Sections 6, 7 and 8.
Bombay Act III. of 1869.	An Act to provide in the Presidency of Bombay funds for expenditure on objects of local public utility and improvement and to constitute local committees for the due administration of such funds.	In the title the words : " and to constitute local committees for the due administration of such funds. " In the preamble the words : " and whereas it is expedient to constitute local committees to provide for the due appropriation of such funds to the purposes aforesaid. " Sections 1, 2, 3, 4, 5, 9, 10, 11, 12 and 13.
Bombay Act II. of 1868.	An Act to amend the law relating to public ferries in the Presidency of Bombay.	Section 16.
Bombay Act III. of 1875.	An Act for enabling Government to levy tolls on public roads and bridges in the Presidency of Bombay.	Section 12.

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

C. G. W. MACPHERSON,

Bombay Castle, 19th March 1884.

Under Secretary to Government.

[Published with the "Bombay Government Gazette" on the 3rd April, 1884.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 23rd January 1884, and the assent of His Excellency the Viceroy and Governor General on the 5th March 1884, and is published for general information :—

Bombay Act No. I. of 1884.

The Bombay Local Boards Act, 1884.

[Third publication.]

The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 21st March 1884.

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Bombay Act No. I. of 1884.

An Act to make better provision for the Administration of Local Funds in the Presidency of Bombay.

WHEREAS it is expedient to amend the law relating to the administration of local funds by district and taluka committees; It is enacted as follows:—

I.—PRELIMINARY.

1. This Act may be called "The Bombay Local Boards Act, 1884."

It extends to the whole of the Presidency of Bombay, except the City of Bombay and Aden.

2. From the date notified by the Governor in Council under section 13 for each district the enactments mentioned in the schedule hereto annexed shall be repealed in such district to the extent specified in the third column thereof, but not so as to render invalid anything done in accordance with any of them: Provided that

all debts and obligations incurred, all contracts entered into and all matters and things engaged to be done by, with or for the committee or authority heretofore charged, in the local area over which the authority of any local board established under this Act extends, with the administration of local funds under Bombay Act VIII. of 1865 (which Act may be called "The Sind Local Funds Act, 1865,") or the Bombay Local Funds Act, 1869, shall be deemed to have been incurred, entered into, or engaged to be done by, with or for the local board so established;

and all sums of money due to the said committee or authority shall be deemed to be due to the said local board;

and all suits or other legal proceedings, civil or criminal, instituted, or which might, but for the passing of this Act, have been instituted by or against any such committee or authority may be continued or instituted by or against the said local board;

and all rules or orders made under any enactment hereby repealed and all other rules, if any, now in force and relating to any of the matters hereinafter dealt with shall, so far as they are consistent with this Act, be deemed to have been made hereunder.

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

(1) the term "official gazette" means, in Sind, the *Sind Official Gazette*, and elsewhere, the *Bombay Government Gazette*;

(2) the word "Commissioner" means, in Sind, the Commissioner in Sind, and elsewhere, the Commissioner of a division appointed under the Bombay Land Revenue Code, 1879;

(3) the words "salaried servant of Government" do not include a retired servant of Government in receipt of a pension;

(4) the word "taluka" means any local area for which a taluka local board is established, inclusive of the portion of such area, if any, for the time being within a municipal district or a military cantonment;

(5) any word or expression which is defined in the Bombay Land Revenue Code, 1879, and is not hereinbefore defined, shall be deemed to have the meaning given to it by that code.

II.—OF LOCAL BOARDS.

Constitution of the Boards.

4. Local funds shall be administered by local boards established for this purpose as hereinafter provided. There shall be one local board for each district and also one for each taluka as constituted under the Bombay Land Revenue Code, 1879, or for such area consisting of one or more such talukas or portions of such talukas as the Governor in Council shall deem fit.

Each district local board shall have authority for the purposes of this Act over the entire district and each taluka local board over the entire taluka for which they are respectively

established, except such portions thereof as are for the time being within a municipal district or a military cantonment.

Constitution of local boards

5. Every district and taluka local board shall consist of

(a) elective members, and

(b) such persons, if any, as the Governor in Council or any officer whom he authorizes in this behalf from time to time appoints, who shall be called "nominated members":

Provided that the number of elective members shall be not less than one-half of the whole board exclusive of the president, and that not more than one-half of the nominated members shall be salaried servants of Government.

Elective members of taluka local boards by whom to be elected

6. The elective members of taluka local boards shall be as follows:—

(a) one member for each municipal district within the taluka for which a taluka local board has been established containing more than five thousand inhabitants, elected by the commissioners of such district from amongst their own number;

(b) one member (qualified as hereinafter provided) for each of the several groups into which for the purposes of this clause the Governor in Council shall from time to time deem fit to cause the villages in the area subject to the authority of such board to be divided, elected by persons qualified, as hereinafter provided, to vote at such elections;

(c) one member elected by the holders of entire alienated villages, if any, within the taluka, from amongst their own number or, if there is but one such holder in the taluka, such holder himself or any person whom he nominates as his representative.

Elective members of district local boards by whom to be elected.

7. The elective members of district local boards shall be as follows:—

(a) one member or, if Government so direct, two or more members for each taluka local board in the district, or one member for two or more taluka local boards in the district, united for this purpose into a joint board, elected by the members of such board or joint board from amongst their own number;

IV.—13—8

(b) one member for each municipal district within the district containing not less than eighteen thousand inhabitants elected by the commissioners of such district from amongst their own number;

(c) one member elected by the holders of entire alienated villages, if any, within the district, from amongst their own number, or, if there is but one such holder in the district, such holder himself, or any person whom he nominates as his representative:

Provided that the person to be elected by any taluka local board under clause (a) may not be a Mámlatdár having jurisdiction in the area subject to the authority of such board.

8. The Governor in Council may at any time by notification in

Constitution of local boards in exceptional parts.

the *Bombay Government Gazette* direct that the provisions of

sections 5, 6 and 7, and the subsequent provisions of this Act which refer to those sections or any one or more of the said provisions shall not apply to the local board of any district or taluka to which for exceptional reasons which shall be set forth in the said notification he shall deem such provisions to be unsuitable.

In the said notification or any subsequent notification published as aforesaid the Governor in Council may prescribe such provision or provisions as he deems fit in substitution for the provision or provisions declared inapplicable to any local board and the provision or provisions so prescribed shall have effect, so far as concerns such board, as if the same were inserted in this Act.

It shall be competent to the Governor in Council at any time to alter or rescind any notification issued by him under this section, and in the event of any notification under the first paragraph being rescinded the local board affected thereby shall, from a date to be fixed in this behalf by the Governor in Council, be constituted in accordance with sections 5, 6 and 7 and the subsequent provisions of this Act having reference thereto.

9. Every local board shall be a body corporate by the name of "The District Local Board of" or "The Taluka Local Board of", as the case may be, and shall have perpetual succession and a common seal and may sue and be sued in its corporate name,

Incorporation of local boards.

and shall be competent to acquire and hold property, both moveable and immoveable, to lease, sell or otherwise transfer any moveable or immoveable property which may have become vested in or been acquired by them, and to contract and to do all other things necessary for the purposes of this Act:

Provided that no lease of immoveable property for a term exceeding three years and no sale or other transfer of any such property shall be valid unless such lease, sale or other transfer shall have been made with the previous sanction of the Commissioner.

Qualifications and disqualifications of Members.

10. Unless disqualified on any of the grounds set forth in the next following section, the following persons shall be entitled to have their names entered in the List No. I, to be prepared as hereinafter provided, qualifying them to be elected under section 6 (b) members of a taluka local board, namely:—

Qualifications necessary for certain members of taluka local boards.

(1) land-holders, whose holdings situate within the taluka are assessed (or in the case of alienated lands, would be assessed, if they were not alienated) to the land revenue at not less than forty-eight rupees per annum or such smaller minimum as the Governor in Council shall from time to time prescribe for each taluka;

(2) persons who own immoveable property within the taluka, other than a holding described in clause (1) of this section, estimated by the Collector to be not less than five thousand rupees in value;

(3) persons, residing within the taluka, whose annual net earnings from any occupation are estimated by the Collector to be not less than five hundred rupees;

(4) pensioned Government servants, residing within the taluka, whose pensions are not less than rupees fifty per mensem;

(5) honorary magistrates residing within the taluka;

(6) officiating revenue or police patels of villages within the taluka;

(7) such other persons, if any, residing within the taluka, as the Governor in Council shall from time to time by notification in the official gazette direct.

General disqualifications.

11. No female and no person

(a) who is less than twenty-one years of age, or

(b) who is a District or a Subordinate Judge or is acting in either of those capacities, or

(c) who has been convicted by any criminal court of an offence which may not lawfully be compounded, such conviction not having been subsequently reversed or quashed, or

(d) who is an uncertificated bankrupt or an undischarged insolvent, may be a member of a local board; and no person—

(e) who is a subordinate officer or servant of a local board, or

(f) who has directly or indirectly any share or interest in any work done by order of a local board, or in any contract or employment with or under a local board,

may be a member of such board;

and any member of a local board who, during the term for which he has been elected or appointed,

(g) becomes disqualified for any of the above reasons, or

(h) is absent for more than four consecutive months from the limits of the district in which the board is established, shall cease to be a member and his office shall become vacant.

12. A person who has already been elected or appointed a member of a board on one or more occasions shall, if otherwise duly qualified, be eligible at any time for re-election or re-appointment.

Terms of office, casual vacancies.

13. The members of the first local boards to be established under this Act shall commence their terms of office on such date as shall be notified in this behalf for each district by the Governor in Council.

14. Except as is otherwise provided in the next following section, members of local boards shall, unless they become in the meantime disqualified, hold office for a term of three years.

15. In the event of the death, resignation or disqualification of a member of a local board or of his becoming incapable of acting previous to the expiry of his term of office, the vacancy shall be filled up, as soon as it conveniently may be, by the election or appointment, as the case may be, of a person thereto who shall hold office so long only as the member in whose place he is elected or appointed would have held it if the vacancy had not occurred.

Elections of Members.

16. Every election requisite for the purposes of this Act shall be held on such date as the Collector shall fix in this behalf: provided that when the elections are for the first boards to be established in any local area under this Act or for filling the places of members whose terms of office have expired, such dates shall be:

(a) if the elections are under section 7 (a), as early as conveniently may be after the elections and appointments to the taluka local boards by which such elections are to be made, are completed and before the commencement of the term of office of the district local board to which such elections are to be made;

(b) in any other case, not sooner than three months and not later than one month before the commencement of the term of office of the members of the board to which such elections are to be made

17. The Collector shall, subject to the orders of Government, from time to time determine what persons are entitled to vote and what persons are qualified to be elected under section 6 (c) and section 7 (c) respectively, and his decision shall be conclusive.

When an election has to be made under section 6 (c) or section 7 (c), the Collector shall, not less than ten days before the date fixed for the election, cause a list of the persons qualified to be elected to be left at the usual residence of each of the persons entitled to vote at such election, together with a notice inviting the last-named persons, before the day fixed for the election, to make each a written return to him of the name of any one of the persons mentioned in the said list for whom they wish to vote.

On the day fixed for the election, or as soon as may be thereafter, the Collector shall inspect all returns duly made as aforesaid and shall record in writing under his signature the result of the election.

18. Unless disqualified under the next following section, the following persons shall be entitled to have their names entered in the List No. II, to be prepared as hereinafter provided, qualifying them to vote at elections of members of taluka local boards under clause (b) of section 6, namely:

(1) every person possessing the qualifications described in any of the clauses (1) to (7) of section 10: provided that such person resides within the group of villages for which such list is prepared and that if his qualification is under clause (1) or clause (2) of that section, the holding or immoveable property in respect of which he is so qualified is without the limits of a municipal district containing more than five thousand inhabitants;

(2) all other persons, if any, residing within the group of villages for which the list is to be prepared to whom the Governor in Council shall by notification in the official gazette from time to time deem fit to extend the franchise:

Provided always that no alteration in, or addition to, the qualifications entitling persons as aforesaid, made at any time after the first elections have been held in any district under section 6 (b), shall take effect in such district within six months from the date on which such alteration or addition is made.

19. No person who is less than twenty-one years of age shall be entitled to have his name entered in the said List No. II

20. The Collector shall, as soon as may be after the coming into force of this Act, prepare

(a) a list (which shall be called "List No. I.") for each taluka, of the persons qualified to be members of the local board of that taluka; and

(b) a list (which shall be called "List No. II") for each of the groups of villages into which for the purposes of clause (b) of section 6 the area subject to the authority of the said board has

been divided, of the persons qualified to vote in such group at elections of members of the taluka local board under the said clause.

The said lists shall be prepared in the first instance from such information as shall be available in the records of the Collector and of the officers subordinate to him.

Similar new lists shall be prepared by the Collector whenever Government so direct and at least once in every three years; and such new lists shall be based upon information available as aforesaid and also upon the past decisions of the Collector under section 22.

21. The lists so prepared shall be published by affixing a copy of each of them in some conspicuous place in or near the office of the Mámíatdár, or of each Mámíatdár, having jurisdiction in the taluka to which they relate and by affixing in the chávdi or some other public building of each town or village in the taluka a copy of List No. I. and of so much of List No. II. as affects such town or village.

The publication aforesaid shall be made in the vernacular language of the taluka and at least two months before the date fixed for the election of members to the first local board to be established in the taluka, and, thereafter, at least two months before the date fixed for any election of persons to fill the places of members whose terms of office have expired.

22. The Collector may, on application being made to him at any time within one month after the publication of the lists aforesaid by any person claiming to be qualified to be a member, or to vote at an election of members of the taluka local board, correct any erroneous entry in either of the said lists, or insert therein the name of any applicant who satisfies him of his right to have it so entered.

23. No person whose name is not in the revised List No. I. last published before the date of any election under clause (b) of section 6 shall be qualified to be elected a member of the taluka local board for the taluka to which it refers;

and no person whose name is not in the revised list No. II. last published before the date of any such election for any group of villages shall be qualified to vote at the election of a member for such group.

24. If at any election of a member of a local board under this Act there is an equal number of votes in favour of each of two or more persons who are willing to take office, the selection of one of such persons shall be made by the Collector, or by such officer as he may empower in this behalf, by lot in such manner as the Collector, or the officer so empowered, shall deem fit.

If the person in whose favour the highest number of votes is recorded at any such election declines to take office, the person, if any, in whose favour the next highest number of votes has been recorded and willing to take office shall be deemed to be the member elected.

If at any election no votes are recorded, or if for any reason the election does not result in the return of any qualified person willing to take office, the Collector, in the case of a taluka local board, and the Commissioner, in the case of a district local board, shall, with the approval of Government, appoint some person who would have been qualified to be elected, and the person so appointed shall be deemed to be a member of the local board as if he had been duly elected.

25. If the validity of any election of a member of a local board, or the legality of any order or proceeding made or held under the last preceding section, is brought in question by any person qualified either to be elected or to vote at the election to which such question refers, such person may, at any time within fifteen days after the date of the declaration of the result of the election, or the date of the proceeding or order, apply to the District Judge of the district within which the election has been or should have been held.

The District Judge may, after such inquiry as he deems necessary, pass an order for confirming or amending the declared result of the election, or the order of the Collector under the last preceding section, or for setting the election aside.

For the purposes of the said inquiry the District Judge may exercise any of the powers of a civil court, and his decision shall be conclusive.

If he sets aside an election a date shall forthwith be fixed and the necessary steps taken for holding a fresh one.

26. The names of all members finally elected to any local board, as well as the names of the nominated members, if any, appointed thereto shall be published, as soon as conveniently may be, in the official gazette.

Publication of names of members in the official gazette.

Presidents and Vice-Presidents.

27. Every local board shall be presided over by a president who shall be one of the members of the local board and shall be appointed by the Government or, if the Governor in Council so directs, elected by the local board.

Nomination of presidents;

If the president so appointed or elected is a salaried servant of Government, the board shall elect one of its members to be vice-president; unless the Governor in Council otherwise directs, no appointment of a vice-president shall be valid until it is approved by the Government, or by such other authority as the Government prescribe in this behalf.

and of vice-presidents.

Every president's and vice-president's term of office shall cease on the expiry of his term of office as a member of the local board over which he presides: provided that he shall be removable from office, as such president or vice-president, by the Government for misconduct, or neglect of, or incapacity to perform his duty.

In the event of the death, resignation, or removal from office of a president or vice-president, or of his becoming incapable of acting, or disqualified to be a member of the local board, previous to the expiry of his term of office, the vacancy shall be filled up, as soon as it conveniently may be, by the appointment or election, as the case may be, of some other member of the board thereto.

Casual vacancies in their office how to be filled up.

28. The president of a local board shall

Functions of presidents.

- (a) preside at the meetings of the board;
- (b) watch over the financial and executive administration of the board and submit to the board all questions connected therewith which shall appear to him to require its orders;

IV.—13—9

(c) exercise supervision and control over the acts and proceedings of all officers and servants of the board in matters of executive administration, and in matters concerning the accounts and records of the board; and, subject to the regulations at the time being in force framed by the board under section 39, dispose of all questions relating to the service of the said officers and servants, and their pay, privileges, and allowances;

(d) furnish to the Collector or to such other officer as the Collector shall from time to time nominate in this behalf, a copy of every resolution passed at any meeting of the board and any extract from the minutes of the board's proceedings, or other document or thing which the Collector may from time to time call for under section 62.

When the president of a board is a salaried servant of Government and has been appointed to be president by the Government, he shall not vote upon any question which comes before such board for decision unless there is an equality of votes for and against the proposition under consideration, in which case he shall have a casting vote.

President in certain cases to have only a casting vote.

29. Vice-presidents of local boards shall

Functions of vice-presidents

- (a) in the absence of the president preside at the meetings of the board; and
- (b) exercise such of the powers and perform such of the duties of the president as the president from time to time deposes to him.

Duties of Local Boards.

30. It shall be the duty of local boards, so far as the local fund at their disposal will allow, to make adequate provision for the areas respectively subject to their authority in regard to the following matters, namely:—

- (a) the construction of roads and other means of communication and the maintenance and repair of all roads and other means of communication vesting in them;

- (b) the construction and repair of hospitals, dispensaries, markets, dharmshálas and other public buildings, and the visiting, management and maintenance of these institutions ;
- (c) the construction and repair of public tanks, wells and water works, the supply of water from them and from other sources, and the construction and maintenance of works for the preservation of water for drinking and cooking purposes from pollution ;
- (d) the provision of suitable accommodation for, the visiting and maintenance of, and the training of teachers for, primary schools, and the general development and extension of primary education ;
- (e) public vaccination and sanitary works and measures necessary for the public health ;
- (f) the planting and preservation of trees by the side or in the vicinity of roads vesting in such boards ; and
- (g) the maintenance of any property vesting in them ;

and local boards may at their discretion provide out of the said fund for the following matters, namely :—

- (h) the establishment and maintenance of model farms, the acclimatization of exotics, the importation and distribution of superior kinds of seed, the improvement of the breed of cattle and horses, and the introduction and preservation of fish ;
- (i) the establishment and maintenance of relief and local relief works in time of famine or scarcity ;
- (j) educational objects other than those set forth in clause (d) of this section, and
- (k) any other local works or measures likely to promote the health, comfort or convenience of the public.

31. Subject to the control of the district Relative duties of local board and, as táluca and district local boards regards educational matters, to the provisions of section 48, clause (b), each táluca local board shall, within the area subject to its authority, have the control and administration of all purely local roads, works and buildings maintained at its cost, and also of all local services and institutions except such as the district local board thinks fit to take under its own direct control and administration.

In respect of roads, works, buildings, services and institutions in the control and administration of the district local board, each táluca local board shall, if the district local board so desires, be the agent of the district local board and, as such agent, shall exercise such authority and perform such duties as the district local board may from time to time in writing delegate to it.

Conduct of Business.

32. The following provisions shall be observed with respect to the proceedings of a local board ; namely :

- (a) The board shall meet together and shall from time to time make regulations, consistent with this Act, and with any rules or orders made by Government under section 69 with respect to the place, day, hour, notice, management, and adjournment of such meetings, and generally with respect to the transaction of business, as they think fit, subject to the following conditions, namely :—
- (1) that the president may, whenever he thinks fit, and shall, upon the written request of not less than one-fourth of the members, call a special meeting ;
- (2) that no business shall be transacted at any meeting unless at least one-third of the members are present from the beginning to the end of such meeting ;
- (3) that every meeting shall be open to the public unless the presiding authority deems any inquiry or deliberation pending before the board such as should be held in private, and provided that the said authority may at any time cause any person to be removed who interrupts the proceedings ;
- (4) that every meeting shall be presided over by the president, if he is present at the time appointed for holding the same, and,

Provisions regulating local boards' proceedings

observed with respect to the proceedings of a local board ; namely :

- (a) The board shall meet together and shall from time to time make regulations, consistent with this Act, and with any rules or orders made by Government under section 69 with respect to the place, day, hour, notice, management, and adjournment of such meetings, and generally with respect to the transaction of business, as they think fit, subject to the following conditions, namely :—

- (1) that the president may, whenever he thinks fit, and shall, upon the written request of not less than one-fourth of the members, call a special meeting ;

- (2) that no business shall be transacted at any meeting unless at least one-third of the members are present from the beginning to the end of such meeting ;

- (3) that every meeting shall be open to the public unless the presiding authority deems any inquiry or deliberation pending before the board such as should be held in private, and provided that the said authority may at any time cause any person to be removed who interrupts the proceedings ;

- (4) that every meeting shall be presided over by the president, if he is present at the time appointed for holding the same, and,

- every meeting to be presided over by the president, and

- pointed for holding the same, and,

if he is absent, by the vice-president, and if both the president and vice-president are absent, by such one of the members present as may be chosen by the meeting to be chairman for the occasion;

(5) that, except as is otherwise provided in section 28, all questions shall be decided by a majority of votes of the members present, the president, vice-president, or chairman, having a second or casting vote in all cases of equality of votes;

all questions must be decided by a majority of votes, and

(6) that the board may delegate any of their duties or powers to committees consisting of such members as they think fit; and that any committee so formed shall conform to any instructions that may from time to time be given to them by the board, and the board may at any time discontinue or alter the constitution of any committee so formed;

board may delegate their functions to committees, and

(7) that a committee may elect a chairman of their meetings, and if no such chairman is elected, or if he is not present at the time appointed for holding any meeting, the members present shall choose one of their members to be chairman of such meeting;

Committees' meetings to be presided over by a chairman, and

(8) that committees may meet and adjourn as they think proper, but the president of the board may, whenever he thinks fit, and shall, upon the written request of not less than two members of a committee, call a special meeting of such committee;

committees shall meet when they think proper, and

(9) that questions at any meeting of a committee shall be decided by a majority of votes of the members present, and in case of an equal division of votes, the chairman of the meeting shall have a second or casting vote, but no business shall be transacted at any such meeting unless at least two-thirds of the

questions at committees' meetings shall be decided by a majority of votes, and

members of the committee are present from the beginning to the end thereof;

(10) that, except for reasons which the presiding authority deems emergent, no business relating to any work which is being executed, or which under section 61 may only be executed for the board by the Government Executive Engineer of the district, or to any educational matter, shall be transacted at any meeting of a local board or of a committee, unless at least fifteen days previous to such meeting a letter has been addressed to any officer of the Government Public Works and Educational Departments, respectively, who is not a member of the board, but is entitled under section 33 to be present at such meeting, informing him of the intention to transact such business thereat and of the motions or propositions to be brought forward concerning such business;

notice must be given to Public Works and Educational officers when they are entitled under section 33 to be present, and

(11) that minutes shall be kept of the names of the members and of the Government officers, if any, present under the provisions of section 33, and of the proceedings at each meeting of the board and each committee's meeting, and, if any member present at the meeting so desire, of the names of the members voting, respectively, for or against any resolution in a book to be provided for this purpose, which shall be signed, as soon as practicable, by the president or vice-president or chairman of such meeting, and shall at all reasonable times be open to inspection by any member of the board or by any inhabitant of the district;

minutes of proceedings shall be kept, and

(12) that every regulation made under this section by a taluka local board shall be subject to the approval of the district local board to which such taluka local board is subordinate.

all regulations made by a taluka local board to be subject to the approval of the district local board.

(b) During any vacancy in the board, the continuing members may act as if no vacancy had occurred.

Vacancy not to affect board's proceedings.

(c) No act of the board, or of any committee, or

Acts of board, &c., of any person not to be invalidated by informalties. acting as a member or as

a president, vice-president, or chairman, shall be deemed to be invalid by reason only of some defect in the appointment of such board, committee, president, vice-president, chairman, or member, or on the ground that they, or any of them, were disqualified for the office of member, or that formal notice of the intention to hold a meeting of a board or of a committee was not duly given, or for any other such mere informality.

33. The Executive Engineer, the Educational Inspector

Certain Government officers may attend meetings of district local boards;

and the Deputy Sanitary Commissioner of a district, and the Civil Surgeon in a

district, when charged with any of the duties of a health officer therein, if not members of a district local board, shall have the right of being present at any meeting of the said board, or of any committee thereof, and, with the consent of the board or committee, each of them may take part at such meeting in the discussion or consideration of any question on which in virtue of the duties of his office he considers his opinion or the information which he can supply will be useful to such board or committee: provided that the said officers shall not, unless they are members of the board, be entitled to vote upon any such question.

Any officer of the Government Public Works Department

and certain Government officers may attend meetings of taluka local boards.

not lower in rank than an overseer employed in a taluka, and any officer of the Govern-

ment Educational Department not lower in rank than the Deputy Educational Inspector of a taluka may, under the like circumstances and subject to the same proviso; take part in the discussion or consideration of any such question as aforesaid at any meeting of the taluka local board of such taluka or of any committee of the said board.

If it shall appear to a district local

Local boards may require the presence of the said officers at their meetings

board or to a taluka local board that the presence of any of the above officers

respectively is desirable for the purpose

aforesaid at any future meeting of such board, or of any committee thereof, it shall be competent to such board by letter addressed to such officer not less than fifteen days previous to the intended meeting to require his presence thereat; and the said officer, unless prevented by sickness or other reasonable cause, shall be bound to attend such meeting.

34. Whenever it appears to the president of a local board,

President may circulate written propositions.

or to the chairman of a committee, unnecessarily to convene a meeting,

he may instead of so doing circulate a written proposition of his own, or of any other member of such board or committee, or of any executive officer of the board for the observations and votes of the members.

Previous to circulating any such proposition for the votes of members the president or chairman may, if he thinks fit, and if the business to which it relates is of the nature described in clause (10) of section 32, shall obtain thereupon the remarks, if any, which any Government officer, not a member of the board, who is entitled under the provisions of section 33 to be present at any meeting at which such proposition might be considered, desires to record.

The decision on any proposition so circulated shall be in accordance with the majority of votes of the members who vote upon it, unless a special meeting is convened to consider the proposition under clause (1) or clause (8) of section 32.

Every decision arrived at by the board under this section shall be recorded in the minute-book kept under clause (11) of section 32.

35. The president of a local board may,

Mode of executing contracts.

on behalf of the board, enter into any contract or agree-

ment in such manner and form as, according to the law for the time being in force, would bind him if such contract or agreement were on his own behalf: provided that the amount or value of such contract or agreement shall not exceed five hundred rupees in the case of a district local board, or two hundred rupees in the case of a taluka local board.

Every other contract or agreement on behalf of a local board shall be in writing and shall be signed by the president and by two other members of the board and shall be sealed with the common seal of the board.

No contract or agreement not executed as in this section provided shall be binding on a local board.

Joint Committees.

36. A district local board may, from time to time, concur with any other district local board or with any municipality or cantonment committee, or with more than one such local board, municipality or committee :

Joint committees of two or more local bodies.

- (a) in appointing out of their respective bodies a joint committee for any purpose in which they are jointly interested and in appointing a chairman of such committee ; and
- (b) in delegating to any such committee power to frame terms binding on each such body as to the construction and future maintenance of any joint work and any power which might be exercised by either or any of such bodies ; and
- (c) in framing and modifying rules for regulating the proceedings of any such committee and the conduct of correspondence relating to the purpose for which the committee is appointed.

If any difference of opinion arises between local bodies acting under this section, the decision thereupon of Government shall be final.

Personal liability of Members.

37. Except as is hereinafter otherwise provided, no member of a local board shall be personally liable in respect of any contract or agreement made, or for any expense incurred by, or on behalf of such board ; the local fund at the disposal of each local board shall be liable for and be charged with all costs in respect of any such contract or agreement and all such expenses :

provided that every member of a local board shall be personally liable for the misapplication of any fund to which he shall have been a party, or which shall have happened through, or been facilitated by gross neglect of his duty as a member, and may be sued for recovery of the monies so misapplied as if such monies had been the property of the Government.

Local funds ordinarily liable for all costs and expenses incurred by boards ;

but members to be held responsible for misapplied funds

III.—OF THE OFFICERS AND SERVANTS OF LOCAL BOARDS.

38. Every district local board may engage and pay such officers and servants as it shall deem necessary and proper to maintain for the efficient execution of its duties and the duties of the taluka local boards in the district under this Act, and shall from time to time prepare and sanction a schedule of the staff to be so maintained, setting forth the designations and grades of the different officers and servants, the boards under which they are to be respectively employed, their respective duties and the amount and nature of the salaries, fees and allowances to be paid to each, and determining which of the said officers and servants are to be maintained permanently and which temporarily only.

Until a schedule is prepared and sanctioned under this section the establishment, if any, entertained in any district for the administration of local funds on the day previous to the date notified by the Governor in Council under section 13 for each district, shall be deemed to have been duly sanctioned and appointed under the foregoing provisions for such district.

39. Every district local board may from time to time, frame regulations :

- (a) fixing the amount and nature of the security to be furnished by any officer or servant maintained by the board from whom it may be deemed expedient to require security ;
- (b) for regulating the grant of leave to the permanent officers and servants maintained by the board ;
- (c) for authorizing the payment, of allowances to the said officers and servants or to certain of them, whilst absent on leave ;
- (d) for determining the remuneration to be paid to the persons appointed to act for any such officers or servants during their absence on leave ;

(e) for regulating the period of service of all such officers and servants ;
for regulating length of service ;

(f) for determining the conditions under which such officers and servants, or any of them, shall, on retirement, receive pensions, gratuities, or compassionate allowances, and the amount of such pensions, gratuities, or compassionate allowances ;

(g) for authorizing the payment of contributions at certain prescribed rates and subject to certain prescribed conditions to any pension or provident fund which may, with the approval of the said board, be established by the said officers and servants :

Provided that :

(h) if an officer is lent to any local board by the Government ; and if an officer is employed partly in the service of Government and partly in the service of a local board, such board shall contribute to his pension and leave allowances to such extent as may be required by the rules in this behalf from time to time in force and shall not, except with the assent of Government, dispense with his further services at any time without giving the Government six months' previous notice ;

(j) no regulation made by any district local board under this section shall have effect unless and until it has been approved by the Governor in Council.

40. The power of punishing or dismissing any officer or servant maintained by a district local board shall, subject to any regulation framed under the last preceding section and to any rule or order made by the Governor in Council under section 69, vest in the said board.

IV.—OF THE PROPERTY AND LIABILITIES OF LOCAL BOARDS.

Vesting of Property.

41. All such immoveable and other property as is held by boards of property and or in trust for any assets of superseded committees for the purposes of the Bombay Local Funds Act, 1869, or the Sind Local Funds Act, 1865, shall upon and after the date notified by the Governor in Council under section 13 for each district, vest in the district local board or the taluka local board established hereunder having authority over the same local area to which such committee's functions extended, but subject to all charges and liabilities affecting the same.

It shall be competent to the Governor in Council from time to time to direct whether any such property as aforesaid shall vest in the district local board or the taluka local board having authority as aforesaid and any such direction of the Governor in Council shall be conclusive.

42. The Governor in Council may from time to time direct that any property, moveable or immoveable, which is vested in Government and which is situate within the local area under the authority of any local board, shall, with the consent of such board and subject to such exceptions and conditions as the Governor in Council may impose, vest in that board ; and thereupon that property shall vest in that local board for the purposes of this Act, subject to all exceptions and conditions so imposed and to all charges and liabilities affecting the same.

Every road, building or other work constructed by a local board shall vest in the board by which it has been constructed.

Liabilities.

43. It shall be competent to the Governor in Council from time to time to direct whether the liability for any such debt or other obligation, or any such contract, matter or thing as is described in the proviso to section 2, shall fall upon the district local board or the taluka local board having authority in the local area in which such debt or other obligation was

incurred, or such contract entered into, or such matter or thing engaged to be done, and any such direction of the Governor in Council shall be conclusive.

V.—OF REVENUE AND EXPENDITURE.

Local Funds.

44. There shall be formed in each district a fund which shall be called "The Local Fund" and which shall be kept in the Government treasury.

Local funds where to be kept and of what to consist.

To it shall be credited :

(a) in Sind, the net proceeds (after deducting the expenses of assessment and collection) of the cess on land and of the shop-tax levied under the Sind Local Funds Act, 1865,

(b) elsewhere, the net proceeds (after deducting the expenses of assessment and collection) of the cess levied under the Bombay Local Funds Act, 1869, in the district; and

wherever this Act is in force :

(c) the net proceeds (after deducting the expenses, if any, of collection and of the maintenance of the ferries) of all public ferries established in the district under the Bombay Ferries Act, 1868, and all penalties inflicted and levied under the said Act in the district; and

(d) the net proceeds (after deducting the expenses, if any, of collection) of all tolls and leases of tolls on roads and bridges vested in the local boards under section 41, or by order of the Governor in Council under section 42, or constructed by the local boards at the cost of the local fund under this Act, levied in the district under Bombay Act III. of 1875; and

(e) such portion of the net proceeds of fees, fines and penalties levied under Bombay Act VIII. of 1866 (an Act to regulate and restrict the sale of poisons in the Bombay Presidency) as the Collector, under section 10 of the said Act, from time to time directs; and

(f) the proceeds of all fees levied in the district under the Bombay Land Revenue Code, 1879, for permission to remove sand or to quarry; and

(g) all sums placed by Government to the credit of the fund under section 1 (b) of Act XVIII. of 1883 or otherwise, or contributed by private persons; and

(h) all sums received by any local board in the district in execution of this Act.

Provided that when a public ferry, road or bridge is partly in one district and partly in another, the Governor in Council may assign to the local fund of each district such proportion of the net proceeds of such ferry, or of the toll, or of the lease of the tolls levied on such road or bridge as he shall think fit.

45. The local fund of a district shall be available for expenditure for any of the purposes of this Act as follows, namely:—

Local funds by what boards to be expended.

(a) by or under the direction of each taluka local board:—

(1) the whole of the sums described in clauses (e) and (f) of the last preceding section, levied in the taluka; and

(2) the portion accruing within the area subject to the authority of such board of any sums which may be placed by Government to the credit of the fund under section 1 (b) of Act XVIII. of 1883; and

(3) all other sums placed to the credit of the fund by the Government or contributed by private persons for expenditure by such board within the area subject to its authority; and

(4) all sums described in clause (h) of the last preceding section, received by it or on its account; and

(5) the balance of the revenue described in clause (a) or clause (b) of the last preceding section levied in the area subject to its authority, after the district local board shall have made provision therefrom for the portion to be devoted to educational purposes under section 48 and for such share of the charges payable by the district local board under sections 46 and 49 as the said board shall deem equitable;

(b) by or under the direction of the district local board, the remaining portion of the fund.

Expenditure by the local boards out of the local fund shall ordinarily be made within the areas respectively subject to

their authority only but may, with the sanction of Government and for the use or benefit of the said area, be made outside of that area on any of the purposes of this Act.

46. Every district local board shall, from the portion of the local fund at its disposal, defray :

General charges to be defrayed by district local boards.

- (a) the salaries and other emoluments of all officers and servants maintained under section 38, and the pensions or other retiring allowances, if any, of such officers and servants ;
- (b) the expenses attending the audit of the accounts of the local boards of the district as hereinafter provided ; and
- (c) such sum as shall from time to time be fixed by Government for the payment of the salaries, allowances and contributions for pension according to the rules from time to time prescribed by Government, of any officers or servants employed in any Government office or elsewhere on the business of the local boards of the district, and of the incidental expenses, if any, incurred by Government or any of the officers of Government in the district, for any of the purposes of this Act.

47. Every district local board shall assign and cause to be paid to every municipality and cantonment committee within the district for which such board has been established, out of the district local fund a sum equal to two-thirds of the amount of revenue described in clause (a) or clause (b) of section 44 levied from lands or shops within the municipal district or cantonment subject to such municipality or committee, and may, in its discretion, assign and pay to every such municipality or committee, the whole of the said amount (which amount shall, at the request of the district local board, be ascertained and certified by the Collector).

The sum so assigned and paid shall be expended by the municipality or cantonment committee only for such purposes as are described in section 30, or for the remuneration of officers and servants whom they entertain for any of the said purposes ; and a portion thereof equal to not less than one-third of the revenue described in clause (a) or clause (b) of section 44 levied

from lands or shops within the municipal district or cantonment subject to such municipality or committee, shall be expended by it for educational purposes only as defined in section 30, clause (d).

48. In every district the expenditure from the local fund for educational purposes as defined in section 30, clauses (d) and (j), shall be made by the district local board only, and for this purpose a sum equal to not less than one-third of the revenue described in clause (a) or clause (b) of section 44 (after deducting one-third of the amount thereof levied from lands or shops in any municipal district or cantonment), shall be set apart by the said board for expenditure by it on the said purposes : provided

Expenditure for educational purposes to be made by district local boards only.

- (a) that no portion of the revenue so set apart levied in the area subject to the authority of any taluka local board shall, except with such board's consent, be expended out of the said area ; and
- (b) that the charges to be necessarily defrayed by each district local board on account of primary education, the extent of the independent authority of district and taluka local boards in respect of education and their relations generally with the Government Educational Department and to each other in educational matters shall be from time to time prescribed by the Governor in Council.

The provisions of clause (b) of this section shall apply also to municipalities and cantonment committees in respect of the sums to be expended by them under section 47 for educational purposes.

49. The responsibility of district and taluka local boards, respectively, for expenditure in respect of matters other than education, shall be determined in accordance with the following provisions, namely :

Provisions for determining by which boards expenditure should be incurred for other purposes.

- (a) each local board shall be responsible for the maintenance of any building or other property which vests in it and of any work which has been executed at its cost ;
- (b) district local boards shall be responsible for the construction, maintenance and repair of the main roads and other means of through

communication in the district vesting in them, the maintenance of public vaccination and dispensaries and other similar local services and institutions of general benefit to the district, and for all matters in which two or more talukas are, or may be, interested;

(c) taluka local boards shall be responsible for the construction and maintenance of all other roads and works which are purely local and for all local services and institutions not maintained by the district local board;

(d) large works of the nature described in the last preceding clause, which are beyond the means at the disposal of a taluka local board, may be undertaken by the district local board at its own cost, or the district local board may assist the taluka local board in undertaking the same by a grant-in-aid conditional upon a certain portion of the cost being contributed by the taluka local board or by private persons, or by both.

If a difference of opinion arises between a district and a taluka local board as to which board is responsible for any charge or any work, institution or service the question shall be referred for the decision of the Commissioner, which shall be final.

50. Subject to the provisions of sections 65, 66 and 67, no payment shall be drawn against the Government treasury out of a local fund except upon a cheque or letter of credit signed by the president and one other member of the local board which requires such payment.

Payment of any sum in excess of fifty rupees shall be made by a local board by means of a cheque signed as aforesaid and not in any other way.

Sums not exceeding fifty rupees may be paid by the president, or by such officer as each local board appoints for this purpose, in cash, cheques, for sums not in excess of three hundred rupees each, signed as aforesaid, being drawn from time to time to cover such payments.

Accounts.

51. Accounts of the receipts and expenditure of every local board shall be kept in such form as the Governor in Council
Accounts to be kept in form prescribed by Government.

from time to time prescribes and shall be balanced annually on the last day of every financial year, ending on the 31st March.

52. An abstract of the accounts of every local board showing the amounts drawn from the local fund, the charges for establishment, and for all other expenses, the works undertaken and the sums expended on each work and the balance, if any, in hand, shall be forwarded by the president of the board every year, as soon as may be after the 31st March, in such form as the Governor in Council from time to time prescribes, to the Collector or to such other officer as the Collector nominates in this behalf, and shall be published in the official gazette.

Annual Budget Estimates.

53. To enable local boards to prepare annual budget estimates, as hereinafter provided, the Collector shall annually render to each taluka local board in his district, not later than the 1st October, in such form as the Governor in Council from time to time directs, a return setting forth, for the taluka for which such board is established:

- | | |
|--|--|
| (a) the actual receipts in the last complete official year, | } from each of the sources from which the local fund is derived; |
| (b) a revised estimate of the receipts in the current official year, and | |
| (c) a first estimate of the probable receipts in the next following official year; | |

and, to the district local board, a similar return for the whole district.

The district local board shall, not later than the 1st November, communicate to each taluka local board in the district the probable amount of the revenue described in clause (a) or clause (b) of section 44 which will be at the disposal of such taluka local board in the next following official year, explaining the manner in which, with reference to section 45, clause (a), paragraph (5), the said amount has been fixed.

54. Every local board shall have prepared, on or before the fifteenth day of November every year, in such form as the Governor in Council from time to time prescribes, a budget estimate of the income
Preparation of annual budget estimates of income and expenditure

and expenditure of the board for the next official year.

The board shall, on or as soon as may be after the said date; consider the budget estimate so prepared and approve of the same with or without modification as they shall think fit.

55. Every budget estimate, as approved by a taluka local board, shall be forthwith submitted to the district local board to which such taluka board is subordinate, which may

(a) as often as it thinks fit, send back such estimate to the taluka local board for revision, or

(b) sanction any budget estimate, or revised budget estimate submitted to it, either as it stands, or subject to such modification as it deems expedient.

56. Every local board may, at any time during the year for which any such budget estimate has been approved or sanctioned, cause a revised or supplementary budget estimate to be prepared. Every such revised or supplementary estimate shall be considered and approved by the local board, and in the case of a taluka local board, submitted to the district local board for sanction, in the same manner as if it were an original annual budget estimate.

Re-appropriations of funds in a budget estimate may be made from time to time subject to the same approval or sanction as is required for the budget estimate.

57. No budget estimate of a local board and no re-appropriation of a budget item shall be approved or sanctioned as aforesaid unless:

(a) provision is therein made for such board's having an annual balance is at its credit at provided for; and the end of the official year a balance of not less than five thousand rupees in the case of a district local board, and of two hundred rupees in the case of a taluka local board;

(b) for every work, whether of first construction or of repair, there is attached to the budget estimate in which provision is made therefor a detailed estimate of the cost of such work, which has been approved by the board and for which, in the case of a road of which the cost is to exceed, on an average, fifty rupees per mile or of any other work of which the total cost is to exceed five hundred rupees, plans and estimates have been prepared or approved by the Government Executive Engineer of the district.

A copy of every budget estimate and a statement of every re-appropriation as finally approved or sanctioned under the foregoing provisions shall be forwarded by the president of each local board without delay to the Collector, or such officer as he nominates in this behalf. Annual budget estimates shall be so forwarded not later than the 10th December.

58. Save in case of pressing emergency, no sum shall be expended by, or on behalf of, any local board, unless such sum is included in some budget estimate at the time in force which has been approved or sanctioned as aforesaid.

If any sum is so expended on a pressing emergency the circumstances shall be forthwith communicated in writing by the president to the Collector (through the district local board, if the sum has been expended by a taluka local board) together with an explanation of the way in which it is proposed by the local board to cover such extra expenditure.

59. Every budget estimate framed by, or binding upon any committee or authority heretofore charged with the administration of local funds under the Bombay Local Funds Act, 1869, or the Sind Local Funds Act, 1865, and in force on the date which shall be notified by the Governor in Council under section 13 for each district shall be deemed to have been duly prepared and approved or sanctioned under this Act so far as it relates to the period which inter-

venes between the date aforesaid and the thirty-first day of March next following that date.

If any such budget estimate would, but for the passing of this Act, have force and effect after the said thirty-first day of March, the local board having authority over the local area in which it would so have effect and force, may set it aside as from that date: provided that works in progress at the said date under any such budget estimate shall not be discontinued, except with the sanction of the Governor in Council.

Audit of Accounts.

60. The accounts of every local board shall be examined and audited at such intervals in such manner and by or under the superintendence of such auditor as the Governor in Council from time to time directs.

Every auditor appointed under this section shall have access to the accounts and to all books, deeds, contracts, vouchers and all other documents and records in the possession, or under the control of the local board, and the costs of audit shall be paid by the district local board at such rate as Government shall determine.

The report of the auditor on each local board shall be published in the official gazette and a copy thereof shall be sent to each board concerned and to the Collector. A copy of the report on every taluka local board shall also be sent to the district local board of the district.

VI.—EXECUTION OF WORKS.

61. Such of the works for which plans and estimates prepared or approved by the Government Executive Engineer of the district are required by section 57, clause (b), as the Governor in Council shall from time to time in a general or special order direct, shall be executed by the said Executive Engineer, who for this purpose shall exercise the same powers as if he were executing a work for the Government and shall have control over all officers and servants of a local board, if any, assisting in the execution of any of the said works.

All other works shall be executed by such agency and subject to such supervision as the local board at whose cost any such work is to be executed, thinks fit: provided that any such work shall, at the desire of the said board, be executed by the Government Executive Engineer of the district in the manner prescribed in the first paragraph of this section.

When any work is executed under this section by a Government Executive Engineer either wholly or partly with the aid of his own Government establishment, such charge shall be payable on account of such establishment by the local board at whose cost the work is being executed as shall be agreed upon between such board and the said Executive Engineer: provided that no charge shall in any case be made on account of the services of the Executive Engineer.

VII.—CONTROL.

62. The Collector shall have power:

- (a) to enter on and inspect, or cause to be entered on and inspected, any immoveable property occupied by any local board, or any work in progress under it or under its direction;
- (b) to call for any extract from any local board's or any committee's proceedings, any book, or document in the possession of or under the control of a local board and any return, statement, account or report which he may think fit to require such board to furnish;
- (c) to require a local board to take into its consideration any objection which appears to him to exist to the doing of anything which is about to be done or is being done by such board, or any information which he is able to furnish and which appears to him to necessitate the doing of a certain thing by the board, and to make a written reply to him within a reasonable time stating its reasons for not desisting from doing, or for not doing, such thing.

All or any of the powers given to the Collector under this section may be delegated by him to the Assistant or Deputy Collector in charge of the taluka in the case of a taluka local board.

63. If in the opinion of the Commissioner

Power of Commissioner to prevent extravagance in establishments.

the number of persons maintained by a district local board as officers or servants, or whom a district local board proposes to maintain, or the remuneration assigned by the board to those persons or to any particular person, is excessive, the said board shall on the requirement of the Commissioner, reduce the number or remuneration of the said persons or person:

provided that the district local board may appeal against any such requirement to the Governor in Council, whose decision shall be conclusive.

64. If, in the opinion of the Collector,

Collector's power of suspending execution of orders, &c., of local boards.

the execution of any order or resolution of a local board, or the doing of anything which is about to be done or is being done, by or on behalf of a local board, is causing, or is likely to cause injury or annoyance to the public, or to lead to a breach of the peace, he may, by order in writing, under his signature, suspend the execution or prohibit the doing thereof.

When a Collector makes any order

Collector's order to be reported to Commissioner who may confirm or modify it.

under this section, he shall forthwith forward to the Commissioner and to the local board affected thereby a copy of the order with a statement of the reasons for making it; and it shall be in the discretion of the Commissioner to rescind the order, or to direct that it continue in force with or without modification, permanently or for such period as he thinks fit.

The Commissioner shall forthwith submit

Every case under this section to be reported to Government for their final orders.

to Government a report of every case occurring under this section, and the Government may revise or modify any order made therein, and make in respect thereof any other order which the Commissioner could have made.

65. In cases of emergency the Collector

Extraordinary powers of Collector in case of emergency.

may provide for the execution of any work, or the doing of any act, which a local board is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the

health or safety of the public, and may direct that the expense of executing the work or doing the act, with a reasonable remuneration to the person appointed to execute or do it, shall be forthwith paid by the local board.

If the expense and remuneration are not so paid, the Collector may direct the officer in charge of the treasury in which the local fund is kept to pay the expense and remuneration, or as much thereof as is possible from the balance of such fund in his hands.

The Collector shall forthwith report to the Commissioner every case in which he uses the powers given to him by this section.

66. When the Governor in Council is

Power of Government to provide for performance of duties in default of local board.

informed, on complaint made, or otherwise, that a local board has made default in performing any duty imposed on it by or under this Act, the Governor in Council, if satisfied after due inquiry that the local board has been guilty of the alleged default, may fix a period for the performance of that duty.

If that duty is not performed within the period so fixed, the Governor in Council may appoint some person to perform it, and may direct that the expense of performing it, with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the local board.

If the expense and remuneration are not so paid, the Governor in Council may direct the officer in charge of the treasury in which the local fund is kept to pay the expense and remuneration, or as much thereof as is possible, from the balance of such fund in his hands.

67. If in the opinion of the Governor

Power of Government to supersede local boards in case of incompetency, default, or abuse of powers.

in Council a local board is not competent to perform, or persistently makes default in the performance of the duties imposed on it by or under this Act, or otherwise by law, or exceeds or abuses its powers, the Governor in Council may by an order published, with the reasons for making it, in the official gazette, declare the local board to be incompetent or in default, or to have exceeded or abused its powers, as the case may be, and supersede it for a period to be specified in the order.

When a local board is so superseded, the following consequences shall ensue:—

- (a) all members of the board shall, as from the date of the order, vacate their offices as such members;
- (b) all powers and duties of the board may, during the period of supersession, be exercised and performed by such person or persons as the Governor in Council, from time to time, appoints in that behalf;
- (c) where a local board is superseded, all property vested in it shall, during the period of supersession, vest in Government.

On the expiration of the period of supersession specified in the order, the board shall be re-established by the election or appointment of new members under the provisions of this Act applicable thereto.

68. In all matters connected with this Act, the Governor in Council and the Commissioners and Collectors shall have and exercise the same authority and control over the Commissioners, the Collectors and their subordinates, respectively, as they have and exercise over them in the general and revenue administration.

Powers of Government and of the Commissioners over Collectors, &c.

VIII.—RULES.

69. The Governor in Council may from time to time make and from time to time vary or rescind rules, or orders, consistent with this Act:

Purposes for which rules and orders may be made.

- (a) prescribing the number of members for each local board and the proportion of elective and nominated members for each;
- (b) determining the mode in which elections of members of local boards, other than elections under sections 6 (c) and 7 (c), and the places at which and the authorities, if any, under whose superintendence such elections shall be held, and the manner in which votes thereat shall be recorded and how and by whom the results of such elections shall be declared;
- (c) prescribing such general conditions as shall seem fit as to the manner in which the business of local boards shall be conducted and as to the appointment, control, punishment and dismissal of the officers and servants of local boards;
- (d) generally, for the guidance of local boards and Government officers

in all matters connected with the administration of this Act and not therein specially provided for.

All rules and orders so made shall be published in the official gazette.

XI.—MISCELLANEOUS.

70. If any member of a local board or any officer or servant maintained by a local board being interested in any contract, &c., with that board directly or indirectly, any share or interest in any work done by order of the board of which he is a member or by which he is maintained or under which he is employed or in any contract with or under such board, he shall be liable, on conviction before a criminal court, to a fine which may extend to five hundred rupees:

provided that the penalty herein prescribed and the disqualification for membership of a local board prescribed in section 11, clause (f), shall not be deemed to apply by reason only of a person

- (a) having a share in any joint-stock company which shall contract with, or be employed by, or on behalf of the local board, or
- (b) having a share or interest in any newspaper in which any advertisement relating to the affairs of the local board may be inserted, or
- (c) holding a debenture or being otherwise concerned in any loan raised by or on behalf of the local board, or
- (d) being professionally engaged on behalf of the local board as a legal practitioner.

Nevertheless it shall not be lawful for a person having any share or interest such as is described in the above clauses (a) and (b) to act as a member of a local board in any matter relating to a contract or agreement between the local board and such company or the manager or publisher of such newspaper.

71. Every member of a local board and every officer and servant maintained by a district local board shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

72. When any land is required for the purposes of this Act, the Governor in Council may, on the request of the local board requiring it, proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and on payment by the local board of the compensation awarded under that Act, the land shall vest in the local board.

73. The powers and duties conferred and imposed by this Act on the Governor in Council or the Government, except those so conferred and imposed by sections 8, 63, 64, 67 and 68, shall, in Sind, be exercised and performed by the Commissioner.

74. No action shall be commenced against any local board, or against any officer or servant of a local board, or any person acting under the orders of a local board, for anything done, or purporting to have been done in pursuance of this Act, without giving to such local board, officer, servant, or person one month's previous notice in writing of the intended action and of the cause thereof, nor after three months from the date of the act complained of ;

and in the case of any such action for damages, if tender of sufficient amount shall have been made before the action was brought, the plaintiff shall not recover more than the amount so tendered and shall pay all costs incurred by the defendant after such tender.

Amendment of Bombay Act III. of 1869. 75. In the Bombay Local Funds Act, 1869 :

(a) the words: "Bombay Land Revenue Code, 1879" shall be substituted for the words: "(Bombay) Act I. of 1865" wherever they occur; and

(b) the words "Commissioner of the division" shall be substituted in section 8 for the words "Revenue Commissioner"; and

(c) the words "if no such rate is so recorded or if the rate so recorded is" shall be substituted in rule 3 of section 7 for the words "if this rate be."

76. In the Sind Local Funds Act, 1865, section 2, the word "of" shall be substituted for the words "heretofore customarily levied, namely."

77. For clause two of section three of Bombay Act III. of 1875 the following clause shall be substituted, namely :

"Clause 2. The word 'persons' in this section shall be deemed to include local boards established under the Bombay Local Boards Act, 1884."

SCHEDULE.

(See section 2.)

Enactment.	Subject.	Extent of repeal.
Bombay Act VIII. of 1865.	An Act to authorize taxation in the province of Sind for objects of public local utility and improvement.	In the preamble the words "and to aid in defraying the expense of the Department of Public Works in the Province of Sind." Sections 6, 7 and 8.
Bombay Act III. of 1869.	An Act to provide in the Presidency of Bombay funds for expenditure on objects of local public utility and improvement and to constitute local committees for the due administration of such funds.	In the title the words: "and to constitute local committees for the due administration of such funds." In the preamble the words: "and whereas it is expedient to constitute local committees to provide for the due appropriation of such funds to the purposes aforesaid." Sections 1, 2, 3, 4, 5, 9, 10, 11, 12 and 13.
Bombay Act II. of 1868.	An Act to amend the law relating to public ferries in the Presidency of Bombay.	Section 16.
Bombay Act III. of 1875.	An Act for enabling Government to levy tolls on public roads and bridges in the Presidency of Bombay.	Section 12.

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

C. G. W. MACPHERSON,

Bombay Castle, 19th March 1884.

Under Secretary to Government.

[Published with the "Bombay Government Gazette" on the 16th October 1884.]*

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 2nd October 1884.—

Bill No. 14 of 1884.

A Bill to repeal the Straits Settlements Emigration Act, 1877, and to amend the Indian Emigration Act, 1883.

Whereas it is expedient to repeal the Straits Settlements Emigration Act, 1877, and to amend the Indian Emigration Act, 1883, in manner hereinafter appearing; It is hereby enacted as follows.—

1. The Straits Settlements Emigration Act, V of 1877, is repealed.

2. For section 102 of the Indian Emigration Act, 1883, the following section shall be substituted:—

New section substituted for section 102 of Act XXI of 1883.

"102. On and from such a date as the Governor General in Council may, by notification in the *Gazette of India*, fix in this behalf, a Native of India who departs by sea out of British India under an agreement to labour for hire in any protected Native State adjoining the Straits Settlements to which the notification refers shall not be deemed to emigrate within the meaning of this Act."

Power for Governor General in Council to exempt emigration to Native States adjoining the Straits Settlements from Act.

STATEMENT OF OBJECTS AND REASONS.

THE main object of this Bill is to repeal Act V of 1877 (the Straits Settlements Emigration Act, 1877), which extends only to the Madras Presidency. It is dictated by the policy which recently led to the enactment of Act VII of 1883 (to repeal the British Burma Labour Law, 1876). As in the case of Burma, it is found that there is a system of "free emigration" to the Straits which not only competes with, but altogether distorts, the Government system for which Act V of 1877 provides. From the information before it, the Government of India is of opinion that that Act has impeded instead of promoting emigration, that labour flows as naturally to and from the Straits as it does between Burma and India, and that attempts to control its movement in British territory merely induce it to seek an outlet from the French ports of Pondicherry and Karikal. Such provisions as in the opinion of the Government are necessary for the protection and control of the Indian immigrant after his arrival in the Straits have been embodied in a revised Labour Regulation, which is now before the Straits legislature, and will, it is expected, shortly become law. Under these circumstances, the Government of India considers that emigration from India to the Straits should be uncontrolled by law in this country save as regards the requirements of the Native Passengers Ships Act

2 The repeal of Act V of 1877 necessitates, however, an amendment of section 102 of Act XXI of 1883 (the Indian Emigration Act, 1883). The first sub-section of that section provides for the extension of Act V of 1877 to other parts of British India. As the Act is itself now being repealed, it is clear that this sub-section should be repealed also. The second and third sub-sections of that section give the Governor General in Council power by notification to include any of the protected Native States adjoining the Straits Settlements within the scope of any law relating to emigration to those Settlements, and exempt, on and from the date of any such notification, emigration to the protected State specified therein from the operation of Act XXI of 1883. Though there will no longer be any special law relating to emigration to the Straits, it is deemed desirable to retain the power, which these sub-sections confer, of exempting emigration to the protected States from Act XXI of 1883. A new section has therefore been substituted by section 2 of the Bill for section 102 of Act XXI of 1883 empowering the Governor General in Council to exempt emigration to the protected States from that Act whenever he considers such exemption to be desirable.

The 25th September 1884.

(Signed) S. C. BAYLEY.

D. FITZPATRICK,

Secretary to the Government of India.

[Published with the "Bombay Government Gazette" on the 23rd October 1884.]

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 2nd October 1884:—

Bill No. 14 of 1884

A Bill to repeal the Straits Settlements Emigration Act, 1877, and to amend the Indian Emigration Act, 1883.

V of 1877. XXI of 1883. Whereas it is expedient to repeal the Straits Settlements Emigration Act, 1877, and to amend the Indian Emigration Act, 1883, in manner hereinafter appearing; It is hereby enacted as follows:—

1. The Straits Settlements Emigration Act, V of 1877, is repealed.

2. For section 102 of the Indian Emigration Act, 1883, the following section shall be substituted:—

“102. On and from such a date as the Governor General in Council may, by notification in the *Gazette of India*, fix in this behalf, a Native of India who departs by sea out of British India under an agreement to labour for hire in any protected Native State adjoining the Straits Settlements to which the notification refers shall not be deemed to emigrate within the meaning of this Act.”

STATEMENT OF OBJECTS AND REASONS.

THE main object of this Bill is to repeal Act V of 1877 (the Straits Settlements Emigration Act, 1877), which extends only to the Madras Presidency. It is dictated by the policy which recently led to the enactment of Act VII of 1883 (to repeal the British Burma Labour Law, 1876). As in the case of Burma, it is found that there is a system of “free emigration” to the Straits which not only competes with, but altogether distorts, the Government system for which Act V of 1877 provides. From the information before it, the Government of India is of opinion that that Act has impeded instead of promoting emigration, that labour flows as naturally to and from the Straits as it does between Burma and India, and that attempts to control its movement in British territory merely induce it to seek an outlet from the French ports of Pondicherry and Karikal. Such provisions as in the opinion of the Government are necessary for the protection and control of the Indian immigrant after his arrival in the Straits have been embodied in a revised Labour Regulation, which is now before the Straits legislature, and will, it is expected, shortly become law. Under these circumstances, the Government of India considers that emigration from India to the Straits should be uncontrolled by law in this country save as regards the requirements of the Native Passengers Ships Act.

2. The repeal of Act V of 1877 necessitates, however, an amendment of section 102 of Act XXI of 1883 (the Indian Emigration Act, 1883). The first sub-section of that section provides for the extension of Act V of 1877 to other parts of British India. As the Act is itself now being repealed, it is clear that this sub-section should be repealed also. The second and third sub-sections of that section give the Governor General in Council power by notification to include any of the protected Native States adjoining the Straits Settlements within the scope of any law relating to emigration to those Settlements, and exempt, on and from the date of any such notification, emigration to the protected State specified therein from the operation of Act XXI of 1883. Though there will no longer be any special law relating to emigration to the Straits, it is deemed desirable to retain the power, which these sub-sections confer, of exempting emigration to the protected States from Act XXI of 1883. A new section has therefore been substituted by section 2 of the Bill for section 102 of Act XXI of 1883 empowering the Governor General in Council to exempt emigration to the protected States from that Act whenever he considers such exemption to be desirable.

The 25th September 1884.

(Signed) S. C. BAYLEY.

D. FITZPATRICK,
Secretary to the Government of India.

Published with the "Bombay Government Gazette" on the 3rd January 1884.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 18th December 1883, and was promulgated for general information in the *Gazette of India* on the 22nd December 1883:—

ACT No. XXI. OF 1883.

THE INDIAN EMIGRATION ACT, 1883.

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An Act to amend the law relating to the Emigration of Natives of India.

WHEREAS it is expedient to amend the law relating to the emigration of Natives of India; It is hereby enacted as follows —

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Indian Emigration Act, 1883.
- (2). It extends to the whole of British India.
2. Nothing in this Act or in any rule made under this Act shall apply to any vessel belonging to, or in the service of, Her Majesty or of the Government of India.
3. Except as to the power to make rules, this Act shall come into force on such day as the Governor General in Council, by notification in the *Gazette of India*, appoints.
4. On and from the day on which this Act comes into force, the Indian Emigration Act, 1871, and Act No. XIV of 1872 (to exempt the Straits Settlements from the Indian Emigration Act, 1871) shall be repealed.
5. All notifications issued, contracts entered into, rules and appointments made, and licenses granted under any enactment hereby repealed, and in force on the day on which this Act comes into force, shall (so far as they are consistent with this Act) be deemed to have been respectively issued, entered into, made and granted under this Act.
6. In this Act, unless there is something repugnant in the subject or context,—
- (1) "Emigrate" and "emigration" denote the departure by sea out of British India of a Native of India under an agreement to labour for hire in some country beyond the limits of India other than the island of Ceylon or, the Straits Settlements:
- Provided that a domestic servant when accompanying his employer shall not be deemed to emi-

grate within the meaning of the above definition.

(2) "Emigrant" means any Native of India who emigrates, or has emigrated, within the meaning of the above definition, or who has been registered under this Act as an emigrant, and includes any dependent of an emigrant:

(3) "Dependent" means any of the following persons accompanying any emigrant, namely:—

(a) any woman who has not entered into an agreement to emigrate under this Act;

(b) any child in whose name and on whose behalf any such agreement has not been entered into; and

(c) any aged or incapacitated relative or friend.

(4) "Magistrate" means, in the Presidency-towns, a Presidency Magistrate, and elsewhere a District Magistrate or a Sub-divisional Magistrate, and includes also any person appointed by the Local Government, by name or by virtue of his office, to perform in any local area the functions of a Magistrate under this Act.

(5) "Registering Officer" means any person appointed by the Local Government, by name or by virtue of his office, to perform in any local area the functions of a Registering Officer under this Act.

(6) "Recruiter" includes a head recruiter or other person who collects or receives emigrants recruited by other persons:

(7) "Vessel" includes anything made for the conveyance by water of human beings or property

(8) "Emigrant-vessel" means a vessel the master of which is licensed under this Act to carry emigrants therein and

(9) "Master" means any person (except a pilot or harbour-master) having for the time being control or charge of a vessel.

CHAPTER II.

PORTS FROM WHICH, AND COUNTRIES TO WHICH, EMIGRATION IS LAWFUL.

7. (1) Emigration shall not be lawful except from the ports of Calcutta, Madras and Bombay, and from such other ports as the Governor General in Council, from time to time, by notification in the *Gazette of India*, declares to be ports from which emigration is lawful.

(2) The Governor General in Council may at any time, by a like notification, revoke any notification issued under this section.

(3) The Local Government may, from time to time, by notification in the official *Gazette*, fix for the purposes of this Act the limits of any port from which emigration is lawful.

8. (1) Emigration shall not be lawful except to the countries specified in the first schedule hereto annexed, and to such other countries as the Governor General in Council, from time to time, by notification in the *Gazette of India*, declares to be countries to which emigration is lawful.

(2) Every notification under this section must contain a declaration that the Governor General

Indian Emigration Act, 1883.

(Chapter IV.—Protectors of Emigrants and Medical Inspectors.)

in Council has been duly certified that the Government of the country to which the notification refers has made such laws and other provisions as the Governor General in Council thinks sufficient for the protection of emigrants to that country during their residence therean.

9. (1) Whenever the Governor General in Council has reason to believe that any of the grounds, hereinafter mentioned, for prohibiting emigration to any country to which emigration is lawful, exists, he may, by notification in the *Gazette of India*, declare that emigration to that country shall cease to be lawful from a day specified in the notification; and from that day emigration to that country shall accordingly cease to be lawful

(2) The grounds referred to in sub-section (1) of this section are—

(a) that the plague or any other epidemic disease dangerous to human life has broken out in the country;

(b) that the mortality among emigrants in the country is excessive;

(c) that proper measures have not been taken for the protection of emigrants immediately on their arrival in the country or during their residence therein;

(d) that the agreements made with emigrants, as such, before their departure from India are not duly enforced by the Government of the country; and

(e) that the Governor General in Council, having, either directly or through the Secretary of State for India in Council, addressed the Government of the country with a view to obtain information regarding the condition or treatment of emigrants therein, has not within a reasonable time received the information asked for.

10. (1) Whenever the Local Government has reason to believe that, in any country to which emigration is lawful, the plague or other epidemic disease dangerous to human life has broken out, and that emigrants, if allowed to emigrate to that country, would be exposed to serious risk of life on arrival there, it may, by notification in the official Gazette, declare that emigration to that country from any port in the territories administered by it shall cease to be lawful pending a reference to the Governor General in Council

(2) The Local Government shall at once report the publication of a notification under this section, with the reasons for it, to the Governor General in Council, who shall thereupon publish a notification in the *Gazette of India* confirming or cancelling the notification published by the Local Government.

11. Whenever the Governor General in Council is satisfied that the ground on which a notification has been published by him under either of the two last foregoing sections with respect to any country has ceased to exist, he may, by noti-

fication in the *Gazette of India*, declare that emigration to that country shall again be lawful from a day to be specified in the notification.

12. (1) The Local Government may, with the previous sanction of the Governor General in Council, by notification in the official Gazette, prohibit, from a day specified in the notification, all Natives of India or any specified class of Natives, from emigrating from the whole or any specified part of the territories under its administration to any specified country.

(2) The Local Government may, with the like sanction, in like manner, vary or cancel any notification published under this section.

13. The publication of a notification under any of the four last foregoing sections shall not affect any act done, offence committed or proceedings commenced before the publication.

CHAPTER III.

EMIGRATION AGENTS.

14. (1) The Government of every country to which emigration is lawful may, from time to time, appoint a person to be Emigration Agent in any port from which emigration is lawful, and may suspend or remove any person so appointed.

(2) An appointment under this section shall not take effect until the Local Government, by notification in the official Gazette, has declared its approval of the appointment.

15. The remuneration to be given to an Emigration Agent shall not depend on, or be regulated by, the number of emigrants sent by him, but shall be in the nature of a fixed salary:

Provided that the Governor General in Council may, from time to time, authorize the payment to specified Emigration Agents of special fees for occasional work.

CHAPTER IV.

PROTECTORS OF EMIGRANTS AND MEDICAL INSPECTORS.

16. (1) The Local Government may, from time to time, appoint a proper person to be the Protector of Emigrants for any port within the territories administered by it from which emigration is lawful

(2) The Governor General in Council may, from time to time, define the local area to which the authority of any Protector of Emigrants so appointed shall extend.

(3) Every Protector of Emigrants may be suspended or removed by the Local Government which appointed him.

(4) Every Protector of Emigrants shall be a public servant within the meaning of the Indian Penal Code.

Indian Emigration Act, 1883.

(Chapter V.—Recruiters.)

17. Every Protector of Emigrants, in addition to the special duties assigned to him by this Act or the rules made under this Act, shall—

(a) protect and aid with his advice all emigrants;

(b) cause, so far as he can, all the provisions of this Act, and of the rules made under this Act, to be complied with,

(c) inspect, on arrival, all vessels bringing return-emigrants to the port for which he is Protector;

(d) enquire into the treatment received by the return-emigrants both during the period of their service in the country to which they emigrated, and also during the return voyage, and report thereon to the Local Government, and

(e) aid and advise the return-emigrants so far as he reasonably can.

18. (1) The Local Government may, from time to time, appoint a Medical Inspector of Emigrants at each port from which emigration is lawful, and may suspend or remove him.

(2) Every Medical Inspector of Emigrants shall be a public servant within the meaning of the

XLV of 1860. Indian Penal Code

19. Every Emigration Agent, and all persons in charge of, or employed in, any emigrant-vessel, shall give the Protector of Emigrants and the Medical Inspector of Emigrants every facility for making such inspections, examinations and surveys as are required by this Act, or by the rules made under this Act, or as those officers may deem necessary or proper, and shall afford them all such information as they may reasonably require

CHAPTER V, RECRUITERS.

20. (1) The Protector of Emigrants at each of the ports from which emigration is lawful shall, on the application of the Emigration Agent for any country to which emigration is lawful, grant licenses to so many fit persons as to the Protector seems necessary to be recruiters of emigrants within the local area to which the authority of the Protector extends.

(2) A person shall not, unless he holds a license granted under this chapter,—

(a) enter into, or attempt to enter into, any agreement with any person purporting to bind him to emigrate, or

(b) in consideration of any hire or reward, induce, or attempt to induce, any person to leave any place for the purpose of emigrating, or

(c) act or be employed in any other respect as a recruiter of emigrants.

(3) Every recruiter shall produce his license when called upon to do so by any Magistrate or officer in charge of a police-station.

21. Every license granted under this chapter shall specify the particular country for which, and the local area within which, the holder is licensed to recruit, and may be in the form set forth in the second schedule hereto annexed.

22. (1) A license granted under this chapter shall not be in force for a longer period than one year from the day on which it comes into force.

(2) The Protector of Emigrants may, on the ground of misconduct, cancel any license granted by him under this chapter before the expiration of the period for which it is in force.

23. (1) A recruiter shall not, in any place beyond the limits of a port from which emigration is lawful,

enter, or attempt to enter, into any agreement with any person purporting to bind him to emigrate, or induce or assist, or attempt to induce or assist, any person to leave any place for the purpose of emigrating, or act or be employed in any other respect as a recruiter of emigrants, unless his license bears the countersignature of the District Magistrate.

(2) If a District Magistrate has satisfied himself, after such enquiry as he thinks necessary, that the licensee is, by character or from any other cause, unfitted to be a recruiter under this Act, he may refuse to countersign a recruiter's license.

(3) If a District Magistrate has satisfied himself, after such enquiry as aforesaid, that sufficient and proper accommodation has not been provided in a suitable place, or is not available, for such intending emigrants or emigrants as may be collected by the recruiter pending their registration or removal to the depôt at the port of embarkation, he may refuse to countersign a recruiter's license or to decide whether he will countersign his license until after the expiration of such time as may in his opinion be reasonable.

(4) Before a Magistrate refuses to countersign, or defers his countersignature of, a recruiter's license, he shall record in writing his reasons for so doing.

24. If any Magistrate, having countersigned a recruiter's license, afterwards finds reason to think that the licensee is, by character

or from any other cause, unfitted to be a recruiter under this Act, or that the accommodation provided for intending emigrants or emigrants collected by him has become unsuitable or has ceased to be available, he may require the licensee to produce his license, and may cancel the countersignature on it or may impound the license and send it for cancellation to the Protector of Emigrants who granted it.

25. When a Magistrate countersigns, or refuses

to countersign, a recruiter's license, or cancels the countersignature on it, he shall at once report the countersignature, or the refusal or cancellation, and the grounds of the refusal or cancellation, to the Protector of Emigrants who granted the license.

Indian Emigration Act, 1883.

(Chapter VI.—Registration of Emigrants and Execution of Agreements to emigrate.)

26 (1) The Emigration Agent on whose application any recruiter is licensed shall supply the recruiter with a written or printed statement, signed by the Agent, and countersigned by the Protector of Emigrants, of the terms of agreement which the recruiter is authorized to offer on behalf of the Agent to intending emigrants

(2) The statement shall be both in English and in the Vernacular language or languages of the local area within which the recruiter is licensed to recruit.

(3) The recruiter shall give a true copy of the statement to every person whom he invites to emigrate, and shall produce the statement for the information of any Magistrate or officer in charge of a police-station, when called upon to do so by the Magistrate or officer.

27. (1) Every recruiter shall provide sufficient accommodation to be and proper accommodation provided by recruiters. in a suitable place for such intending emigrants or emigrants as may be collected by him pending their registration or removal to the port of embarkation

(2) The place where the accommodation is provided shall have a board fixed in some conspicuous position specifying the purpose for which the place is used.

(3) Every District Magistrate, and any subordinate Magistrate or officer of Police authorised in this behalf by a rule made under this Act, shall have, for the supervision and regulation of the places where accommodation is provided under this section, the same powers as are by this Act conferred on a Protector of Emigrants in respect of depôts at the port of embarkation.

(4) All recruiters or other persons in charge of these places shall afford every Magistrate and any officer of Police authorised as aforesaid in this behalf every facility for visiting and inspecting them.

CHAPTER VI.

REGISTRATION OF EMIGRANTS AND EXECUTION OF AGREEMENTS TO EMIGRATE.

28. The Local Government may, from time to time, appoint any person, by name or by virtue of his office, to perform in a specified local area, but subject to the control of the District Magistrate or such other officer as the Local Government appoints, by name or by virtue of his office, in this behalf, the functions of a Registering Officer under this Act.

29. Every agreement to emigrate entered into by any person must —

(a) if executed within the limits of any port from which emigration is lawful, be executed in the presence of the Protector;

(b) if executed elsewhere, be executed in the presence of a Registering Officer.

30. Every recruiter who desires to engage any person to emigrate shall appear before a Registering Officer or the

Protector of Emigrants (as the case may be) with that person, and with any persons intending to accompany that person as his dependents.

31. (1) The Registering Officer or Protector shall thereupon examine the person, apart from the recruiter, with reference to his intended agreement; and, if it appears that he is competent and willing to enter into the agreement and understands its nature, that he has not been induced to enter into it by any coercion, undue influence, fraud, misrepresentation or mistake, that its terms are in conformity with law, and are such as, according to the statement furnished to the recruiter under section twenty-six, he was authorized to offer, shall, subject to the provisions of section thirty-three, register in a book to be kept for the purpose, in such form as the Governor General in Council, from time to time, by rules made under this Act, prescribes the name, sex, name of the father, caste, occupation and age of the intending emigrant, and the name of the village or place of which he is a resident, and such other particulars (if any) concerning him and his dependents (if any) as the Governor General in Council, from time to time, by rules made under this Act, prescribes.

32. (1) Notwithstanding anything contained in the last foregoing section, the Registering Officer or Protector may refuse to register any married woman under that section if he finds that her husband does not consent to her emigrating.

(2) The Registering Officer or Protector may also, in the case of any woman whom he believes to be married, refuse to decide whether he will register her until after the expiration of such time, not exceeding ten days, as he thinks fit.

33. (1) When any person appears before a Registering Officer or Protector under section thirty as a dependent of an intending emigrant, the Registering Officer or Protector shall, if the person is able to give intelligent answers to questions, examine him, apart from the recruiter, as to his dependence on the intending emigrant whom he is about to accompany and as to his willingness to emigrate.

(2) Where the Registering Officer or Protector sees reason to doubt the existence of the dependence or willingness, he may, if he thinks fit, refuse to register the intending emigrant unless the name of the dependent is omitted from the register.

34. Whenever the Registering Officer or Protector refuses to register any intending emigrant, he shall record his reasons for the refusal.

35. (1) When the particulars concerning any intending emigrant and his dependents (if any) have been registered, the Registering Officer or Protector shall cause an agreement to be prepared in triplicate, and shall

Indian Emigration Act, 1883.
(Chapter VII.—*Emigration Depôts.*)

call on the recruiter and the intending emigrant to execute the agreement in triplicate in his presence, and, if they execute it, shall attest the execution with his signature

(2) An agreement to emigrate shall not be of any effect until the particulars concerning the intending emigrant and his dependents (if any) have been registered, and the agreement has been executed and attested under this Act.

(3) When the particulars concerning any intending emigrant and his dependents (if any) have been registered, and an agreement has been executed and attested under this Act, the intending emigrant shall be deemed to be registered under this Act as an emigrant

36. Every agreement to emigrate shall contain a copy of the particulars registered concerning the intending emigrant and his dependents (if any) under section thirty-one, and on the reverse such particulars concerning the nature, duration and term of service and the remuneration of the emigrant, and such other matters (if any) as the Governor General in Council, from time to time, by rules made under this Act, prescribes

37. When the agreement has been executed and attested, one copy thereof shall be delivered to the recruiter for transmission to the Emigration Agent, another shall be delivered to the emigrant, and the third shall be retained by the Protector or sent by the Registering Officer to him.

38 For the preparation of every agreement under this chapter the recruiter or Emigration Agent shall pay such fee as the Governor General in Council, from time to time, by notification in the *Gazette of India*, prescribes:

Provided that the Governor General in Council may at any time, by like notification, declare that the fee payable under this section shall be consolidated, either generally or in any specified local area, with the fee payable under section seventy-three.

IX of 1872. 39. Notwithstanding anything to the contrary in the Indian Contract Act, 1872, it shall be lawful for any person of the age of sixteen years or upwards to enter in manner in this Act provided into an agreement to emigrate to any place to which emigration is lawful.

40. Any person entering into an agreement to emigrate, and being the parent or guardian of a child under the age of sixteen years and above the age of ten years, may, in the name of and on behalf of the child, enter into an agreement in manner in this Act provided binding the child to emigrate with him.

CHAPTER VII.

EMIGRATION DEPÔTS.

41. Every Emigration Agent shall establish at the port for which he is appointed a suitable depôt for the reception and lodging of emigrants before embarkation for the country for which he is Emigration Agent, and shall provide all necessary food and clothing for all emigrants during their stay at the depôt.

42. (1) A depôt established under the last foregoing section shall not be used for the reception and lodging of emigrants until it has been inspected and approved by the Protector of Emigrants and the Medical Inspector of Emigrants, and a license for its use has been granted by the Protector.

(2) A license under this section shall not be granted for a longer period than one year from the day on which it comes into force.

(3) The Protector of Emigrants may at any time cancel a license under this section—

- (a) if he considers that the depôt for which it was granted is unhealthy, or has in any respect become unsuitable for the purpose for which it was established, or
- (b) if the Emigration Agent fails, after reasonable notice, to comply with any of the requirements of this Act or of the rules made under this Act

43. The Protector of Emigrants and the Medical Inspector shall, from time to time, and at least once in every week during which any emigrants may be kept in any depôt at the port for which they are Protector and Medical Inspector, respectively, inspect the emigrants in that depôt, and examine the state of the depôt, and the manner in which the emigrants therein are lodged, fed, clothed and otherwise provided for and attended to

44. The Medical Inspector shall report to the Protector of Emigrants any circumstance that may come to his knowledge showing that any depôt is not suitable for its purpose, or that the emigrants lodged therein are treated with any oppression or neglect.

45. (1) The Medical Inspector may, if he thinks fit, direct that any emigrant suffering from any disease likely to be dangerous to his neighbours shall be isolated or excluded from the depôt

(2) The Medical Inspector may, if he thinks fit, order the removal of any emigrant so suffering to a proper hospital for treatment at the expense of the Emigration Agent; and the expense (if any) incurred by the Protector of Emigrants in respect of the removal of the emigrant and his treatment in the hospital shall be recoverable from the Emigration Agent by the Protector of Emigrants, with interest thereon at the rate of six per centum per annum from the date on which the expense was incurred.

Indian Emigration Act, 1883.

(Chapter VIII.—Conveyance of Emigrants to Depôts and Procedure on Arrival).

CHAPTER VIII.

CONVEYANCE OF EMIGRANTS TO DEPÔTS AND
PROCEDURE ON ARRIVAL.

46. A recruiter shall not remove or attempt to remove any intending emigrant to a depôt, or induce or attempt to induce him to go to a depôt, or to leave the local limits of the jurisdiction of the Magistrate by whom the recruiter's license has been countersigned, or aid him in going to a depôt, or in leaving any such local limits, until the intending emigrant has been registered under this Act as an emigrant.

47. (1) Every emigrant must, after he has been registered under this Act, be conveyed with all convenient despatch by or under the orders of the recruiter or Emigration Agent, to the depôt established at the port of embarkation by the Emigration Agent on whose application the recruiter has been licensed.

(2) When an emigrant has been registered at a place beyond the limits of the port of embarkation, he must, while proceeding to the depôt, be accompanied throughout the journey either by the recruiter himself, or by a competent person appointed by him with the approval of a Magistrate.

(3) The Magistrate shall give to the person so appointed a certificate signed by him stating that he has been appointed for the journey to the depôt.

(4) The recruiter or the person so appointed shall, throughout the journey, provide the emigrant with proper and sufficient food and lodging.

48. The arrival at a depôt of each emigrant must immediately be reported by the person in charge of the depôt to the Emigration Agent, and by the Agent to the Protector of Emigrants.

49. (1) The copy of the agreement received by the recruiter from the Registering Officer or Protector must, as soon as conveniently may be after the arrival of the emigrant at the depôt, be shown by the Emigration Agent to the Medical Inspector of Emigrants.

(2) The Medical Inspector shall examine each emigrant entered in the agreement to ascertain whether he is fit, having regard to his age and state of health, to undertake the journey to the country to which he has agreed to emigrate.

(3) The Medical Inspector, if satisfied of his fitness, shall give a certificate to that effect to the Emigration Agent. If not so satisfied, he shall give a certificate to that effect to the Protector of Emigrants.

50. (1) In any of the following cases, namely:—
(a) if the Medical Inspector of Emigrants finds that an emigrant is,

or has become, unfit to undertake the journey to the country to which he has agreed to emigrate, and if the Protector of Emigrants considers that the emigrant has not dishonestly represented himself as fit to undertake the journey, or

(b) if the Protector finds that any such irregularity has occurred in the recruitment or treatment by the recruiter of any emigrant as makes it just to rescind the agreement to emigrate, or

(c) if the Emigration Agent refuses to fulfil the agreement entered into with the emigrant,

the Protector may order the Emigration Agent to pay to the emigrant such sum as the Protector deems reasonable as compensation, and when the emigrant has been registered at a place beyond the limits of the port of embarkation, such reasonable sum as is necessary to enable him to return to the place at which he was registered, and may take any steps which he thinks necessary for the conveyance of the emigrant to that place.

(2) Any emigrant who has been registered at any place beyond the limits of the port of embarkation, and who from his state of health is, in the opinion of the Medical Inspector of Emigrants, unfit to undertake at once the return-journey to the place at which he was registered, shall be entitled to be fed, lodged, clothed and attended to at the depôt at the expense of the Emigration Agent until he is reported by the Medical Inspector fit to undertake the return-journey.

51. (1) When any order is made under the last foregoing section with reference to any emigrant who was registered at any place beyond the limits of the port of embarkation, any emigrant who has been registered as his dependent,

or any emigrant who, not being a dependent, is the father, mother, wife, husband, son, daughter, brother, sister, guardian or ward of the emigrant, shall be entitled—

(a) to be conveyed at the expense of the Emigration Agent with the emigrant to the place at which he was registered; and

(b) if the emigrant is unable to travel, to be lodged, fed and clothed in the depôt at the expense of the Emigration Agent until the emigrant is able to travel.

(2) The Protector of Emigrants may include any expenses incurred under this section in an order made under the last foregoing section with respect to the emigrant.

52. If it appears that during the journey to the depôt any emigrant has suffered any ill-treatment, or that, in the case of any emigrant who has been registered at a place beyond the limits of the port of embarkation, the provisions of section forty-seven have not been complied with, the Protector of Emigrants may order the Emigration Agent to pay—

(a) to the emigrant a reasonable sum by way of compensation, and

(b) if any expenses have been incurred by or under the orders of the Protector on behalf of the emigrant by reason of the neglect to comply with the provisions of

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section forty-seven, to the Protector the expenses so incurred.

53. (1) On failure of the Emigration Agent for twenty-four hours to comply with an order of the Protector for the payment of any sum to an emigrant under any of the last three foregoing sections, the Protector may pay the same to the emigrant.

(2) Every sum paid by the Protector to an emigrant under sub-section (1), and, on failure of the Emigration Agent for twenty-four hours to comply with an order for payment thereof under the last foregoing section, every sum which the Protector may have ordered the Emigration Agent to pay to him under that section, shall be recoverable from the Emigration Agent with interest thereon at the rate of six per centum per annum from the date of payment.

(3) Further proof shall not be required by any Court in any such case than that the Protector gave the Emigration Agent an order to pay the sum, and that the Emigration Agent for twenty-four hours failed to comply with the order.

CHAPTER IX.

EMIGRANT-VESSELS.

54. It shall not be lawful to receive any emigrant on board any vessel unless a license to carry emigrants in the vessel has been obtained from the Local Government.

55. (1) When the master or owner of any vessel desires to obtain a license to carry emigrants in his vessel, he shall apply in writing through the Protector of Emigrants to the Local Government for the license.

(2) The application must state the number of emigrants which, according to the rules as to space contained in this chapter, the applicant deems the vessel capable of carrying, and the tonnage and such other particulars respecting the vessel as the Governor General in Council, from time to time, by rules made under this Act, prescribes.

56. (1) The Protector of Emigrants shall cause the vessel to be surveyed by a competent person at the cost of the master or owner, with a view to ascertain her seaworthiness and the extent and nature of her accommodation for emigrants, and to ascertain that she is properly ventilated, and is supplied with all the tackle, apparel and furniture requisite for her intended voyage.

(2) If the Local Government is of opinion that the vessel is in all respects suitable for the carrying of emigrants under this Act, and is properly manned and officered, it shall give to the master of the vessel a license to carry emigrants therein specifying the number of emigrants which may be received on board.

57. (1) A license shall not be granted under the last foregoing section unless—

- Accommodation required on board emigrant-vessel.
- (a) there is provided for the emigrants, either between-decks or, subject to the approval of the Protector of Emigrants and the Medical Inspector, in cabins on the upper deck, a space devoted to the exclusive use of the emigrants having in every part a height of not less than six feet;
 - (b) a separate place is fitted up for a hospital, and
 - (c) such arrangements are made for the separation of women (married or single) and children from the other emigrants as the Governor General in Council, from time to time, by rules made under this Act, prescribes.

(2) The cabins on the upper deck provided under clause (a) of this section must be firmly secured and entirely covered in.

58. Every emigrant-vessel must contain within the space referred to in clause (a) of the last foregoing section at least twelve superficial feet and seventy-two cubic feet of space for each emigrant.

Rules as to space on board emigrant-vessel.

Provided that two emigrants under the age of ten years shall for the purposes of this section count as one only.

59. There must be on board every emigrant-vessel, at the time of departure of the vessel from the port at which they embark, provisions, clothing, fuel and water for the emigrants (over and above the supply for the master, officers and crew, and of the cabin and other passengers, if any), in such quantity and of such description and quality as the Governor General in Council, from time to time, by rules made under this Act, prescribes.

60. Every emigrant-vessel must, at the time of departure of the vessel from the port at which the emigrants embark, have on board, and must carry with her, a properly qualified surgeon, and also such compounders, interpreters and attendants subordinate to the surgeon, and such medicines and other stores in such quantity and of such quality as the Governor General in Council, from time to time, by rules made under this Act, prescribes.

61. The Protector of Emigrants and the Medical Inspector of Emigrants shall see personally that all the provisions of the last two foregoing sections are complied with.

62. (1) Every master licensed under this Act shall on the requisition of the Protector of Emigrants, and before any emigrant embarks on board his vessel, execute to the Protector, in duplicate, a bond, in such form as the Local Government, from time to time, prescribes binding himself and the owner of the vessel

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(Chapter X.—*Embarkation and Departure.*)

in a penal sum of ten thousand rupees, to perform the duties imposed by this Act or any rule made under this Act on a master and owner respectively.

(2) The Protector of Emigrants shall forward one copy of the bond to such officer as may be appointed in this behalf by the Government of the country to which the emigrants are to be conveyed, or, in the case of a foreign colony, to the British Consular Agent, and the other copy to the Local Government.

CHAPTER X.

EMBARKATION AND DEPARTURE.

63. An emigrant shall not embark, except with the permission of the Protector of Emigrants, until seven days have elapsed from the date of his arrival at the depôt.

Time at which emigrant-vessels may leave India.

64. (1) An emigrant-vessel shall not sail from any port in British India—

- (a) to any country west of the Cape of Good Hope, except at such seasons as the Governor General in Council, from time to time, by rules made under this Act, prescribes as seasons during which it shall be lawful for emigrant-vessels generally, or of a class to which the vessel belongs, to sail to that country;
- (b) to any country during any season which the Governor General in Council, from time to time, by notification in the *Gazette of India*, declares to be a season during which the sailing of emigrant-vessels to that country is prohibited.

65. If any emigrant without sufficient cause refuses or neglects to embark when called on by the Emigration Agent to do so, it shall not be lawful to compel the emigrant to embark; but nothing in this section shall affect the civil or criminal liabilities which an emigrant incurs by reason or in respect of any such refusal or neglect.

66. (1) When any emigrants are about to embark on board any vessel, the Emigration Agent shall supply the master of the vessel with four copies of a list, specifying, as accurately as may be, the names, ages and occupations of the emigrants, and the names of their respective fathers.

(2) The master shall not receive any emigrant on board unless he is provided with a pass, signed by the Emigration Agent, and countersigned by the Protector, stating the name and age of the emigrant, the name of his father, and the country to which he has agreed to emigrate, and certifying that he is in a fit state of health to undertake the voyage to that country.

(3) Every emigrant shall on embarkation deliver the pass to the master.

(4) The master shall compare the emigrants who embark and the passes delivered by them

with the list supplied by the Emigration Agent; and, if the list appears to be correct and to correspond with the passes delivered and with the emigrants embarked, the master shall sign the four copies of the list.

(5) The master shall not permit any emigrant to remain on board who has not delivered up his pass to the master, or is not mentioned in the list.

67. (1) When the copies of the list have been signed, the master shall give two of the copies to the Protector of Emigrants, who shall sign them if he believes them to be correct.

(2) The Protector shall send one of the copies so signed by him by the vessel which carries the emigrants to such officer as may be appointed in this behalf by the Government of the country to which the emigrants have agreed to emigrate, or, in the case of a foreign colony, to the British Consular Agent, and shall file the other copy in his own office.

Disposal of the two copies of list to be given by master to Protector.

68. (1) The master shall give to the Emigration Agent the two remaining copies of the list.

(2) The Emigration Agent shall thereupon sign the copies, and shall return one of them to the master.

(3) The master shall, on the arrival of the vessel at the country to which the emigrants have agreed to emigrate, and before their disembarkation, deliver the copy so returned to him to such officer as may be appointed in this behalf by the Government of the country, or, in the case of a foreign colony, to the British Consular Agent.

69. (1) The Medical Inspector shall be present at the embarkation of all emigrants, and shall examine each emigrant to ascertain if he is in a fit state of health to undertake the voyage to the country to which he has agreed to emigrate; and, if he finds that he is not fit to undertake the voyage, he shall inform the Protector accordingly.

(2) The Protector may thereupon refuse to permit the emigrant to embark; and any emigrant, registered as a dependent of an emigrant whom the Protector has refused to permit to embark, or any emigrant who, not being a dependent, is the father, mother, wife, husband, son, daughter, brother, sister, guardian, or ward of the emigrant, may, notwithstanding anything in this Act, refuse to embark.

(3) The provisions of sections fifty, fifty-one and fifty-three shall apply to emigrants who under this section are not permitted to embark, and to any emigrants who under this section refuse to embark, and to the recovery of expenses incurred under this Act in respect of them.

70. The Emigration Agent shall, after all the emigrants have embarked, deliver to the master all the agreements made by the Emigration Agent or under his authority with the emigrants, and delivered or sent to him under this Act; and the

Emigration Agent to deliver agreements to emigrate to master.

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master shall, on arrival at the country to which the emigrants are to be conveyed, deliver these agreements to such officer as may be appointed in this behalf by the Government of the country, or, in the case of a foreign colony, to the British Consular Agent.

71. Before any emigrant-vessel clears out of any port, the master of the vessel shall obtain from the Protector of Emigrants at the port, and from the Emigration Agent for the country to which the emigrants are to be conveyed, certificates, signed by the Protector and Emigration Agent, respectively, to the effect that the Protector and Agent have, in respect of all the emigrants embarking at that part in the vessel, done all that is required by the foregoing provisions of this Act, or by the rules made under this Act, to be done on the part of the Protector and Agent, respectively, and that all the directions for the security, well-being and protection of emigrants which are contained in this Act, or in the rules made under this Act, have in the case of that vessel been complied with.

72. The master of every emigrant-vessel shall keep on board the vessel during the whole voyage two copies of this Act and of all rules made under this Act, and two copies of a translation of this Act, and of those rules, in such language or languages as the Local Government directs, and shall, on request made at any reasonable time, produce one of those copies to any emigrant for his perusal.

73. For each emigrant who embarks on board an emigrant-vessel the Emigration Agent shall pay to the Protector of Emigrants a fee of such amount as the Governor General in Council, from time to time, by notification in the *Gazette of India*, prescribes:

Provided as follows:—

- (a) the fee payable under this section shall not be more than is, in the opinion of the Governor General in Council, sufficient to raise the total income from fees under this Act to an amount which will cover the cost of any establishment or supervision which the Governor General in Council thinks necessary to provide for the control of emigration:
- (b) if it appears to the Governor General in Council expedient to provide, in the case of any country, any special establishment or expenditure for the protection of Indian emigrants to that country, the Governor General in Council may increase the fee payable in the case of emigrants to that country to an amount sufficient, in his opinion, to cover the cost of the special establishment or expenditure.

74. It shall be the duty of every master licensed under this Act to see that all the provisions of this Act and the rules made under this Act are

Duty of master to see to observance of Act and rules on board his vessel.

observed on board his vessel during the voyage from British India to the country to which the emigrants are to be conveyed.

75. The master shall return his pass to each emigrant before he disembarks in the country to which he has agreed to emigrate.

Special Provisions as to Vessels sailing from Calcutta.

76. The master of every vessel carrying emigrants from the port of Calcutta shall proceed on his voyage and depart with his vessel from Garden Reach within twenty-four hours after the embarkation of such of the emigrants as have first embarked.

77. Every sailing-vessel leaving the port of Calcutta with emigrants shall proceed from Garden Reach to sea under tow of a steamer declared to be competent by such officer as the Local Government appoints in this behalf.

78. (1) When an emigrant-vessel leaves the port of Calcutta, if during her passage down the river, and while between Garden Reach and Diamond Harbour, the disease of measles, scarlet-fever or small-pox appears on board, the master shall, if so required by the surgeon in charge of the emigrants, send to the hospital at Diamond Harbour all emigrants suffering from the disease, with any emigrants registered as their dependents, and any emigrant who, not being a dependent, is the father, mother, wife, husband, son, daughter, brother, sister, guardian or ward of any such emigrant and who wishes to accompany him or her, and shall at once inform the Protector of Emigrants at Calcutta of the number and names of the emigrants so sent to hospital.

(2) The provisions of sections fifty, fifty-one and fifty-three shall, so far as may be, apply to emigrants landed under this section, and to the recovery of expenses incurred in respect of them.

79. (1) In the event of cholera in an epidemic form appearing among the emigrants on board any such vessel carrying emigrants from the port of Calcutta, the surgeon in charge of the emigrants may require the master to land all the emigrants on board the vessel at Diamond Harbour

(2) The master shall at once comply with the request of the surgeon, and shall immediately give notice of his having done so to the Protector of Emigrants at Calcutta, who shall take such action thereon as the Governor General in Council, from time to time, by rules made under this Act, prescribes.

Power of surgeon of emigrant-vessel leaving Calcutta to require all emigrants to be landed when cholera appears

Emigrant-vessel sailing from Calcutta to depart within 24 hours of embarkation.

Emigrant-vessel sailing from Calcutta to be towed to sea.

Certificates from Protector of Emigrants and Emigration Agent.

Copies of Act and rules to be kept on board.

Fee for each embarked emigrant

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(Chapter XII.—Offences.)

CHAPTER XI.

RULES.

80. (1) The Governor General in Council may, from time to time, make rules consistent with this Act—
- Power for Governor General in Council to make rules.
- (a) to provide for the supervision and regulation of places of accommodation provided under this Act, and to define the classes of Magistrates and the officers of Police to be authorized to visit and inspect those places;
- (b) to prescribe the form of the register required under this Act, and the particulars to be entered therein, and to regulate the control to be exercised over Registering Officers by the District Magistrate or officer (if any) appointed in this behalf under this Act;
- (c) to prescribe the forms of the agreements to be made under this Act, and the particulars to be contained therein and the language or languages in which agreements must be expressed;
- (d) to prescribe the conditions on which licenses for the establishment of depôts under this Act may be given, to provide for the supervision and regulation of depôts, and for the medical care of the emigrants during their residence there, and the measures to be taken on the outbreak of any epidemic or infectious disease there;
- (e) to prescribe the forms to be supplied by Emigration Agents and recruiters for the purposes of this Act;
- (f) to prescribe the particulars which the owner or master of a vessel applying for a license to carry emigrants in his vessel must state;
- (g) to regulate the proportion of women to be ordinarily carried in any emigrant-vessel with male emigrants, and to prescribe the arrangements to be made for the separation of women (married or single) and children from the other emigrants on board an emigrant-vessel;
- (h) to prescribe the description, quantity and quality of provisions, fuel and water to be taken by emigrant-vessels, the daily allowance of food and water to be issued, and the nature and amount of clothing to be supplied to each emigrant during the voyage;
- (i) to fix the number of the compounders, interpreters, and attendants subordinate to the surgeon to be carried for the care of the sick or weakly on board each emigrant-vessel;
- (j) to prescribe the nature, quantity and quality of medicines and other stores to be carried on board emigrant-vessels;
- (k) to provide for the ventilation and cleanliness of every emigrant-vessel during a voyage, and for its being furnished with a sufficient number of life-buoys, boats, water-buckets and other appliances to be used in case of shipwreck or fire;
- (l) to prescribe the seasons at which alone emigrant-vessels or specified classes of emigrant-vessels may sail from any port in British India to any country west of the Cape of Good Hope to which emigration is for the time being lawful;
- (m) to provide for the disposal of emigrants who may be landed under section seventy-nine;
- (n) to provide for the medical care of the emigrants on the voyage, and to provide for the measures to be taken on the outbreak of any epidemic or infectious disease on a voyage;
- (o) to provide for a journal being kept by the surgeon of every emigrant-vessel, recording the health of the emigrants, and his treatment of the sick, with full explanation of the causes of every death; and to define the duties and powers of the surgeon in respect of the emigrants committed to his care;
- (p) to define and regulate the powers and duties of the several officers appointed by the Government under this Act; and
- (q) generally to provide for the security, well-being and protection of emigrants:
- Provided that the Local Government may, in special cases, notwithstanding anything contained in rules made under clause (g) of this section, permit an emigrant-vessel to sail though it does not carry the proportion of women required to be carried in ordinary cases.
- (2) The power to make rules conferred by this section may be exercised at any time after the passing of this Act, but any rule made under this section shall not take effect until the Act comes into force.
81. (1) The Governor General in Council shall, before making rules under the last foregoing section, publish a draft of the proposed rules in such manner as may, in his opinion, be sufficient for the information of persons likely to be affected thereby.
- (2) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.
- (3) The Governor General in Council shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.
- (4) Every rule made under the last foregoing section shall be published in the *Gazette of India*, and the publication in the *Gazette of India* of a rule purporting to be made under that section shall be conclusive evidence that it has been duly made.

CHAPTER XII.

OFFENCES.

82. (1) Whoever, except in conformity with the provisions of this Act or of the rules made under this Act,—
- (a) makes, or attempts to make any agreement with any Native of India purporting to bind him to emigrate, or
- (b) in consideration of any hire or reward, induces, or attempts to induce, any Native of India to leave any place for the purpose of emigrating,

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or otherwise acts or is employed as a recruiter of emigrants, or

(c) in consideration of any hire or reward, receives into or detains in any place, or being a recruiter, in any place other than a place in which accommodation has been provided in accordance with this Act or the rules made under this Act, any person with a view to his being registered as an emigrant, or after his registration as an emigrant and before his departure for the depôt at the port of embarkation,

shall be punished with fine which may extend to five hundred rupees.

(2) If any person, other than a recruiter licensed under this Act, commits an offence under this section, any Police-officer may arrest him without warrant.

Recruiters removing un-registered emigrants to a depôt.—

(a) removes, or attempts to remove, any intending emigrant to a depôt before he has been registered under this Act as an emigrant, or induces, or attempts to induce, him to leave the local limits of the jurisdiction of the Magistrate by whom the recruiter's license has been countersigned before he has been so registered, or aids, or attempts to aid, him in leaving any such local limits or going to any depôt before he has been so registered, or

(b) fails to give a true copy of the statement with which he is provided under section twenty-six to any person whom he invites to emigrate, or

(c) fails to provide any emigrant whom he has engaged, and who has been registered at a place beyond the limits of the port of embarkation, with suitable lodging and food, or otherwise ill-treats any emigrant on his journey to the depôt,

shall be punished with fine which may extend to five hundred rupees.

84. (1) Whoever, by means of intoxication, coercion or fraud, causes or induces, or attempts to cause or induce, any Native of

India to emigrate, or to enter into any agreement to emigrate, or to leave any place with a view to emigrating, shall be punished with imprisonment for a term which may extend to one year, or with fine or with both,

85. Whoever, without lawful authority, issues any written order to the Police to assist himself or any other person to procure emigrants, or falsely represents that any emigrants are required by the Government or are to be engaged on behalf of the Government, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

86. If any master of a vessel—

(a) knowingly receives on board his vessel any emigrant who has not complied with the provisions of this Act, or the rules made under this Act, so far as they are binding on him, or

(b) not being licensed under this Act, knowingly receives any emigrant on board his vessel, or

(c) being licensed under this Act, knowingly receives on board his vessel any emigrant in excess of the number specified in his license,

he shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees for each emigrant so received, or with both; and the vessel, her tackle, apparel and furniture, may be declared by the Court before which the master is tried to be forfeited to Her Majesty.

87. If any master licensed under this Act fraudulently does, or suffers to be done, any act or thing whereby the

license becomes inapplicable to the altered state of the vessel or other matter to which the license relates, he shall be punished with fine which may extend to five thousand rupees;

and he may also be sued on any bond which he may have executed under section sixty-two.

88. If any master of an emigrant-vessel clears, or attempts to clear, his vessel outwards when any of the provisions of sections fifty-seven, fifty-nine or sixty have not been complied with in respect of his vessel, he shall be punished with fine which may extend to four thousand rupees;

89. If any master receives on board his vessel

any emigrants and fails to comply with the provisions as to lists and passes of sections sixty-six, sixty-seven and sixty-eight in respect of those emigrants, he shall be punished with fine which may extend to two hundred rupees for each emigrant so received on board.

90. If any master, having cleared his vessel,

takes on board any emigrant not entered in the list mentioned in section sixty-six or not furnished with a pass required by that section, he shall be punished with fine which may extend to two hundred rupees for each emigrant so taken.

91. If any master lands any emigrant in any

country other than the country for which he has been shipped by the Emigration Agent, he shall be punished for every

emigrant so landed with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both, unless the landing has been caused by stress of weather or unavoidable accident, or has taken place under the provisions of section seventy-eight or seventy-nine.

92. If any master of a sailing-vessel leaving the port of Calcutta with emigrants on board—

(a) does not leave Garden Reach with his vessel within the time prescribed in section seventy-six, or

(b) without reasonable excuse, causes or allows his vessel to go below Garden Reach without being in tow of such a steamer as is referred to in section seventy-seven,

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(Chapter XIII.—Supplemental.)

he shall be punished with fine which may extend to one thousand rupees.

93. (1) If any emigrant deserts before arrival at depôt, or refuses with-
Emigrant deserting or at depôt, or refuses with-
refusing to proceed to out reasonable cause to
depôt. proceed to the depôt, he

shall be punished with fine which may extend to twenty rupees, or to the cost incurred in entering into an agreement with, registering and conveying him to the depôt, whichever is greater, and, in default of payment of the fine, with imprisonment which may extend to one month.

(2) Any fine levied under this section may, in the discretion of the convicting Magistrate, be paid to the Emigration Agent or recruiter by whom the cost was incurred

Emigrant deserting 94. (1) If any emi-
from depôt or failing to grant—(a) deserts from
embark the depôt, or,

(b) without reasonable cause, refuses or neglects to embark when called upon to do so by the Emigration Agent,

he shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or to double the amount of the cost incurred in entering into an agreement with, registering and conveying him to the depôt, and maintaining him therein, or with both.

(2) Any fine levied under this section may, in the discretion of the convicting Magistrate, be paid to the Emigration Agent or recruiter by whom the cost was incurred.

95. If any person causes, or if any master knowingly permits, any emigrant to embark contrary to the provisions of section sixty-three, he shall be punished with fine which may extend to two hundred rupees for each emigrant so embarked.

96. (1) Prosecutions under sections eighty-six to ninety-five (both inclusive) shall not be instituted except as follows, namely:—

(a) Prosecutions under sections eighty-six to ninety-two, both inclusive, by the Emigration Agent, or by the Protector of Emigrants or by an officer appointed for the purpose by the Local Government.

(b) Prosecutions under section ninety-three, by or with the sanction of a Magistrate or Registering Officer or of the Protector of Emigrants at the port of embarkation.

(c) Prosecutions under section ninety-four, by the Emigration Agent with the sanction of the Protector.

(d) Prosecutions under section ninety-five, by the Protector of Emigrants or by an officer appointed for the purpose by the Local Government.

97. The following shall be good defences to charges under section ninety-three and ninety-four, respectively, namely:—

Defence to charges of desertion.

(a) to a charge under section ninety-three, that the accused person or other emigrants accompanying him has or have been ill-treated, deceived or defrauded by the recruiter or any person under his control;

(b) to a charge under section ninety-four, that the emigrant has suffered any ill-treatment or neglect in the depôt or on the journey thither.

98. All the powers for the time being conferred by law on officers of sea-customs with regard to the searching and detention of vessels, or otherwise for the prevention of smuggling on board thereof, may be exercised by those officers for the prevention of offences against this Act.

Power for Customs-officers to search and detain for purposes of Act.

CHAPTER XIII.

SUPPLEMENTAL.

99. The Local Government may, from time to time, appoint any person, by name or by virtue of his office, to perform within a specified local area the functions of a Magistrate under this Act.

Power for Local Government to appoint Magistrates for purposes of Act.

100. (1) Whenever an Emigration Agent is chargeable with a breach of any duty to an emigrant arising from any agreement with the emigrant or imposed by this Act or the rules made under this Act, the Protector of Emigrants may, if he thinks fit, institute a suit on behalf of the emigrant against the Emigration Agent for the recovery of compensation for the breach.

(2) In awarding compensation under this section, all sums ordered to be paid under section fifty or section fifty-two shall be taken into consideration.

101. (1) The Governor General in Council may, from time to time, by notification in the *Gazette of India*, determine what shall be held to be, for the purposes of this Act the probable length of the voyages by sailing-vessels and vessels using steam-power, respectively, from any port from which, to any country to which, emigration is for the time being lawful.

(2) Until otherwise determined under this section, the probable length of the voyage by sailing-vessels from the ports mentioned in the third schedule hereto annexed to the countries mentioned in that schedule shall be deemed to be the lengths stated in that schedule.

102. (1) The Governor General in Council may, by notification in the *Gazette of India*, extend the Straits Settlements Emigration Act, 1877, to the whole or any part of British India.

(2) The Governor General in Council may also, from time to time, by a like notification, declare

Emigration to Straits Settlements and adjoining Native States.

*Indian Emigration Act, 1883.**(Schedule III.—Probable Lengths of Voyage under this Act.)*

SCHEDULE III.

*(See Section 101.)*PROBABLE LENGTHS OF VOYAGE UNDER THIS ACT.
FROM CALCUTTA—

To Mauritius ...	...	From the month of April to the month of October, both inclusive, ten weeks; and from the month of November to the month of March, both inclusive, eight weeks.
To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, Nevis, St. Croix, French Guiana, Martinique, Guadeloupe, and its dependencies, and Dutch Guiana.	...		Twenty weeks.
To Natal	...	Twelve weeks.
To Fiji	...	Eighteen weeks.

FROM MADRAS—

To Mauritius	From the month of April to the month of October, both inclusive, seven weeks; and from the month of November to the month of March, both inclusive, six weeks.
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To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, Nevis, St. Croix, French Guiana, Martinique, Guadeloupe and its dependencies, and Dutch Guiana.	...	Nineteen weeks.
To Natal	...	Ten weeks.
To Fiji	...	Seventeen weeks.

FROM BOMBAY—

To Mauritius ...	...	From the month of April to the month of September, both inclusive, five weeks; and from the month of October to the month of March, both inclusive, six weeks.
To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, Nevis, St. Croix, French Guiana, Martinique, Guadeloupe, and its dependencies, and Dutch Guiana.	...	Nineteen weeks.
To Natal	...	Ten weeks.
To Fiji	...	Seventeen weeks.

D. FITZPATRICK,

Secretary to the Government of India.

[Published with the "Bombay Government Gazette" on the 15th May 1884.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 18th February 1884, and the assent of His Excellency the Viceroy and Governor General on the 8th April 1884, and is published for general information :—

Bombay Act No. II. of 1884.

The Bombay District Municipal Act Amendment Act, 1884.

[Third publication.]

The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 1st May 1884.

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Bombay Act No. II. of 1884.

An Act to amend the Bombay District Municipal Act.

WHEREAS it is expedient to amend the Bombay District Municipal Act in manner hereinafter appearing; It is enacted as follows:—

I.—PRELIMINARY.

1. This Act may be cited as "The Bombay District Municipal Act Amendment Act, 1884," and this Act and the Bombay District Municipal Act, which is hereinafter referred to as "the principal

Act," may be together cited as "The Bombay District Municipal Acts of 1873 and 1884."

This Act and the principal Act extend
Local extent. to the whole of the Presidency of Bombay, except the City of Bombay.

2. This Act shall be construed as one
Construction. with the principal Act.

3. The enactments mentioned in the Repealing section. schedule hereto annexed are repealed to the extent specified in the third column thereof :

Provided that the said repeal shall not affect the validity or invalidity of anything already done under either of the said enactments, and shall not apply in any temporary municipal district in existence when this Act comes into force ;

Provided further that the municipal commissioners in every permanent municipal district in existence when this Act comes into force shall continue to be appointed as if this Act had not been passed until the date notified by the Governor in Council for each such municipal district under section 11 of this Act.

4. In the principal Act and in this Act, Interpretation section: unless there be something repugnant in the subject or context :

(1) the words "*Sind Official Gazette*" shall, in Sind, be deemed to be substituted for the words "*Bombay Government Gazette*," wherever they occur ;

(2) the term "municipal district" means any local area which is at present a municipal district under the principal Act and any local area which may hereafter be constituted a municipal district under section 5 of this Act, if such municipal district has not ceased to exist under the provisions of the said section.

In the principal Act :

(3) the phrases "the date of this Act coming into force," "the date of the passing of this Act," and the like, shall, in Sind, be deemed to mean the first day of October 1873.

In this Act :

(4) the words "salaried servant of Government" do not include a retired servant of Government in receipt of a pension ;

(5) the term "Commissioner of the division" means, in the division, the Commissioner of Sind and elsewhere the Commissioner of a division appointed under the Bombay Land Revenue Code, 1879.

II.—CONSTITUTION OF MUNICIPALITIES.

Municipal Districts.

5. Subject to the provisions of sections 8, 9 and 10 of this Act, Definition of municipal districts. the Governor in Council may, from time to time by notification in the *Bombay Government Gazette*, declare any local area to be a municipal district, and may, from time to time by a like notification, extend, contract or otherwise alter the limits of any municipal district, or declare that any local area shall, from a date to be specified in the notification, cease to be a municipal district.

Every such notification for constituting a new municipal district, or for altering the limits of an existing municipal district, shall clearly set forth the local limits of the area to be included or excluded from such municipal district, as the case may be.

When any local area ceases to be a municipal district, the municipality constituted therein shall cease to exist, and the property and rights vested in any such municipality, or in any municipality which has ceased to exist under the operation of section 20 of the principal Act, or has been abolished under section 16 of that Act, shall, subject to all charges and liabilities affecting the same, vest in the Governor in Council, and the proceeds thereof, if any, shall be expended by the Governor in Council for the benefit of the local area in which such municipality had jurisdiction.

6. As soon as may be after the date when this Act comes into force the Governor in Council shall in a notification published in the *Bombay Government Gazette* clearly set forth the local limits of each municipal district in existence on the said date and which has not since ceased to exist, and the said notification shall be conclusive evidence that the principal Act and this Act and all rules, bye-laws and orders applicable to such municipal district are in force within the limits so set forth.

Determination of local limits of municipal districts in existence when this Act comes into force. It shall be the duty of the municipality in every such municipal district, and of every municipality newly constituted under this Act, and of every municipality whose local limits are altered as aforesaid, within six months from the date of the notification issued under the first paragraph of this sec-

Definition of municipal boundaries by boundary marks. Definition of municipal boundaries by boundary marks. It shall be the duty of the municipality in every such municipal district, and of every municipality newly constituted under this Act, and of every municipality whose local limits are altered as aforesaid, within six months from the date of the notification issued under the first paragraph of this sec-

tion, or of the notification constituting the municipality or altering its local limits, as the case may be, to cause to be erected or set up, at its own costs, substantial boundary marks of such description and in such positions as shall be approved by the Collector, defining the limits or the altered limits of the municipal district subject to its authority as set forth in the said notification.

7. Municipal districts constituted under

Municipal districts to be temporary or permanent. section 5 may be either temporary or permanent.

8. Any local area in which a periodical fair is held, or which

What local areas may be declared to be temporary municipal districts. is visited periodically by pilgrims, together with any neighbouring local area to which the people attending such fair or the pilgrims resort whilst such fair or pilgrimage lasts, may be declared a temporary municipal district.

9. Any local area which comprises:—

What local areas may be declared to be permanent municipal districts. (a) a city, town or station or two or more neighbouring cities, towns and stations, with or without any village, suburb or land adjoining thereto, or

(b) a village or suburb or two or more neighbouring villages and suburbs, may be declared a permanent municipal district: Provided that unless for exceptional reasons which shall be clearly set forth in the proclamation under section 10 and in the notification issued under section 5, no city, town, station or suburb shall be included in a permanent municipal district with any other city, town, station or suburb from which it is separated by an extent of more than one mile of land unoccupied by houses; and no such municipal district shall be constituted in any area of which the population is less than two thousand.

When two or more places bearing different names are formed into one municipal district, the name of the municipal district shall be determined by the Governor in Council.

10. Not less than two months before the

Permanent municipal districts, publication of any notification declaring any local area a permanent municipal district, or altering the limits of any such district, or declaring that any local area shall cease to be a municipal

district, the Governor in Council shall cause to be published in the *Bombay Government Gazette*, in English, and in at least one of the local newspapers, if any, in the language of the district in which such local area is situated, and to be posted up in conspicuous spots in the said local area in the language of the said district, a proclamation announcing that it is proposed to constitute such local area a municipal district, or to alter the limits of the municipal district in a certain manner, or to declare that such local area shall cease to be a municipal district, as the case may be, and requiring all persons who entertain any objection to the said proposal to submit the same, with the reasons therefor, in writing, to a Secretary to the Government within two months from the date of the said proclamation.

No such notification as aforesaid shall be issued by the Governor in Council unless the objections, if any, so submitted, are, in his opinion, insufficient or invalid.

11. In every permanent municipal district there shall be a municipality.

Except as is hereinafter otherwise provided, every such municipality newly constituted under this Act, and on and after such date as shall be notified by the Governor in Council for each permanent municipal district in existence when this Act comes into force, the municipality in every such district shall consist of—

(a) elective commissioners;

(b) such persons, if any, as the Governor in Council, or any officer whom he authorizes in this behalf, appoints, who shall be called "nominated commissioners."

Provided that the number of elective commissioners shall be not less than one-half of the whole number, exclusive of the president, and that not more than one-half of the nominated commissioners shall be salaried servants of Government.

12. The Governor in Council shall from time to time—

(a) determine the total number of commissioners in each municipality;

(b) fix, subject to the provisions of the last preceding section, the proportion of the commissioners, if any, who

shall be nominated and the number of those who may be salaried servants of Government;

(c) make rules, consistent with this Act, for fixing the dates and the time and manner of holding elections of the elective commissioners, prescribing the qualifications of candidates and of voters, and generally for regulating such elections:

Provided that:

(d) subject to the disqualifications mentioned in section 16, as regards candidates, and in section 22, as regards voters, every fellow and every graduate of any university, every pleader holding a sanad from the High Court, every juror, every assessor and every Honorary Magistrate resident within a municipal district, and every person paying municipal taxes of an amount not less than such minimum as shall from time to time be fixed by Government for each municipal district, shall be qualified both as a candidate and a voter at such elections in the said district;

(e) no alteration in, or addition to, the qualifications of candidates or voters made at any time after the first elections have been held in any municipal district under this section, shall take effect in such district within six months from the date on which such alteration or addition is made.

13. Nothing in the two last preceding sections shall apply to any permanent municipal district at a hill station or to any permanent municipal district to which, owing to the smallness of such district or to the backward state of its inhabitants, or other such exceptional reason, the Governor in Council shall, in a notification setting forth such reasons and published in the *Bombay Government Gazette*, at any time declare the provisions of the said sections to be unsuitable.

In any such municipal district the municipality shall consist either entirely of nominated commissioners, or partly of nominated commissioners and partly of elective commissioners in such proportions, and appointed or elected by such persons, in such manner, and subject to such conditions, as

the Governor in Council in the notification published under the first paragraph of this section, or in any subsequent notification published as aforesaid, shall think fit to prescribe.

It shall be competent to the Governor in Council at any time to alter or rescind any notification issued by him under this section; and in the event of any notification under the first paragraph being rescinded, the municipality affected thereby shall from a date to be fixed in this behalf by the Governor in Council be constituted in accordance with the two last preceding sections.

14. The powers and duties conferred and imposed by this Temporary municipal Act and by the principal Act on municipalities shall, in a temporary municipal district, be respectively exercised and discharged by a neighbouring municipality nominated in this behalf by Government, or by a municipality specially constituted for the time being and consisting of such commissioners nominated in such manner as the Governor in Council directs.

15. Every municipality in a permanent municipal district shall be a body corporate by the name of "The Municipality of _____," and shall have perpetual succession and a common seal, and may sue and be sued in its corporate name, and shall be competent to acquire and hold property, both moveable and immoveable, to lease, sell, or otherwise transfer any moveable or immoveable property which may have become vested in or been acquired by it, and to contract and to do all other things necessary for the purposes of this Act:

Provided that no lease of immoveable property for a term exceeding seven years and no sale or other transfer of any such property shall be valid unless such lease, sale or other transfer shall have been made with the previous sanction of the Commissioner of the division.

Provisions relating to Municipal Commissioners.

16. No female, and no person—

- (a) who is less than twenty-one years of age, or
 (b) who is a District or a Subordinate Judge, or is acting in either of those capacities, or
 (c) who has been convicted by any criminal court of an offence which may not lawfully be compounded, such conviction

not having been subsequently reversed or quashed, or

(d) who is an uncertificated bankrupt or an undischarged insolvent, may be a municipal commissioner; and no person—

(e) who is a subordinate officer or servant of a municipality, or

(f) who has directly or indirectly any share or interest in any work done by order of a municipality, or in any contract or employment with or under a municipality,

may be a member of such municipality; and any municipal commissioner who, during the term for which he has been elected or appointed,

(g) becomes disqualified for any of the above reasons, or

(h) not being a salaried servant of Government, is absent for more than four consecutive months from the limits of the district in which the municipality is established,

shall cease to be a commissioner, and his office shall become vacant.

17. A person who has already been elected or appointed

Re-eligibility of municipal commissioners. a municipal commissioner on one or more occasions shall, if otherwise duly qualified, be eligible at any time for re-election or re-appointment.

18. Except as is otherwise provided in the next following section, municipal

Term of office. commissioners appointed or elected under this Act shall, unless they become in the meantime disqualified, hold office for a term of three years.

19. In the event of the death, resignation or disqualification of a municipal

Casual vacancies how to be filled up. commissioner, or of his becoming incapable of acting, previous to the expiry of his term of office, the vacancy shall be filled up, as soon as it conveniently may be, by the election or appointment, as the case may be, of a person thereto, who shall hold office so long only as the commissioner in whose place he is elected or appointed would have held it if the vacancy had not occurred.

20. The names of all commissioners finally elected to any

Publication of names of commissioners, in the Bombay Government Gazette. municipality as well as the names of the nominated commissioners, if any, ap-

pointed thereto shall be published, as soon as conveniently may be, in the *Bombay Government Gazette*.

21. Except as is hereinafter otherwise provided, no municipal commissioner shall be personally liable in respect of any contract or agreement made, or for any expense incurred by, or on behalf of, the municipality; the funds at the disposal of each municipality shall be liable for and be charged with all costs in respect of any such contract or agreement and all such expenses:

Provided that every municipal commissioner shall be personally liable for the misapplication of any fund to which he

but commissioners to be held responsible for misapplied funds. shall have been a party, or which shall have happened through, or been facilitated by, gross neglect of his duty as a commissioner, and may be sued for recovery of the monies so misapplied as if such monies had been the property of the Government.

Municipal Elections.

22. No person who is less than twenty-one years of age shall be entitled to vote at any municipal election.

23. If the validity of any election of a municipal commissioner is brought in question by any person qualified either to be elected or to vote at the election to which such question refers, such person may, at any time within ten days after the date of the declaration of the result of the election, apply to the District Judge of the district within which the election has been or should have been held.

Determination of validity of elections. The District Judge may, after such inquiry as he deems necessary, pass an order for confirming or amending the declared result of the election, or for setting the election aside.

The District Judge may, after such inquiry as he deems necessary, pass an order for confirming or amending the declared result of the election, or for setting the election aside.

For the purposes of the said inquiry the District Judge may exercise any of the powers of a civil court, and his decision shall be conclusive.

If he sets aside an election, a date shall forthwith be fixed and the necessary steps taken for holding a fresh one.

Presidents and Vice-Presidents.

24. Every municipality shall be presided over by a president, who shall be one of the commis-

Nomination of presidents;

sioners and shall be appointed by the Government or, if the Governor in Council so directs, elected by the municipality.

If the president so appointed or elected is a salaried servant of Government, the municipality shall elect one of the commissioners to be vice-president; unless the Governor in Council otherwise directs, no appointment of a vice-president shall be valid until it is approved by the Government, or by such other authority as the Government prescribe in this behalf.

Every president's and vice-president's term of office shall cease on the expiry of his term of office as a commissioner, provided that he shall be removeable from office as such president or vice-president by the Government for misconduct, or neglect of, or incapacity to perform, his duty.

In the event of the death, resignation, or removal from office, of a president or vice-president, or of his becoming incapable of acting, or disqualified to be a commissioner, previous to the expiry of his term of office, the vacancy shall be filled up, as soon as it conveniently may be, by the appointment or election, as the case may be, of some other commissioner thereto.

25. The president of a municipality shall—

(a) preside at the meetings of the municipality;

(b) watch over the financial and executive administration of the municipality, and perform such executive functions as he may be empowered to perform by the rules of the municipality over which he presides;

(c) exercise supervision and control over the acts and proceedings of all officers and servants of the municipality in matters of executive administration and in matters concerning the accounts and records of the municipality; and, subject to the rules of the municipality at the time being in force, dispose of all questions relating to the service of the said officers and servants, and their pay, privileges and allowances;

(d) furnish to the Collector, or to such other officer as the Collector shall

from time to time nominate in this behalf, a copy of every resolution passed at any meeting of the municipality and any extract from the minutes of the municipality's or of any committee's proceedings, or other document or thing which the Collector may from time to time call for under section 37.

When the president of a municipality is a salaried servant of Government and has been appointed to be president by the Government, he shall not vote upon any questions which come before such municipality for decision unless there is an equality of votes of the other commissioners present for and against the proposition under consideration, in which case he shall have a casting vote.

26. Vice-presidents of municipalities shall—

(a) in the absence of the president, preside at the meetings of the municipality, and

(b) exercise such of the powers and perform such of the duties of the president as the president from time to time deposes to him.

Conduct of Business.

27. The following provisions shall be observed with respect to the proceedings of a municipality:—

(1) Except in municipalities at hill stations, there shall be held four quarterly general meetings in each year, for the disposal of general business, on or about the tenth day of each of the months of January, April, July, and October. In municipalities at hill stations there shall be held one general meeting on or about the tenth day of April and not less than one other periodical general meeting for the purpose aforesaid in each year.

(2) The president may, whenever he thinks fit, and shall, upon the written request of not less than one-fourth of the commissioners, call a special general meeting.

(3) Seven clear days' notice of a quarterly general meeting, and three clear days' notice of

a special general meeting, specifying the time and place at which such meeting is to be held and the business to be transacted thereat, shall be circulated to the commissioners and posted up at the municipal office or the local kacheri or some other public building in the municipal district. The said notice shall include any motion or proposition which a commissioner shall have given written notice of his intention to bring forward at the meeting not less than ten days previous thereto, and, in the case of a special general meeting, any motion or proposition mentioned in the written request for such meeting.

(4) If less than one-half of the commissioners be present at a meeting at any time from the beginning to the end thereof, the presiding authority shall adjourn the meeting to such day and hour as he shall consider convenient to the commissioners, and the business which would have been brought before the original meeting, had there been a quorum thereat, shall be brought before the adjourned meeting and be transacted by it, whether there be a quorum present or not.

(5) Every meeting shall be open to the public unless the presiding authority deems any inquiry or deliberation pending before the municipality such as should be held in private, and provided that the said authority may at any time cause any person to be removed who interrupts the proceedings.

(6) Every meeting shall be presided over by the president, if he is present at the time appointed for holding the same, and, if he is absent, by the vice-president, and, if both the president and vice-president are absent, by such one of the commissioners present as may be chosen by the meeting to be chairman for the occasion.

(7) Except with the permission of the presiding authority, no business shall be transacted and no proposition discussed at any general meeting, unless it is mentioned in the notice convening such meeting and is brought forward by the presiding authority

or by any commissioner who has given ten days' previous notice thereof to the president, or, in the case of a special general meeting, unless mention thereof has been made in the written request for such meeting.

(8) Any general meeting may, with the consent of a majority of the commissioners present, be adjourned from time to time; but no business shall be transacted at any adjourned meeting other than that left undisposed of at the meeting from which the adjournment took place.

(9) Except as is otherwise provided in section 25, all questions shall be decided by a majority of votes of the commissioners present, the president, vice-president, or chairman having a second or casting vote in all cases of equality of votes.

(10) The municipality may delegate any of their duties or powers to committees consisting of such commissioners as they think fit, and may appoint any one of the said commissioners to be the chairman of the committee; and any committee so formed shall conform to any instructions that may from time to time be given to them by the municipality, and the municipality may at any time discontinue or alter the constitution of any committee so formed.

(11) If no chairman of a committee has been appointed by the municipality, the members of such committee shall elect their chairman; and if no chairman appointed or elected as aforesaid is present at the time appointed for holding any meeting, the members present shall choose one of their members to be chairman of such meeting.

(12) Committees may meet and adjourn as they think proper, but the chairman of the committee may, whenever he thinks fit, and shall, upon the written request of the president of the municipality or of not less than two members of a committee, call a special meeting of such committee.

(13) Questions at any meeting of a committee shall be decided by a majority of votes of the members present, and, in case of an equal division of votes, the chairman of the meeting shall have a second or casting vote, but no business shall be transacted at any such meeting unless at least two-thirds of the members of the committee are present from the beginning to the end thereof.

(14) Except for reasons which the presiding authority deems emergent, no business relating to any work which is being executed for the municipality by a Government Executive Engineer, or to any educational matter, shall be transacted at any meeting of a municipality or of a committee, unless, at least fifteen days previous to such meeting, a letter has been addressed to the said Executive Engineer or to the Educational Inspector of the district informing him of the intention to transact such business thereat and of the motions or propositions to be brought forward concerning such business.

(15) Minutes shall be kept in the vernacular language of the names of the commissioners and of the Government officers, if any, present under the provisions of section 28, and of the proceedings at each general meeting and each committee's meeting, and, if any commissioner present so desires, of the names of the commissioners voting respectively for or against any resolution, in a book to be provided for this purpose, which shall be signed, as soon as practicable, by the president or vice-president or chairman of such meeting, and shall at all reasonable times be open to inspection by any inhabitant of the municipal district: when practicable, the proceedings at general meetings shall be inserted in the minute-book in English as well as in the vernacular language.

(16) During any vacancy in a municipality the continuing commissioners may act as if no vacancy had occurred.

(17) No act of a municipality, or of any committee, or of any person acting as a commissioner or as a president, vice-president, or chairman, shall be deemed to be invalid by reason only of some defect in the appointment of such municipality, committee, president, vice-president, chairman, or commissioner, or on the ground that they, or any of them, were disqualified for the office of commissioner, or that formal notice of the intention to hold a meeting of a municipality or of a committee was not duly given, or for any other such mere informality.

28. The Executive Engineer, the Educational Inspector and the Deputy Sanitary Commissioner of a district, and the Civil Surgeon in a district, when charged with any of the duties of a health officer therein, if not members of a municipality within the district, shall have the right of being present at any meeting of the said municipality, or of any committee thereof; and, with the consent of the municipality or committee, each of them may take part at such meeting in the discussion or consideration of any question on which in virtue of the duties of his office he considers his opinion or the information which he can supply will be useful to such municipality or committee: provided that the said officers shall not, unless they are members of the municipality or committee, be entitled to vote upon any such question.

If it shall appear to a municipality that the presence of any of the above officers is desirable for the purpose aforesaid at any future meeting of such municipality, or any committee thereof, it shall be competent to such municipality, by letter addressed to such officer not less than fifteen days previous to the intended meeting, to require his presence thereat; and the said officer, unless prevented by sickness, or other reasonable cause, shall be bound to attend such meeting.

29. Whenever it appears to the president of a municipality, or to the chairman of a committee, unnecessary to convene a meeting, he may, instead of so doing, circulate a written proposition of his own, or of any other commissioner, or, in the

case of a committee, of any other member of the committee, or of any executive officer of the municipality, for the observations and votes of the commissioners, or of the members of the committee, as the case may be. Previous to circulating any such proposition as aforesaid, the president or chairman may, if he thinks fit, and, if the business to which it relates is of the nature described in clause (14) of section 27, shall obtain thereupon the remarks, if any, which any Government officer, not a commissioner, who would be entitled under the provisions of section 28 to be present at such meeting, desires to record.

The decision on any proposition so circulated shall be in accordance with the majority of votes of the commissioners who vote upon it, unless a special meeting is convened to consider the propositions under clause 2 or clause 12 of section 27.

Every decision arrived at by the commissioners under this section shall be recorded in the minute-book kept under clause 15 of section 27.

30. The president of a municipality may, on behalf of the municipality, enter into any contract or agreement in such manner and form as, according to the law for the time being in force, would bind him if such contract or agreement were on his own behalf: provided that the amount or value of such contract or agreement shall not exceed five hundred rupees.

Every other contract or agreement on behalf of a municipality shall be in writing and shall be signed by the president and by two other commissioners and shall be sealed with the common seal of the municipality.

No contract or agreement not executed as in this section provided shall be binding on a municipality.

31. A municipality may from time to time concur with any other municipality or with any local board or cantonment committee, or with more than one such municipality, local board or committee:

(a) in appointing out of their respective bodies a joint committee for any purpose in which they are jointly interested and in appointing a chairman of such committee; and

(b) in delegating to any such committee power to frame terms binding on each such body as to the construction and

future maintenance of any joint work and any power which might be exercised by either or any of such bodies; and

(c) in framing and modifying rules for regulating the proceedings of any such committee and the conduct of correspondence relating to the purpose for which the committee is appointed.

If any difference of opinion arises between local bodies acting under this section the decision thereupon of Government shall be final.

III.—RULES AND BYE-LAWS.

32. Every municipality shall, as soon as conveniently may be after it has been constituted, make and may from time to time alter or rescind rules, consistent with this Act and with the principal Act:

(a) regulating the conduct of its business and the delegation of any of its powers or duties to one or more committees;

(b) determining the staff of officers and servants to be employed by it and their respective designations, duties, salaries, fees and absentee or other allowances;

(c) determining the mode of appointing, punishing or dismissing any such officer or servant;

(d) regulating the grant of leave to such officers or servants and fixing the remuneration to be paid to the persons, if any, appointed to act for them whilst on leave;

(e) regulating the period of service of all such officers and servants and determining the conditions under which such officers and servants, or any of them, shall, on retirement, receive pensions, gratuities, or compassionate allowances, and the amount of such pensions, gratuities, or compassionate allowances;

(f) authorizing the payment of contributions, at certain prescribed rates and subject to certain prescribed conditions, to any pension or provident fund which may, with its approval, be established by the said officers and servants;

(g) fixing the amount and nature of the security to be furnished by any officer or servant from whom it may be deemed expedient to require security;

(h) prescribing, subject to the provisions of section 21 of the principal Act, the tolls, cesses, taxes or other imposts to be levied in the municipal district for municipal purposes, and the fees to be charged for licenses or permissions granted under section 22 of the said Act, and the times and mode of levying or recovering the same;

(i) generally for the guidance of its officers and servants in all matters relating to the municipal administration:

Provided that—

(j) if an officer is lent to any municipality by the Government, or if an officer is employed partly in the service of Government and partly in the service of a municipality, such municipality shall contribute to his pension and leave allowance to such extent as may be required by the rules in this behalf from time to time in force, and shall not, except with the assent of Government, dispense with his further services at any time without giving the Government six months' previous notice;

(k) no rule made under this section shall have effect unless and until it has been approved by the Governor in Council, or by such officer as he appoints in this behalf.

33. Every municipality may from time to time, with the previous sanction of the Governor in Council, make, alter, or rescind bye-laws consistent with this Act and with the principal Act:

(a) for regulating and inspecting markets and slaughter-houses and all places used by or for horses or other animals which are let out on hire or the produce of which is sold, and for the proper and cleanly conduct of business

therein, and for fixing the charges to be made for the use of any of them which belong to the municipality;

(b) for licensing and inspecting places for regulation of used for any of the dangerous or offensive purposes mentioned in section 69 of the principal Act and for regulating the conduct of business in any such place so as to minimize the injurious, offensive or dangerous effect thereof;

(c) for regulating the water-supply, conservancy and the disposal of carcasses of dead animals;

(d) for the registration of births, deaths and marriages and the taking of a census within the municipal district;

(e) generally for the regulation of all matters relating to municipal administration:

And every municipality may, with the like sanction, prescribe a fine for the infringement of any such bye-laws.

34. Every municipality shall, before making any bye-law under the last preceding section, publish, in such manner as shall in their opinion be sufficient for the information of the persons likely to be affected thereby, a draft of the proposed bye-law, together with a notice specifying a date on or after which the draft will be taken into consideration, and shall, before making the bye-law, receive and consider any objection or suggestion which may be made in writing by any person with respect to the draft before the date so specified.

When any bye-law made by a municipality is submitted to the Governor in Council for sanction, a copy of every objection or suggestion so made, and of the notice published as aforesaid, shall be submitted for the information of the Governor in Council along with the said bye-law.

35. Any rules or bye-laws made with the approval of the Governor in Council by any municipality under section 14 of the principal Act, and now in force, shall continue in force, so far as they are consistent with this Act, until they shall be altered or rescinded under section 32 or section 33.

36. The rules and bye-laws for the time being in force under sections 32, 33 and 35 shall be kept open at the municipal office for public inspection at all reasonable times; and printed copies thereof in the vernacular language of the district shall be kept on sale at a reasonable price.

IV.—CONTROL.

Collector's powers of inspection and supervision.

37. The Collector shall have power—

(a) to enter on and inspect, or cause to be entered on and inspected, any immoveable property occupied by any municipality, or any work in progress under it or under its direction;

(b) to call for any extract from any municipality's or any committee's proceedings, any book, or document in the possession of or under the control of a municipality and any return, statement, account, or report which he may think fit to require such municipality to furnish;

(c) to require a municipality to take into its consideration any objection which appears to him to exist to the doing of anything which is about to be done or is being done by such municipality, or any information which he is able to furnish and which appears to him to necessitate the doing of a certain thing by the municipality, and to make a written reply to him within a reasonable time stating its reasons for not desisting from doing, or for not doing, such thing.

All or any of the powers given to the Collector by this section may be delegated by him to the Assistant or Deputy Collector in charge of a taluka in so far as concerns any municipality in such taluka.

38. If, in the opinion of the Commissioner of the division, the number of persons employed by a municipality as officers or servants, or whom a municipality proposes to employ, or the remuneration assigned by the municipality to those persons, or to any particular person, is excessive, the municipality shall, on the requirement of the said Commissioner, reduce the number or remuneration of the said persons or person:

Provided that the municipality may appeal against any such requirement to the Governor in Council, whose decision shall be conclusive.

IV.—18-9

39. If, in the opinion of the Collector, the execution of any order or resolution of a municipality, or the doing of anything which is about to be done or is being done by or on behalf of a municipality, is causing or is likely to cause injury or annoyance to the public, or to lead to a breach of the peace, he may, by order in writing, under his signature, suspend the execution or prohibit the doing thereof.

When a Collector makes any order under this section, he shall forthwith forward to the Commissioner of the division and the municipality affected thereby a copy of the order, with a statement of the reasons for making it; and it shall be in the discretion of the said Commissioner to rescind the order, or to direct that it continue in force with or without modification, permanently or for such period as he thinks fit.

The said Commissioner shall forthwith submit to Government a report of every case occurring under this section, and the Government may revise or modify any order made therein, and make in respect thereof any other order which the Commissioner of the division could have made.

40. In cases of emergency the Collector may provide for the execution of any work, or the doing of any act, which a municipality is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the health or safety of the public, and may direct that the expense of executing the work or doing the act, with a reasonable remuneration to the person appointed to execute or do it, shall be forthwith paid by the municipality.

If the expense and remuneration are not so paid, the Collector may make an order directing the person who has custody of the balance of the municipal fund to pay the expense and remuneration, or as much thereof as is possible, from the balance of such fund in his hands, and the said person shall be bound to obey such order.

The Collector shall forthwith report to the Commissioner of the division every case in which he uses the powers given to him by this section.

41. If it shall at any time appear to the Governor in Council, on complaint made or otherwise, that any toll, cess, tax, fee or other impost leviable by a municipality, is unfair in its incidence, or that the levy thereof, or of any part thereof, is obnoxious to the interests of the general public, he may require the said municipality, within such period as he shall fix in this behalf, to take measures for removing any objection which appears to him to exist to the said toll, cess, tax, fee or other impost, and if, within the period so fixed, such requirement shall not be carried into effect to the satisfaction of the Governor in Council, he may, by notification in the *Bombay Government Gazette*, suspend the levy of such toll, cess, tax, fee or other impost, or of such part thereof, until such time as the objection thereto shall be removed.

The Governor in Council may, at any time, by a like notification, rescind any such suspension.

42. When the Governor in Council is informed, on complaint made, or otherwise, that a municipality has made default in performing any duty imposed on it by or under this Act, the Governor in Council, if satisfied after due inquiry that the municipality has been guilty of the alleged default, may fix a period for the performance of that duty.

If that duty is not performed within the period so fixed, the Governor in Council may appoint some person to perform it, and may direct that the expense of performing it, with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the municipality.

If the expense and remuneration are not so paid, the Governor in Council may make an order directing the person who has custody of the balance of the municipal fund to pay the expense and remuneration, or as much thereof as is possible, from the balance of such fund in his hands, and the said person shall be bound to obey such order.

43. If, in the opinion of the Governor in Council, a municipality is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this Act, or otherwise by law, or

exceeds or abuses its powers, the Governor in Council may, by an order published, with the reasons for making it, in the *Bombay Government Gazette*, declare the municipality to be incompetent, or in default, or to have exceeded or abused its powers, as the case may be, and supersede it for a period to be specified in the order.

When a municipality is so superseded, the following consequences shall ensue:—

(a) all commissioners of the municipality shall, as from the date of the order, vacate their offices as such commissioners;

(b) all powers and duties of the municipality may, during the period of supersession, be exercised and performed by such person or persons as the Governor in Council, from time to time, appoints in that behalf;

(c) all property vested in the municipality shall, during the period of supersession, vest in Government.

On the expiration of the period of supersession specified in the order, the municipality shall be re-established by the election or appointment of new commissioners under the provisions of this Act applicable thereto.

44. In all matters connected with this Act, the Governor in Council, the Commissioners of divisions and the Collectors shall have and exercise the same authority and control over the Commissioners of divisions, the Collectors and their subordinates, respectively, as they have and exercise over them in the general and revenue administration.

V.—MISCELLANEOUS.

45. If any commissioner, officer or servant of a municipality has, directly or indirectly, any share or interest in any work done by order of a municipality or in any contract with or under that municipality he shall be liable, on conviction before a criminal court, to a fine which may extend to five hundred rupees:

Provided that the penalty herein prescribed and the disqualification for a municipal commissionership prescribed in section 16, clause (f), shall not be deemed to apply by reason only of a person—

(a) having a share in any joint-stock company which shall contract with, or

be employed by, or on behalf of, the municipality, or

(b) having a share or interest in any newspaper in which any advertisement relating to the affairs of the municipality may be inserted, or

(c) holding a debenture or being otherwise interested in any loan raised by or on behalf of the municipality, or

(d) being professionally engaged on behalf of the municipality as a legal practitioner.

Nevertheless it shall not be lawful for a person having any share or interest such as is described in the above clauses (a) and (b) to act as a commissioner in any matter relating to a contract or agreement between the municipality and such company or the manager or publisher of such newspaper.

46. Every commissioner and every officer and servant of a municipality, and every farmer or agent for the recovery of any toll, cess, tax, fee or other impost on behalf of a municipality, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

47. The powers and duties conferred and imposed by this Act on the Governor in Council or the Government, except those so conferred and imposed by sections 13, 38, 39, 43 and 44, shall, in Sind, be exercised and performed by the Commissioner.

48. No action shall be commenced against any municipality, or against any officer or servant of a municipality, or any person acting under the orders of a municipality, for anything done, or purporting to have been done in pursuance of this Act, or of the principal Act, without giving to such municipality, officer, servant, or person one month's previous notice in writing of the intended action and of the cause thereof, nor after three months from the date of the act complained of;

and in the case of any such action for damages, if tender of sufficient amount shall have been made before the action was brought, the plaintiff shall not recover more than the amount so tendered and shall pay all costs incurred by the defendant after such tender.

49. The following amendments shall be made in the principal Act, namely:

(a) in section 3 the following definition of the word "street" shall be substituted for the existing one, namely:—

"The word 'street' shall mean any street, way, road, square, court, alley or passage, over which the public have a right of way, or which is used by the public as a means of access";

(b) in section 17, clause (c), before the word "street" insert the word "public" and in clause (f) for the words "and spaces" the words "not being portions of provincial highroads or trunk roads specially reserved by Government" shall be substituted;

(c) to section 21 the following new clause shall be added, namely:

"Clause 5.—If any tax imposed under this section is a tax on pilgrims resorting periodically to a shrine within the limits of a municipal district, the Governor in Council may require the municipality of such district to assign and pay to the district local board, or to the taluka local board having authority in the taluka in which such municipal district is situate, or partly to the said district local board and partly to the said taluka local board, such portion of the total collections on account of such tax as he shall deem fit; and the portion so assigned shall be expended by the said board or boards, within the areas respectively under their authority, on works conducive to the health, convenience and safety of the said pilgrims;"

(d) in section 23 for the words and figures "Local Funds District constituted under Bombay Act III. of 1869" the words "area subject to the authority of a local board or of a cantonment committee, or out of any public funds" shall be substituted;

(e) for section 24 the following new section shall be substituted, namely:

new section substituted for section 24;

"24. It shall be the duty of every municipality to make adequate provision, out of the municipal property and funds, for the following matters within the municipal district under its authority, namely:

- (1) lighting of public streets, places and buildings;
- (2) watering public streets and places;
- (3) cleansing of public streets, places and sewers, scavenging, removing of noxious vegetation, and the abatement of all public nuisances;
- (4) extinguishing of fires and protecting of life and property when fires occur;
- (5) regulating or abating offensive or dangerous trades or practices;
- (6) removing obstructions and projections in public streets or places;
- (7) securing or removing dangerous buildings or places and reclaiming unhealthy localities;
- (8) providing, changing and regulating places for the disposal of the dead;
- (9) constructing, altering and maintaining public streets, bridges, causeways, culverts, municipal boundary-marks, markets, slaughter-houses, latrines, privies, urinals, drains, sewers, drainage-works, baths, washing-places, drinking fountains, tanks, wells, dams, and the like;
- (10) obtaining a supply or an additional supply of water, proper and sufficient for preventing danger to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply, when such supply or additional supply can be obtained at a reasonable cost;
- (11) naming of streets and numbering of houses;
- (12) public vaccination and the registration of births and deaths;
- (13) establishing and maintaining public hospitals and dispensaries and providing public medical relief;
- (14) providing special medical aid and accommodation for the sick in time of epidemic disease;
- (15) establishing and maintaining middle class and primary schools;

and municipalities may, at their discretion, provide out of the said property and funds, either wholly or partly, for the cost of—

- (16) erecting or maintaining public parks, gardens, libraries, museums, colleges, schools other than middle-class or primary schools, lunatic asylums, halls, offices, dharmshālas, rest-houses and other public buildings;
- (17) planting and maintaining of road-side and other trees;
- (18) the taking of a census, and any lawful sanitary measure;
- (19) the establishment and maintenance of relief and relief-works in time of famine or scarcity;
- (20) a survey;
- (21) any other measure likely to promote the public safety, health, convenience or education.

The management, control and administration of every public institution maintained out of municipal property and funds shall vest in the municipality which maintains the same: provided that the extent of the independent authority of any municipality in respect of public education and its relations with the Government Educational Department shall from time to time be prescribed by Government."

(f) in clause 2 of section 26, and also in clause 2 of section 57, the words "of the said municipality" shall be substituted for the words and figures "contemplated in section 14 of this Act";

(g) for the first portion of section 30, clause 1, amendment of section 30; down to and inclusive of the words "setting back," the following words shall be substituted, namely:—

"Clause 1.—If any part of a house or building projects beyond the regular line of a public street either as existing or determined upon for the future, or beyond the front of the house or building on either side thereof, the municipality may, whenever such house or building has been either entirely or in

greater part taken down or burned down or has fallen down or if the projecting part thereof is a platform, verandah, step or some other structure external to the main house or building, at any time, by written notice, require such house or building, when being rebuilt, to be set back to or towards the said regular line, or the front of the adjoining houses or buildings, or the part or some portion of the part, projecting beyond the said regular line, or the front of the adjoining houses or buildings, to be removed, as the case may be, and the portion of land added to the street by such setting back or removal ;”

(h) in section 69 for the words “ as amendment of section 69 ; a soap-house, oil-boiling house, dyeing-house, tannery” the words “ for salting and curing fish, soap-making, oil-boiling, dyeing, tanning, or the manufacture of leather or leather goods, or as a ” shall be substituted ;

(i) in section 84 for the word amendment of section 84, “ taxes” the words “ cesses or other taxes, and such penalties in addition to the said arrears, not exceeding in any case one-fourth of the amount of the arrear, as shall be adjudged by the said Magistrate, and all arrears of ” shall be substituted ;

(j) for clause 1 of section 88, the new clause substituted for clause 1 of section 88, following clause shall be substituted, namely:—

“88. *Clause 1.*—Every municipality shall have Quarterly and annual accounts prepared and laid before them, at their periodical general meetings, complete accounts of the receipts and expenditure of the municipal fund during the period since the 1st day of April last preceding, and at the general meeting in April a complete account of such receipts and expenditure for the financial year ending the 31st March last preceding, Budget Estimates. together with a budget estimate of the income and expenditure of the municipality for the financial year then just commenced ,”

(k) in section 89 the words “ of the amendment of section 89. municipality” shall be substituted for the words and figures “ required by section 14 of this Act ;”

(l) in section 94 the word “ public” shall be amendment of section 94 inserted before the word “ inspection.”

SCHEDULE (see Section 3).

Enactments.	Subject	Extent of Repeal
Bombay Act VI. of 1873.	For the better management of municipal affairs in mofussil towns and cities.	In Section 3 the words and figures “ by Regulation XVI. of 1827, or ” and the definitions of “ place ” and “ bazaar.” Sections 4 to 16, both inclusive. In section 17, clause (f), the two last words. Section 19, clause 1, and section 20. In section 22 the words and figures “ The rates of such fees shall be specified in the rules contemplated in section 14 of this Act.” Sections 27, 70, 72 and 86. In section 87, clause 2, the words “ Collectors and other.” Sections 91, 92 and 93. In section 94 the word “ similarly ” Sections 95, 96, 97, 98 and 99
Bombay Act I. of 1879.	To facilitate the introduction of the Bombay District Municipal Act into Sind.	The whole

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

C. G. W. MACPHERSON,
Under Secretary to Government,

Bombay Castle, 28th April 1884.

IV.—18—10



Bombay Government Gazette.

Published by Authority.

THURSDAY, 22ND MAY 1884

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 16th May 1884, and was promulgated for general information in the *Gazette of India* on the 17th May 1884.—

Act No. IX of 1884

An Act to amend the Legal Practitioners Act, 1879, and the Indian Stamp Act, 1879.

XVIII of
1879.

Whereas it is expedient to amend the Legal Practitioners Act, 1879, in manner in this Act appearing;

1 of 1879.

And whereas it is also expedient to amend the Indian Stamp Act, 1879, in so far as it relates to the duty chargeable on the enrolment of legal practitioners;

It is hereby enacted as follows:—

Short title and commencement. 1. (1) This Act may be called the Legal Practitioners Act, 1884; and

(2) It shall come into force at once.

XVIII of
1879.

2. In section 4 of the Legal Practitioners Act, 1879, for the words "as an advocate on the roll of the Chief Court of the Panjáb" the words "under section 41 of this Act" shall be substituted.

Addition of a proviso to section 13 of same Act.

3. To section 13 of the same Act the following proviso shall be added.—

" Provided that where the party is—

- (a) a pardánáshin woman, or
- (b) unable for any sufficient cause to instruct the pleader in person,

nothing in this section shall make a pleader liable to suspension or dismissal merely by reason that he has taken instructions from a relative or friend authorised by the party to give such instructions and not receiving any remuneration in respect thereof "

4. In section 14 of the same Act, before the words "any District Magistrate" the words "any Judge of a Court of Small Causes of a Presidency Town" shall be inserted

5. In section 25 of the same Act, after the word "annexed" the words "and of such description as the Local Government may from time to time prescribe" shall be inserted.

6. To the first clause of section 27 of the same Act the following shall be added, namely—"and in respect of the fees of his adversary's revenue-agent appearing, pleading or acting under section 10"

7. In section 38 of the same Act, for the words "by the Chief Court of the Panjáb" the words "under section 41 of this Act" shall be substituted.

New section substituted for section 41 of same Act.

Power for certain High Courts to enrol advocates

Local Government, make rules as to the qualifications and admission of proper persons to be advocates of the Court, and, subject to such rules, may enrol such and so many advocates as it thinks fit.

“(2) Every advocate so enrolled shall be entitled to appear for the suitors of the Court, and to plead or to act, or to plead and act, for those suitors, according as the Court may by its rules determine, and subject to those rules.

“(3) The High Court may dismiss any advocate so enrolled or suspend him from practice.

“(4) Provided that an advocate shall not be dismissed or suspended under this section unless he has been allowed an opportunity of defending himself before the High Court which enrolled him, and, except in the case of the Chief Court

8. For section 41 of the same Act the following section shall be substituted, namely :—

Royal Charter may, from time to time, with the previous sanction of the

Local Government, make rules as to the qualifications and admission of proper persons to be advocates of the Court, and, subject to such rules, may enrol such and so many advocates as it thinks fit.

of the Panjáb, unless the order of the High Court dismissing or suspending him has been confirmed by the Local Government.”

New section added to same Act.

“42. Act I of 1846 (for amending the law regarding the appointment and remuneration of pleaders in the Courts of the East India Company) and Act XX of 1853 (to amend the law relating to pleaders in the Courts of the East India Company) are repealed.”

10. (1) In Article 27 of Schedule I of the Indian Stamp Act, 1879, after the words “in exercise of powers conferred on such Court by letters patent,” the words “or by the Legal Practitioners Act, 1884,” shall be inserted; and

(2) In clause (a) of Article 11 of Schedule II of the same Act, the words “established by Royal Charter” shall be repealed.

D. FITZPATRICK,
Secretary to the Government of India.

[Published with the "Bombay Government Gazette" on the 29th May 1884.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 16th May 1884, and was promulgated for general information in the *Gazette of India* on the 17th May 1884:—

Act No. IX of 1884.

An Act to amend the Legal Practitioners Act, 1879, and the Indian Stamp Act, 1879.

XVIII of
1879.

Whereas it is expedient to amend the Legal Practitioners Act, 1879, in manner in this Act appearing;

I of 1879.

And whereas it is also expedient to amend the Indian Stamp Act, 1879, in so far as it relates to the duty chargeable on the enrolment of legal practitioners;

It is hereby enacted as follows:—

Short title and commencement. 1. (1) This Act may be called the Legal Practitioners Act, 1884; and

(2) It shall come into force at once.

XVIII of
1879.

Amendment of section 4 of Act XVIII of 1879. 2. In section 4 of the Legal Practitioners Act, 1879, for the words "as an advocate on the roll of the Chief Court of the Panjáb" the words "under section 41 of this Act" shall be substituted.

Addition of a proviso to section 13 of same Act. 3. To section 13 of the same Act the following proviso shall be added:—

"Provided that where the party is—

(a) a pardánashin woman, or

(b) unable for any sufficient cause to instruct the pleader in person,

nothing in this section shall make a pleader liable to suspension or dismissal merely by reason that he has taken instructions from a relative or friend authorised by the party to give such instructions and not receiving any remuneration in respect thereof."

Amendment of section 14 of same Act. 4. In section 14 of the same Act, before the words "any District Magistrate" the words "any Judge of a Court of Small Causes of a Presidency Town" shall be inserted.

Amendment of section 25 of same Act. 5. In section 25 of the same Act, after the word "annexed" the words "and of such description as the Local Government may from time to time prescribe" shall be inserted.

Amendment of section 27 of same Act. 6. To the first clause of section 27 of the same Act the following shall be added, namely:—"and in respect of the fees of

his adversary's revenue-agent appearing, pleading or acting under section 10."

Amendment of section 38 of same Act. 7. In section 38 of the same Act, for the words "by the Chief Court of the Panjáb" the words "under section 41 of this Act" shall be substituted.

New section substituted for section 41 of same Act. 8. For section 41 of the same Act the following section shall be substituted, namely:—

"41. (1) A High Court not established by Royal Charter may, from time to time, with the previous sanction of the Local Government, make rules as to the qualifications and admission of proper persons to be advocates of the Court, and, subject to such rules, may enrol such and so many advocates as it thinks fit.

(2) Every advocate so enrolled shall be entitled to appear for the suitors of the Court, and to plead or to act, or to plead and act, for those suitors, according as the Court may by its rules determine, and subject to those rules.

(3) The High Court may dismiss any advocate so enrolled or suspend him from practice.

(4) Provided that an advocate shall not be dismissed or suspended under this section unless he has been allowed an opportunity of defending himself before the High Court which enrolled him, and, except in the case of the Chief Court of the Panjáb, unless the order of the High Court dismissing or suspending him has been confirmed by the Local Government."

New section added to same Act. 9. To the same Act the following section shall be added, namely:—

"42. Act I of 1846 (for amending the law regarding the appointment and remuneration of pleaders in the Courts of the East India Company) and Act XX of 1853 (to amend the law relating to pleaders in the Courts of the East India Company) are repealed."

Amendment of Schedules I & II of Act I of 1879 (Duty on enrolment of advocates). 10. (1) In Article 27 of Schedule I of the Indian Stamp Act, 1879, after the words "in exercise of powers conferred on such Court by letters patent," the words "or by the Legal Practitioners Act, 1884," shall be inserted; and

(2) In clause (a) of Article 11 of Schedule II of the same Act, the words "established by Royal Charter" shall be repealed.

D. FITZPATRICK,
Secretary to the Government of India.

[Published with the "Bombay Government Gazette" on the 5th June 1884.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General India in Council received the assent of His Excellency the Governor General on the 16th July 1884, and was promulgated for general information in the *Gazette of India* on the 17th July 1884:—

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"Provided that where the party is—

(a) a pardánashín woman, or

(b) unable for any sufficient cause to instruct the pleader in person,

nothing in this section shall make a pleader liable to suspension or dismissal merely by reason that he has taken instructions from a relative or friend authorised by the party to give such instructions and not receiving any remuneration in respect thereof."

Amendment of section 14 of same Act. 4. In section 14 of the same Act, before the words "any District Magistrate" the words "any Judge of a Court of Small Causes of a Presidency Town" shall be inserted.

Amendment of section 25 of same Act. 5. In section 25 of the same Act, after the word "annexed," the words "and of such description as the Local Government may from time to time prescribe" shall be inserted.

Amendment of section 27 of same Act. 6. To the first clause of section 27 of the same Act the following shall be added, namely:—"and in respect of the fees of

his adversary's revenue-agent appearing, pleading or acting under section 10"

Amendment of section 38 of same Act. 7. In section 38 of the same Act, for the words "by the Chief Court of the Panjáb" the words "under section 41 of this Act" shall be substituted.

New section substituted for section 41 of same Act.

8. For section 41 of the same Act the following section shall be substituted, namely:—

"41. (1) A High Court not established by Royal Charter may, from time to time, with the previous sanction of the Local Government, make rules as to the qualifications and admission of proper persons to be advocates of the Court, and, subject to such rules, may enrol such and so many advocates as it thinks fit.

"(2) Every advocate so enrolled shall be entitled to appear for the suitors of the Court, and to plead or to act, or to plead and act, for those suitors, according as the Court may by its rules determine, and subject to those rules.

"(3) The High Court may dismiss any advocate so enrolled or suspend him from practice.

"(4) Provided that an advocate shall not be dismissed or suspended under this section unless he has been allowed an opportunity of defending himself before the High Court which enrolled him, and, except in the case of the Chief Court of the Panjáb, unless the order of the High Court dismissing or suspending him has been confirmed by the Local Government."

New section added to same Act. 9. To the same Act the following section shall be added, namely:—

"42. Act I of 1846 (for amending the law regarding the appointment and remuneration of pleaders in the Courts of the East India Company) and Act XX of 1853 (to amend the law relating to pleaders in the Courts of the East India Company) are repealed."

Amendment of Schedules I & II of Act I of 1879. (Duty on enrolment of advocates) 10. (1) In Article 27 of Schedule I of the Indian Stamp Act, 1879, after the words "in exercise of powers conferred on such Court by letters patent," the words "or by the Legal Practitioners' Act, 1884," shall be inserted; and

(2) In clause (a) of Article 11 of Schedule II of the same Act, the words "established by Royal Charter" shall be repealed.

D. FITZPATRICK,

Secretary to the Government of India.



Bombay Government Gazette.

Published by Authority.

THURSDAY, 26TH JUNE 1884.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 19th June 1884, and was promulgated for general information in the *Gazette of India* on the 21st June 1884 —

Act No. XI of 1884.

An Act to amend the Sindh Incumbered Estates Act, 1881.

XX of 1881. WHEREAS it is expedient to amend the Sindh Incumbered Estates Act, 1881, in manner herein-after appearing; it is hereby enacted as follows.—

1. This Act may be called the Sindh Incumbered Estates Act, 1884, and shall come into force at once

Short title
Commencement.

XX of 1881. 2. To the definition of zamindár in the Sindh Incumbered Estates Act, 1881, the following shall be added, namely:—“and

Definition of zamindár in Act XX. of 1881 amended. a person holding lands in Sindh which, having been comprised in the jágghír lands of a jágghírdár, and having ceased to be jágghír lands, are assessed by the Government on account of land-revenue at a sum not less than three hundred rupees per year, and, where a joint family or any other body of co-owners holds lands of either of those descriptions, each member of that family or body who would be entitled to demand a partition of the lands.”

IV.—20

3 After section 5 of the said Act the following New section to follow section 5 of same Act section shall be inserted, that is to say —

“5A. When the Commissioner has directed an inquiry under section five, he may, if he thinks fit, further direct that, until he dismisses the application or appoints an officer under section seven,—

“(a) all proceedings then pending in any Civil Court or Revenue Court or Office in British India in respect of any of the debts and liabilities to which the debtor is subject, or which are charged on the whole or any part of his immoveable property, shall be stayed, and the operation of all processes, executions and attachments then in force for or in respect of such debts and liabilities shall be suspended; and

“(b) no fresh proceedings, processes, executions or attachments shall be instituted in or issued by any Civil Court or Revenue Court or Office in British India in respect of such debts and liabilities.”

4 In section 8, after the words “all immoveable property” the words “including any interest in joint-immoveable property” shall be inserted.

Amendment of section 8 of same Act.

5. In section 9 of the same Act, after the words "Civil Court" in both places where they occur, the words "or Revenue Court or Office" shall be inserted.

Amendment of section 9 of same Act

New section to follow section 24 of same Act

6. After section 24 of the said Act the following shall be inserted:—

"24 A. When jágghír land under management is held on this condition, that on the happening of a certain event a share of the land shall lapse, but that it shall be in the discretion of the person then entitled as jágghírdár to divide off and relinquish in respect of the lapse such part of the land, being a fair equivalent of that share, as he thinks fit, the manager may, if he deems it convenient for the better exercise of the powers conferred by sections twenty-three and twenty-four, at any time, after such consultation with persons interested as he thinks necessary, allot by written order, for relinquishment on the happening of the event such part of the land as he thinks fit; and thereupon that part and no other shall, on the happening of the event, be relinquished."

Separation of part of jágghír lands subject to lapse.

7. In section 27 of the said Act, after the words "Civil Court" the words "or Revenue Court or Office" shall be inserted.

Amendment of section 27 of same Act.

8. (1) When any person would not have been a zamíndár within the meaning of the said Act before the passing of this Act, but is a zamíndár within the meaning of the said Act as amended by this Act, an application in respect of his estate under section 4 of the said Act may be made at any time within six months from the passing of this Act.

(2) A member of a joint family or other body of co-owners holding zamíndári land shall, for the purposes of this section, be deemed to be a person who would not have been a zamíndár within the meaning of the said Act before the passing of this Act.

9. Every order of management made under the said Act whether before or after the passing of this Act shall be deemed to have been made in accordance with law.

Order of management under same Act to be deemed in accordance with law.

10. Notwithstanding anything contained in the said Act, the Commissioner may, at any time after he has, whether before or after the passing of this Act, sanctioned a liquidation-scheme under the said Act, revise and modify the same, but not so as to affect the right of any person to receive in full before the termination of the management the amount finally awarded to him under Chapter IV. of the said Act.

Power to revise scheme of management under same Act.

D FITZPATRICK,
Secy. to the Govt. of India.

[Published with the "Bombay Government Gazette" on the 10th July 1884.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 19th June 1884, and was promulgated for general information in the *Gazette of India* on the 21st June 1884:—

Act No. XI of 1884.

An Act to amend the Sindh Incumbered Estates Act, 1881.

XX of 1881. WHEREAS it is expedient to amend the Sindh Incumbered Estates Act, 1881, in manner herein-after appearing, it is hereby enacted as follows.—

1. This Act may be called the Sindh Incumbered Estates Act, 1884, and shall come into force at once.

Short title
Commencement.

XX of 1881. 2. To the definition of zamindár in the Sindh Incumbered Estates Act, 1881, the following shall be added, namely:—"and a person holding lands in Sindh which, having been comprised in the jaghír lands of a jaghírdár, and having ceased to be jaghír lands, are assessed by the Government on account of land-revenue at a sum not less than three hundred rupees per year, and, where a joint family or any other body of co-owners holds lands of either of those descriptions, each member of that family or body who would be entitled to demand a partition of the lands"

3 After section 5 of the said Act the following section shall be inserted, that is to say:—

New section to follow section 5 of same Act.

"5A. When the Commissioner has directed an inquiry under section five, he may, if he thinks fit, further direct that, until he dismisses the application or appoints an officer under section seven,—

Interim order of protection

"(a) all proceedings then pending in any Civil Court or Revenue Court or Office in British India in respect of any of the debts and liabilities to which the debtor is subject, or which are charged on the whole or any part of his immoveable property, shall be stayed, and the operation of all processes, executions and attachments then in force for or in respect of such debts and liabilities shall be suspended, and

"(b) no fresh proceedings, processes, executions or attachments shall be instituted in or issued by any Civil Court or Revenue Court or Office in British India in respect of such debts and liabilities."

4 In section 8, after the words "all immoveable property" the words "including any interest in joint immoveable property" shall be inserted.

Amendment of section 8 of same Act.

5. In section 9 of the same Act, after the words "Civil Court" in both places where they occur, the words "or Revenue Court or Office" shall be inserted.

Amendment of section 9 of same Act

6. After section 24 of the said Act the following shall be inserted:—

"24 A. When jaghír land under management is held on this condition, that on the happening of a certain event a share of the land shall lapse, but

Separation of part of jaghír lands subject to lapse.

that it shall be in the discretion of the person then entitled as jaghírdár to divide off and relinquish in respect of the lapse such part of the land, being a fair equivalent of that share, as he thinks fit, the manager may, if he deems it convenient for the better exercise of the powers conferred by sections twenty-three and twenty-four, at any time, after such consultation with persons interested as he thinks necessary, allot by written order, for relinquishment on the happening of the event such part of the land as he thinks fit, and thereupon that part and no other shall, on the happening of the event, be relinquished."

7. In section 27 of the said Act, after the words "Civil Court" the words "or Revenue Court or Office" shall be inserted.

Amendment of section 27 of same Act.

8. (1) When any person would not have been a zamindár within the meaning of the said Act before the passing of this

Time for making applications under same Act

Act, but is a zamindár within the meaning of the said Act as amended by this Act, an application in respect of his estate under section 4 of the said Act may be made at any time within six months from the passing of this Act.

(2) A member of a joint family or other body of co-owners holding zamindári land shall, for the purposes of this section, be deemed to be a person who would not have been a zamindár within the meaning of the said Act before the passing of this Act.

9. Every order of management made under the said Act whether before or after the passing of this Act shall be deemed to have been made in accordance with law.

Order of management under same Act to be deemed in accordance with law.

10. Notwithstanding anything contained in the said Act, the Commissioner may, at any time after he has, whether before or after the passing of this Act, sanctioned a liquidation-scheme under the said Act, revise and modify the same, but not so as to affect the right of any person to receive in full before the termination of the management the amount finally awarded to him under Chapter IV. of the said Act.

Power to revise scheme of management under same Act.

D. FITZPATRICK,
Secy. to the Govt. of India.

THE



Bombay Government Gazette.

Published by Authority.

THURSDAY, 31ST JULY 1884.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 24th July, 1884, and was promulgated for general information in the *Gazette of India* on the 26th July 1884.—

Act No. XII of 1884.

An Act to amend and provide for the extension of the Northern India Takkávi Act, 1879

X of 1879.

WHEREAS it is expedient to amend the Northern India Takkávi Act, 1879, and provide for its extension to any part of British India, It is hereby enacted as follows,—

1. (1) This Act may be called the Agriculturalists' Loans Act, 1884;
 Short title. and
 (2) It shall come into
 Commencement force on the first day of August, 1884.

2. (1) This section and section 3 extend to the
 Local extent. whole of British India.

(2) The rest of this Act extends in the first instance only to the territories respectively administered by the Governor of Bombay in Council, the Lieutenant-Governors of the North-Western

Provinces and the Panjáb, and the Chief Commissioners of Oudh, the Central Provinces, Assam and Ajmer

(3) But any other Local Government may, from time to time, by notification in the official Gazette, extend the rest of this Act to the whole or any part of the territories under its administration.

3 (1) On and from the day on which this Act comes into force, the Repeal of Act X of 1879, and sections 4 and 5 of Act Northern India Takkávi X of 1879, XV of 1880 Act, 1879, and sections 4 and 5 of the Bombay Revenue Jurisdiction Act, XV of 1880, 1880, shall, except as regards the recovery of advances made before this Act comes into force and of the interest thereon, be repealed.

(2) All rules made under those Acts shall be deemed to be made under this Act.

4 (1) The Local Government may, from time to time, with the previous sanction of the Governor General in Council, make rules as to loans to be made to owners and occupiers of arable land, for the relief of distress, the purchase of seed or cattle, or any other purpose not specified in the Land Improvement Loans Act, 1883, but connected with agricultural objects XIX of 1883

(2) All such rules shall be published in the local official Gazette.

5. Every loan made in accordance with such rules, all interest (if any) chargeable thereon, and costs (if any) incurred in making or recovering the same, shall, when they become due, be recoverable from the person to whom the loan was made, or from any person who has become surety for the repayment thereof, as if they were arrears of land-revenue or costs incurred in recovering the same due by the person to whom the loan was made or by his surety.

6. When a loan is made under this Act to the members of a village-community or to any other persons on such terms that all of them are

jointly and severally bound to the Government for the payment of the whole amount payable in respect thereof, and a statement showing the portion of that amount which as among themselves each is bound to contribute is entered upon the order granting the loan and is signed, marked or sealed by each of them or his agent duly authorized in this behalf and by the officer making the order, that statement shall be conclusive evidence of the portion of that amount which as among themselves each of those persons is bound to contribute.

D. FITZPATRICK,

Secretary to the Government of India.

[Published with the "Bombay Government Gazette" on the 7th August 1884.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA,

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 24th July 1884, and was promulgated for general information in the *Gazette of India* on the 26th July 1884:—

Act No. XII of 1884.

An Act to amend and provide for the extension of the Northern India Takkávi Act, 1879.

WHEREAS it is expedient to amend the Northern India Takkávi Act, 1879, and provide for its extension to any part of British India, It is hereby enacted as follows:—

1. (1) This Act may be called the Agriculturists' Loans Act, 1884; and

Short title.

(2) It shall come into force on the first day of August 1884.

Commencement.

2. (1) This section and section 3 extend to the whole of British India.

Local extent.

(2) The rest of this Act extends in the first instance only to the territories respectively administered by the Governor of Bombay in Council, the Lieutenant-Governors of the North-Western Provinces and the Panjáb, and the Chief Commissioners of Oudh, the Central Provinces, Assam and Ajmer.

(3) But any other Local Government may, from time to time, by notification in the official Gazette, extend the rest of this Act to the whole or any part of the territories under its administration.

3. (1) On and from the day on which this Act comes into force, the Repeal of Act X of 1879, and sections 4 and 5 of Act Northern India Takkávi XV of 1880. Act, 1879, and sections 4 and 5 of the Bombay Revenue Jurisdiction Act, 1880, shall, except as regards the recovery of advances made before this Act comes into force and of the interest thereon, be repealed.

X of 1879,

XV of 1880,

(2) All rules made under those Acts shall be deemed to be made under this Act.

4. (1) The Local Government may, from time to time, with the previous sanction of the Governor General in Council, make rules as to loans to be made to owners and occupiers of arable land, for the relief of distress; the purchase of seed or cattle, or any other purpose not specified in the Land Improvement Loans Act, 1883, but connected with agricultural objects, XIX of 1883

(2) All such rules shall be published in the local official Gazette.

5. Every loan made in accordance with such rules, all interest (if any) chargeable thereon, and costs (if any) incurred in making or recovering the same, shall, when they become due, be recoverable from the person to whom the loan was made, or from any person who has become surety for the repayment thereof, as if they were arrears of land-revenue or costs incurred in recovering the same due by the person to whom the loan was made or by his surety.

6. When a loan is made under this Act to the members of a village-community or to any other persons on such terms that all of them are jointly and severally bound to the Government for the payment of the whole amount payable in respect thereof, and a statement showing the portion of that amount which as among themselves each is bound to contribute is entered upon the order granting the loan and is signed, marked or sealed by each of them or his agent duly authorized in this behalf and by the officer making the order, that statement shall be conclusive evidence of the portion of that amount which as among themselves each of those persons is bound to contribute.

Liability of joint borrowers as among themselves.

D. FITZPATRICK,

Secretary to the Government of India

[Published with the "Bombay Government Gazette" on the 14th August 1884.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 24th July 1884, and was promulgated for general information in the *Gazette of India* on the 26th July 1884:—

Act No. XII of 1884.

An Act to amend and provide for the extension of the Northern India Takkávi Act, 1879

X of 1879. WHEREAS it is expedient to amend the Northern India Takkávi Act, 1879, and provide for its extension to any part of British India, It is hereby enacted as follows:—

1. (1) This Act may be called the Agriculturalists' Loans Act, 1884; and

(2) It shall come into force on the first day of August 1884.

2. (1) This section and section 3 extend to the whole of British India.

(2) The rest of this Act extends in the first instance only to the territories respectively administered by the Governor of Bombay in Council, the Lieutenant-Governors of the North-Western Provinces and the Panjáb, and the Chief Commissioners of Oudh, the Central Provinces, Assam and Ajmer.

(3) But any other Local Government may, from time to time, by notification in the official Gazette, extend the rest of this Act to the whole or any part of the territories under its administration.

3. (1) On and from the day on which this Act comes into force, the Repeal of Act X of 1879, and sections 4 and 5 of Act Northern India Takkávi XV of 1880. Act, 1879, and sections 4 and 5 of the Bombay Revenue Jurisdiction Act, 1880, shall, except as regards the recovery of advances made before this Act comes into force and of the interest thereon, be repealed.

(2) All rules made under those Acts shall be deemed to be made under this Act.

4. (1) The Local Government may, from time to time, with the previous sanction of the Governor General in Council, make rules as to loans to be made to owners and occupiers of arable land, for the relief of distress, the purchase of seed or cattle, or any other purpose not specified in the Land Improvement Loans Act, 1883, but connected with agricultural objects XIX of 1883.

(2) All such rules shall be published in the local official Gazette

5. Every loan made in accordance with such rules, all interest (if any) chargeable thereon, and costs (if any) incurred in making or recovering the same, shall, when they become due, be recoverable from the person to whom the loan was made, or from any person who has become surety for the repayment thereof, as if they were arrears of land-revenue or costs incurred in recovering the same due by the person to whom the loan was made or by his surety.

6. When a loan is made under this Act to the members of a village-community or to any other persons on such terms that all of them are jointly and severally bound to the Government for the payment of the whole amount payable in respect thereof, and a statement showing the portion of that amount, which as among themselves each is bound to contribute is entered upon the order granting the loan and is signed, marked or sealed by each of them or his agent duly authorized in this behalf and by the officer making the order, that statement shall be conclusive evidence of the portion of that amount which as among themselves each of those persons is bound to contribute.

D. FITZPATRICK,

Secretary to the Government of India.

THE



Bombay Government Gazette.

Published by Authority.

THURSDAY, 2ND OCTOBER 1884.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 26th September 1884, and was promulgated for general information in the *Gazette of India* on the 27th September 1884.

Act No. XV of 1884.

An Act for the validation of certain licenses to solemnize Marriages granted to Ministers of Religion under Act XXV of 1864.

WHEREAS by section 4 of Act XXV of 1864 (to provide further for the solemnization of Marriages in India of persons professing the Christian Religion) it was enacted that, from and after the first day of July 1864, certain Governments therein named should have authority to grant licenses to ministers of religion to solemnize marriages within the territories subject to such Governments respectively,

And whereas, in exercise of the authority so conferred, the Governments therein named granted licenses to certain ministers of religion to solemnize marriages;

And whereas Act XXV of 1864 was repealed by Act V of 1865 (to provide for the solemnization of Marriages in India of persons professing the Christian Religion),

And where as by section 9 of the latter Act it was enacted that, from and after the commence-

ment of that Act, all marriages which should be solemnized in India otherwise than in accordance with the provisions of the fifth and sixth sections of that Act should be null and void;

And whereas by section 6 of same Act it was enacted that marriages might be solemnized in India by (among other persons) any minister of religion who, under the provisions of that Act, had obtained a license to solemnize marriages,

And whereas Act V of 1865 was repealed by the Indian Christian Marriage Act, 1872, XV of 1872

And whereas by section 4 of the latter Act it is enacted that every marriage between persons, one or both of whom is a Christian or Christians, shall be solemnized in accordance with the provisions of the next following section, and that any such marriage solemnized otherwise than in accordance with such provisions shall be null and void,

And whereas by the next following section, of the same Act it is enacted that marriages may be solemnized in India by (among other persons) any minister of religion licensed under the same Act to solemnize marriages,

And whereas neither in Act V of 1865 nor in the Indian Christian Marriage Act, 1872, was XV of 1872 there or is there any provision either saving licenses granted under Act XXV of 1864 or permitting a marriage to be solemnized by a minister of religion who had obtained a license to solemnize marriages under Act XXV of 1864 only;

XV of 1872. And whereas certain marriages have been solemnized both while Act V of 1865 was in force and since the passing of the Indian Christian Marriage Act, 1872, by ministers of religion who had obtained licenses to solemnize marriages under Act XXV of 1864, but had never obtained licenses to solemnize marriages under Act V of 1865 or the Indian Christian Marriage Act, 1872, as the case may be, and doubts have therefore arisen as to the validity of such marriages;

XV of 1872. And whereas it is expedient to remove such doubts and to declare the continued validity of licenses to solemnize marriages granted to ministers of religion under Act XXV of 1864;

It is hereby enacted as follows:—

1. A license to solemnize marriages granted to a minister of religion under Act XXV of 1864 shall be deemed, if in force on the date on which Act V of 1865 came into force, to have been, while that Act was in force, a license granted under that Act, and, if in force on the date on which the Indian Christian Marriage Act, 1872, came into force, to have been since that Act came into force, and to be, a license granted under that Act.

D. FITZPATRICK,

Secretary to the Government of India.

[Published with the "Bombay Government Gazette" on the 9th October 1884.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 26th September 1884, and was promulgated for general information in the *Gazette of India* on the 27th September 1884 —

Act No. XV of 1884.

An Act for the validation of certain licenses to solemnize Marriages granted to Ministers of Religion under Act XXV of 1864.

WHEREAS by section 4 of Act XXV of 1864 (to provide further for the solemnization of Marriages in India of persons professing the Christian Religion), it was enacted that, from and after the first day of July 1864, certain Governments therein named should have authority to grant licenses to ministers of religion to solemnize marriages within the territories subject to such Governments respectively,

And whereas, in exercise of the authority so conferred, the Governments therein named granted licenses to certain ministers of religion to solemnize marriages,

And whereas Act XXV of 1864 was repealed by Act V of 1865 (to provide for the solemnization of Marriages in India of persons professing the Christian Religion);

And whereas by section 9 of the latter Act it was enacted that, from and after the commencement of that Act, all marriages which should be solemnized in India otherwise than in accordance with the provisions of the fifth and sixth sections of that Act should be null and void;

And whereas by section 6 of the same Act it was enacted that marriages might be solemnized in India by (among other persons) any minister of religion who, under the provisions of that Act, had obtained a license to solemnize marriages;

And whereas Act V of 1865 was repealed by XV of 1872 the Indian Christian Marriage Act, 1872;

And whereas by section 4 of the latter Act it is enacted that every marriage between persons, one or both of whom is a Christian or Christians,

shall be solemnized in accordance with the provisions of the next following section; and that any such marriage solemnized otherwise than in accordance with such provisions shall be null and void;

And whereas by the next following section of the same Act it is enacted that marriages may be solemnized in India by (among other persons) any minister of religion licensed under the same Act to solemnize marriages,

And whereas neither in Act V of 1865 nor in the Indian Christian Marriage Act, 1872, was there or is there any provision either saving licenses granted under Act XXV of 1864 or permitting a marriage to be solemnized by a minister of religion who had obtained a license to solemnize marriages under Act XXV of 1864 only,

And whereas certain marriages have been solemnized both while Act V of 1865 was in force and since the passing of the Indian Christian Marriage Act, 1872, by ministers of religion who had obtained licenses to solemnize marriages under Act XXV of 1864, but had never obtained licenses to solemnize marriages under Act V of 1865 or the Indian Christian Marriage Act, 1872, as the case may be, and doubts have therefore arisen as to the validity of such marriages,

And whereas it is expedient to remove such doubts and to declare the continued validity of licenses to solemnize marriages granted to ministers of religion under Act XXV of 1864;

It is hereby enacted as follows:—

1. A license to solemnize marriages granted to a minister of religion under Act XXV of 1864 shall be deemed, if in force on the date on which Act V of 1865

came into force, to have been, while that Act was in force, a license granted under that Act, and, if in force on the date on which the Indian Christian Marriage Act, 1872, came into force, to have been since that Act came into force, and to be, a license granted under that Act.

D. FITZPATRICK,

Secretary to the Government of India.

[Published with the "Bombay Government Gazette" on the 16th October 1884.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 26th September 1884, and was promulgated for general information in the *Gazette of India* on the 27th September 1884 —

Act No. XV of 1884.

An Act for the validation of certain licenses to solemnize Marriages granted to Ministers of Religion under Act XXV of 1864.

WHEREAS by section 4 of Act XXV of 1864 (to provide further for the solemnization of Marriages in India of persons professing the Christian Religion) it was enacted that, from and after the first day of July 1864, certain Governments therein named should have authority to grant licenses to ministers of religion to solemnize marriages within the territories subject to such Governments respectively;

And whereas, in exercise of the authority so conferred, the Governments therein named granted licenses to certain ministers of religion to solemnize marriages,

And whereas Act XXV of 1864 was repealed by Act V of 1865 (to provide for the solemnization of Marriages in India of persons professing the Christian Religion);

And whereas by section 9 of the latter Act it was enacted that, from and after the commencement of that Act, all marriages which should be solemnized in India otherwise than in accordance with the provisions of the fifth and sixth sections of that Act should be null and void;

And whereas by section 6 of the same Act it was enacted that marriages might be solemnized in India by (among other persons) any minister of religion who, under the provisions of that Act, had obtained a license to solemnize marriages;

And whereas Act V of 1865 was repealed by the Indian Christian Marriage Act, 1872;

And whereas by section 4 of the latter Act it is enacted that every marriage between persons, one or both of whom is a Christian or Christians,

shall be solemnized in accordance with the provisions of the next following section; and that any such marriage solemnized otherwise than in accordance with such provisions shall be null and void,

And whereas by the next following section of the same Act it is enacted that marriages may be solemnized in India by (among other persons) any minister of religion licensed under the same Act to solemnize marriages;

And whereas neither in Act V of 1865 nor in the Indian Christian Marriage Act, 1872, was there or is there any provision either saving licenses granted under Act XXV of 1864 or permitting a marriage to be solemnized by a minister of religion who had obtained a license to solemnize marriages under Act XXV of 1864 only,

And whereas certain marriages have been solemnized both while Act V of 1865 was in force and since the passing of the Indian Christian Marriage Act, 1872, by ministers of religion who had obtained licenses to solemnize marriages under Act XXV of 1864, but had never obtained licenses to solemnize marriages under Act V of 1865 or the Indian Christian Marriage Act, 1872, as the case may be, and doubts have therefore arisen as to the validity of such marriages;

And whereas it is expedient to remove such doubts and to declare the continued validity of licenses to solemnize marriages granted to ministers of religion under Act XXV of 1864;

It is hereby enacted as follows. —

1. A license to solemnize marriages granted to a minister of religion under Act XXV of 1864 shall be deemed, if in force on the date on which Act V of 1865

came into force, to have been, while that Act was in force, a license granted under that Act, and, if in force on the date on which the Indian Christian Marriage Act, 1872, came into force, to have been since that Act came into force, and to be, a license granted under that Act.

D. FITZPATRICK,

Secretary to the Government of India.



Bombay Government Gazette.

Published by Authority.

THURSDAY, 23RD OCTOBER 1884.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 10th October 1884, and is hereby promulgated for General information:—

Act No. XX. of 1884.

An Act to amend the Indian Salt Act, 1882.

WHEREAS it is expedient to exclude the Province of Sindh from the operation of those portions of the Indian Salt Act, 1882, which do not extend by their own operation to the whole of British India; It is hereby enacted as follows:—

1. From such day as the Governor of Bombay in Council, by notification in the official Gazette, fixes in this behalf, the words "to the Province of Sindh" and the word "Province," in paragraphs three and four respectively of Section 1 of the Indian Salt Act, 1882, shall be repealed.

Repeal of words "to the Province of Sindh" and "Province" in Section 1 of Act XII of 1882.

D. FITZPATRICK,

Secretary to the Government of India.

[Published with the "Bombay Government Gazette" on the 30th October 1884.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 10th October 1884, and is hereby promulgated for General information :—

Act No. XX. of 1884.

An Act to amend the Indian Salt Act, 1882.

WHEREAS it is expedient to exclude the Province of Sindh from the operation of those portions of the Indian Salt Act, 1882, which do not extend by their own operation to the whole of British India, It is hereby enacted as follows.—

1. From such day as the Governor of Bombay in Council, by notification in the official Gazette, fixes in this behalf, the words "to the Province of Sindh" and the word "Province," in paragraphs three and four respectively of Section I of the Indian Salt Act, 1882, shall be repealed.

Repeal of words "to the Province of Sindh" and "Province" in Section I of Act XII of 1882

tion in the official Gazette, fixes in this behalf, the words "to the Province of Sindh" and

D FITZPATRICK,

Secretary to the Government of India.

[Published with the "Bombay Government Gazette" on the 6th November 1884.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 10th October 1884, and is hereby promulgated for General information.—

Act No. XX. of 1884.

An Act to amend the Indian Salt Act, 1882

WHEREAS it is expedient to exclude the Province of Sindh from the operation of those portions of the Indian Salt Act, 1882, which do not extend by their own operation to the whole of British India, It is hereby enacted as follows.—

1. From such day as the Governor of Bombay in Council, by notification in the official Gazette, fixes in this behalf, the words "to the Province of Sindh" and the word "Province," in paragraphs three and four respectively of Section 1 of the Indian Salt Act, 1882, shall be repealed.

D FITZPATRICK,

Secretary to the Government of India



Bombay Government Gazette.

Published by Authority.

THURSDAY, 25TH DECEMBER 1884.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 19th December 1884, and was promulgated for general information in the *Gazette of India* on the 20th December 1884.—

Act No. XXI. of 1884.

An Act to repeal the Straits Settlements Emigration Act, 1877, and to amend the Indian Emigration Act, 1883.

WHEREAS it is expedient to repeal the Straits Settlements Emigration Act, 1877, and to amend the Indian Emigration Act, 1883, in manner hereinafter appearing, It is hereby enacted as follows:—

V of 1877. 1 The Straits Settlements Emigration Act, 1877, is repealed.

New section substituted for section 102 of Act XXI of 1883.

2. For section 102 of the Indian Emigration Act, 1883, the following section shall be substituted:—

“102. On and from such a date as the Governor General in Council may, by notification in the *Gazette of India*, fix in this behalf, a Native of India who departs by sea out of British India under an agreement to labour for hire in any protected Native State adjoining the Straits Settlements to which the notification refers shall not be deemed to emigrate within the meaning of this Act.”

D. FITZPATRICK,
Secretary to the Government of India.

[Published with the "Bombay Government Gazette" on the 1st January 1885.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 19th December 1884, and was promulgated for general information in the *Gazette of India* on the 20th December 1884 —

Act No. XXI. of 1884.

An Act to repeal the Straits Settlements Emigration Act, 1877, and to amend the Indian Emigration Act, 1883.

V of 1877. WHEREAS it is expedient to repeal the Straits Settlements Emigration Act, 1877, and to amend
XXI of 1883 the Indian Emigration Act, 1883, in manner hereinafter appearing; It is hereby enacted as follows:—

V of 1877. 1 The Straits Settlements Emigration Act, 1877, is repealed.

New section substituted for section 102 of Act XXI. of 1883.

2 For section 102 of the Indian Emigration Act, 1883, the following section shall be substituted —

" 102. On and from such a date as the Governor General in Council may, by notification in the *Gazette of India*, fix in this behalf, a Native of India who departs by sea out of British India under an agreement to labour for hire in any protected Native State adjoining the Straits Settlements to which the notification refers shall not be deemed to emigrate within the meaning of this Act "

Power for Governor General in Council to exempt emigration to Native States adjoining the Straits Settlements from Act.

D FITZPATRICK,

Secretary to the Government of India.

[Published with the "Bombay Government Gazette" on the 8th January 1885.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 19th December 1884, and was promulgated for general information in the *Gazette of India* on the 20th December 1884:—

Act No. XXI. of 1884

An Act to repeal the Straits Settlements Emigration Act, 1877, and to amend the Indian Emigration Act, 1883.

WHEREAS it is expedient to repeal the Straits Settlements Emigration Act, 1877, and to amend the Indian Emigration Act, 1883, in manner hereinafter appearing; It is hereby enacted as follows.—

V of 1877. 1. The Straits Settlements Emigration Act, 1877, is repealed.

New section substituted for section 102 of Act XXI of 1883.

2. For section 102 of the Indian Emigration Act, 1883, the following section shall be substituted.—

"102. On and from such a date as the Governor General in Council may, by notification in the *Gazette of India*, fix in this behalf, a Native of India who departs by sea out of British India under an agreement to

labour for hire in any protected Native State adjoining the Straits Settlements to which the notification refers shall not be deemed to emigrate within the meaning of this Act."

D. FITZPATRICK,
Secretary to the Government of India.

THE



Bombay Government Gazette.

Published by Authority.

FRIDAY, 30TH JANUARY 1885.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 18th December 1884, and the assent of His Excellency the Viceroy and Governor General on the 19th January 1885, and is published for general information:—

Bombay Act No. I. of 1885.

An Act to legalize the payment by the Trustees of the Port of Bombay of certain arrears of interest due to the Government.

[First publication.]

Whereas certain deficits of interest which accrued due in the years 1873 to 1877, both inclusive, aggregating Rs. 2,36,013-11-9, were paid, on the 25th day of January 1884, by the Trustees of the Port of Bombay to the Secretary of State for India in Council out of the surplus revenue to the credit of the General Account of the Trust for the year 1882-83, and the said amount was held in hand by the said Trustees, pending settlement and payment of the amount due as aforesaid in lieu of being applied as directed

in Section 51 of the Bombay Port Trust Act, 1879;

and whereas it is expedient to legalize the payment so made by the Trustees;

It is hereby enacted that, notwithstanding anything contained in the Bombay Port Trust Act, 1879, the said sum of Rs. 2,36,013-11-9 shall be deemed to have been lawfully paid by the said Trustees to the said Secretary of State.

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

C. G. W. MACPHERSON,
Under Secretary to Government

Bombay Castle, 28th January 1885.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 18th December 1884, and the assent of His Excellency the Viceroy and Governor General on the 22nd January 1885, and is published for general information:—

Bombay Act No. II. of 1885.

An Act to empower the Municipal Corporation of the City of Bombay to subscribe to the Guarantee Fund of the Bombay International Exhibition and to enable the Municipal Commissioner of Bombay to be a Member of the Executive Committee of Management of the said Exhibition.

[First publication.]

Whereas it is proposed to hold an International Exhibition in Bombay in the year, 1886-87 or 1887-88 and the Municipal Corporation of the city of Bombay has entered into an agreement dated the 11th July, 1884 and signed by the Municipal Commissioner of the city of Bombay with the Trustees of the Executive Committee of Management of the said Exhibition and other persons for the purpose of guaranteeing the said Committee against loss and it is expedient to give legal effect to the said agreement;

and whereas it is also expedient to enact that the Municipal Commissioner for the city of Bombay shall not be incompetent to be a member of the Executive Committee of Management of the said Exhibition, and, in the event of his becoming a member of the said Committee, to provide for the appointment of a Deputy Municipal Commissioner to aid him in the discharge of his municipal duties; It is enacted as follows:—

1. The agreement so entered into by the Municipal Corporation of the city of Bombay as aforesaid, shall, anything contained in the Bombay Municipal Acts of 1872 and 1878 to the contrary notwithstanding, be a valid and binding contract between the said Municipal Corporation and the said Trustees and other persons; and all property vested in the said Corporation, and all funds received or raised by them shall be lawfully applicable to the discharge of any sum or sums for which the said Corporation may become liable by the terms of the said agree-

ment: Provided that the amount for which the municipal fund shall by such agreement be rendered liable shall not exceed a lakh of rupees.

2. Nothing in section 43 of the Bombay Municipal Act of 1872, as amended by section 16 of the Bombay Municipal Act Amendment and Continuance Act, 1878, shall be deemed to prevent the Municipal Commissioner for the city of Bombay from being a member of the Executive Committee of Management of the said Exhibition or from devoting, as a member of the said Committee, such share of his time and attention as he shall think fit and necessary to the affairs of the said Exhibition.

3. Government may at any time, and from time to time, appoint a Deputy Municipal Commissioner, if the Municipal Commissioner becomes a member of the Executive Committee of Management of the said Exhibition, it shall appear expedient so to do, and any such appointment may be for such period as Government shall deem proper.

4. A Deputy Municipal Commissioner so appointed shall:

(a) receive such allowances as shall be fixed by Government;

Bo III, of
1872 and IV,
of 1878.

(b) assist the Municipal Commissioner in the performance of his duties under the Bombay Municipal Acts of 1872 and 1878.

And all acts and things performed and done by a Deputy Municipal Commissioner by virtue of, and during his tenure of, the office of Deputy shall, for all purposes, be deemed to have been performed and done by the Municipal Commissioner.

5. If the Municipal Corporation shall sanction the payment of the allowances of the Deputy Municipal Commissioner, or of any portion thereof, from the municipal fund, such payment shall be deemed to be a purpose expressly authorized by the Bombay Municipal Act Bo III, of 1872, within the meaning of section one hundred and thirty-six thereof: Provided that no such payment shall be made out of the municipal fund without the sanction of the said Corporation.

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

C. G. W. MACPHERSON,
Under Secretary to Government.

Bombay Castle, 28th January 1885.

[Published with the "Bombay Government Gazette" on the 5th February 1885.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 18th December 1884, and the assent of His Excellency the Viceroy and Governor General on the 19th January 1885, and is published for general information :—

Bombay Act No. I. of 1885.

An Act to legalize the payment by the Trustees of the Port of Bombay of certain arrears of interest due to the Government.

[Second publication.]

The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 30th January 1885.

Whereas certain deficits of interest which accrued due in the years 1873 to 1877, both inclusive, aggregating Rs. 2,36,013-11-9, were paid, on the 25th day of January 1884, by the Trustees of the Port of Bombay to the Secretary of State for India in Council out of the surplus revenue to the credit of the General Account of the Trust for the year 1882-83, and the said amount was held in hand by the said Trustees, pending settlement and payment of the amount due as aforesaid in lieu of being applied as directed

in Section 51 of the Bombay Port Trust Act, 1879;

and whereas it is expedient to legalize the payment so made by the Trustees;

It is hereby enacted that, notwithstanding anything contained in the Bombay Port Trust Act, 1879, the said sum of Rs. 2,36,013-11-9 shall be deemed to have been lawfully paid by the said Trustees to the said Secretary of State.

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

C. G. W. MACPHERSON,
Under Secretary to Government.

Bombay Castle, 28th January 1885.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 18th December 1884, and the assent of His Excellency the Viceroy and Governor General on the 22nd January 1885, and is published for general information:—

Bombay Act No. II. of 1885.

An Act to empower the Municipal Corporation of the City of Bombay to subscribe to the Guarantee Fund of the Bombay International Exhibition and to enable the Municipal Commissioner of Bombay to be a Member of the Executive Committee of Management of the said Exhibition.

[Second publication.]

The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 30th January 1885

Whereas it is proposed to hold an International Exhibition in Bombay in the year 1886-87 or 1887-88 and the Municipal Corporation of the city of Bombay has entered into an agreement dated the 11th July 1884 and signed by the Municipal Commissioner of the city of Bombay with the Trustees of the Executive Committee of Management of the said Exhibition and other persons for the purpose of guaranteeing the said Committee against loss and it is expedient to give legal effect to the said agreement;

and whereas it is also expedient to enact that the Municipal Commissioner for the city of Bombay shall not be incompetent to be a member of the Executive Committee of Management of the said Exhibition, and, in the event of his becoming a member of the said Committee, to provide for the appointment of a Deputy Municipal Commissioner to aid him in the discharge of his municipal duties; It is enacted as follows:—

1. The agreement so entered into by Corporation may guarantee the Committee of Management of the Bombay International Exhibition against loss to the extent of a lakh of rupees. the Municipal Corporation of the city of Bombay as aforesaid, shall, anything contained in the Bombay Municipal Acts of 1872 and 1878 to the contrary notwithstanding, be a valid and binding contract between the said Municipal Corporation and the said Trustees and other persons; and all property vested in the said Corporation, and all funds received or raised by them shall be lawfully applicable to the discharge of any sum or sums for which the said Corporation may become liable by the terms of the said agree-

ment: Provided that the amount for which the municipal fund shall by such agreement be rendered liable shall not exceed a lakh of rupees.

2. Nothing in section 43 of the Bombay Municipal Act of 1872, as amended by section 16 of the Bombay Municipal Act Amendment and Continuance Act, 1878, shall be deemed to prevent the Municipal Commissioner for the city of Bombay from being a member of the Executive Committee of Management of the said Exhibition or from devoting, as a member of the said Committee, such share of his time and attention as he shall think fit and necessary to the affairs of the said Exhibition.

3. Government may at any time, and from time to time, appoint a Deputy Municipal Commissioner, if the Municipal Commissioner becomes a member of the Executive Committee of Management of the said Exhibition, it shall appear expedient so to do, and any such appointment may be for such period as Government shall deem proper.

4. A Deputy Municipal Commissioner so appointed shall:

(a) receive such allowances as shall be fixed by Government;

receive allowances to be fixed by Government; from time to time be fixed by Government;

Bo III, of
1872 and IV,
of 1878.

(b) assist the Municipal Commissioner in the performance of his duties under the Bombay Municipal Acts of 1872 and 1878.

And all acts and things performed and done by a Deputy Municipal Commissioner by virtue of, and during his tenure of, the office of Deputy shall, for all purposes, be deemed to have been performed and done by the Municipal Commissioner.

5. If the Municipal Corporation shall sanction the payment of the allowances of the Deputy Municipal Commissioner, or of any portion thereof, from the municipal fund, such payment shall be deemed to be a purpose expressly authorized by the Bombay Municipal Act of 1872, within the meaning of section one hundred and thirty-six thereof: Provided that no such payment shall be made out of the municipal fund without the sanction of the said Corporation.

Bo III, of
1872.

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

C. G. W. MACPHERSON,

Under Secretary to Government.

Bombay Castle, 28th January 1885.

[Published with the "Bombay Government Gazette" on the 12th February 1885.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 18th December 1884, and the assent of His Excellency the Viceroy and Governor General on the 19th January 1885, and is published for general information :—

Bombay Act No. I. of 1885.

An Act to legalize the payment by the Trustees of the Port of Bombay of certain arrears of interest due to the Government.

[Third publication.]

The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 30th January 1885.

Whereas certain deficits of interest which accrued due in the years 1873 to 1877, both inclusive, aggregating Rs. 2,36,013-11-9, were paid, on the 25th day of January 1884, by the Trustees of the Port of Bombay to the Secretary of State for India in Council out of the surplus revenue to the credit of the General Account of the Trust for the year 1882-83, and the said amount was held in hand by the said Trustees, pending settlement and payment of the amount due as aforesaid in lieu of being applied as directed

in Section 51 of the Bombay Port Trust Act, 1879;

and whereas it is expedient to legalize the payment so made by the Trustees;

It is hereby enacted that, notwithstanding anything contained in the Bombay Port Trust Act, 1879, the said sum of Rs. 2,36,013-11-9 shall be deemed to have been lawfully paid by the said Trustees to the said Secretary of State.

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

C. G. W. MACPHERSON,
Under Secretary to Government.

Bombay Castle, 28th January 1885.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 18th December 1884, and the assent of His Excellency the Viceroy and Governor General on the 22nd January 1885, and is published for general information :—

Bombay Act No. II. of 1885.

An Act to empower the Municipal Corporation of the City of Bombay to subscribe to the Guarantee Fund of the Bombay International Exhibition and to enable the Municipal Commissioner of Bombay to be a Member of the Executive Committee of Management of the said Exhibition.

[Third publication.]

The assent of the Governor General of India to this Act, was first published by the Governor of Bombay on the 30th January 1885.

Whereas it is proposed to hold an International Exhibition in Bombay in the year 1886-87 or 1887-88 and the Municipal Corporation of the city of Bombay has entered into an agreement dated the 11th July 1884 and signed by the Municipal Commissioner of the city of Bombay with the Trustees of the Executive Committee of Management of the said Exhibition and other persons for the purpose of guaranteeing the said Committee against loss and it is expedient to give legal effect to the said agreement ;

and whereas it is also expedient to enact that the Municipal Commissioner for the city of Bombay shall not be incompetent to be a member of the Executive Committee of Management of the said Exhibition, and, in the event of his becoming a member of the said Committee, to provide for the appointment of a Deputy Municipal Commissioner to aid him in the discharge of his municipal duties ; It is enacted as follows :—

1. The agreement so entered into by the Municipal Corporation of the city of Bombay as aforesaid, shall, anything contained in the Bombay Municipal Acts of 1872 and 1878 to the contrary notwithstanding, be a valid and binding contract between the said Municipal Corporation and the said Trustees and other persons ; and all property vested in the said Corporation, and all funds received or raised by them shall be lawfully applicable to the discharge of any sum or sums for which the said Corporation may become liable by the terms of the said agree-

ment ; Provided that the amount for which the municipal fund shall by such agreement be rendered liable shall not exceed a lách of rupees.

2. Nothing in section 43 of the Bombay Municipal Act of 1872, as amended by section 16 of the Bombay Municipal Act Amendment and Continuance Act, 1878, shall be deemed to prevent the Municipal Commissioner for the city of Bombay from being a member of the Executive Committee of Management of the said Exhibition or from devoting, as a member of the said Committee, such share of his time and attention as he shall think fit and necessary to the affairs of the said Exhibition.

3. Government may at any time, and from time to time, appoint a Deputy Municipal Commissioner, if the Municipal Commissioner becomes a member of the Executive Committee of Management of the said Exhibition, it shall appear expedient so to do, and any such appointment may be for such period as Government shall deem proper.

4. A Deputy Municipal Commissioner so appointed shall :

(a) receive such allowances as shall from time to time be fixed by Government ;

(a) receive such allowances as shall from time to time be fixed by Government ;

Bo III, of
1872 and IV,
of 1878.

(b) assist the Municipal Commissioner in the performance of his duties under the Bombay Municipal Acts of 1872 and 1878.

And all acts and things performed and done by a Deputy Municipal Commissioner by virtue of, and during his tenure of, the office of Deputy shall, for all purposes, be deemed to have been performed and done by the Municipal Commissioner.

5. If the Municipal Corporation shall sanction the payment of the allowances of the Deputy Municipal Commissioner, or of any portion thereof,

Allowances of Deputy Commissioner may be paid, with the consent of the Corporation, from the municipal fund.

from the municipal fund, such payment shall be deemed to be a purpose expressly authorized by the Bombay Municipal Act Bo III, of 1872, within the meaning of section one hundred and thirty-six thereof: Provided that no such payment shall be made out of the municipal fund without the sanction of the said Corporation.

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

C. G. W. MACPHERSON,
Under Secretary to Government.

Bombay Castle, 28th January 1885.

[Published with the "Bombay Government Gazette" on the 12th February 1885.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 30th January, 1885, and was promulgated for general information in the *Gazette of India* dated 31st January 1885 :—

Act No. II of 1885.

An Act to amend the Negotiable Instruments Act, 1881.

XXVI of
1881.

WHEREAS it is expedient to amend the Negotiable Instruments Act, 1881, in manner herein-after appearing, It is hereby enacted as follows —

1 This Act may be called the Negotiable Instruments Act, 1885

XXVI of
1881.

2. In the fourth paragraph of section 7 of the Negotiable Instruments Act, 1881, for the words "When acceptance is refused and the bill is protested for non-acceptance" the following shall be substituted, namely.—
"When a bill of exchange has been noted or protested for non-acceptance or for better security".

3. After section 45 of the same Act the following shall be inserted. —

45A. Where a bill of exchange has been lost before it is over-due, the person who was the holder of it may apply to the drawer to give him another bill of the same tenor, giving security to the drawer, if required, to indemnify him against all persons whatever in case the bill alleged to have been lost shall be found again.

"If the drawer on request as aforesaid refuses to give such duplicate bill, he may be compelled to do so."

4 To section 61, and the first paragraph of section 64, of the same Act, the following shall be added —

"Where authorised by agreement or usage, a presentment through the post office by means of a registered letter is sufficient."

5. To section 101 of the same Act the following shall be added —

"A notary public may make the demand mentioned in clause (c) of this section either in person or by his clerk or, where authorised by agreement or usage, by registered letter.

Section inserted after section 104 of the same Act

6. After section 104 of the same Act the following shall be inserted :—
"104A. For the purposes of this Act, where a bill or note is required to be protested within a specified time or before some further proceeding is taken, it is sufficient that the bill has been noted for protest before the expiration of the specified time or the taking of the proceeding; and the formal protest may be extended at any time thereafter, as of the date of the noting."

Section 108 of the same Act, in part, repealed

7 In the same Act, section 108, the second sentence is repealed.

Amendment of section 109 of same Act.

8. In the same Act, section 109,
(a) for the words "in the presence of a notary public subscribe the bill with his own hand and" the following shall be substituted, namely—"by writing on the bill under his hand"; and
(b) the last twelve words are repealed.

9 In the same Act, section 113, after the words "the person so paying" the words "or his agent in that behalf" shall be inserted

10 After Chapter XVI of the same Act, the following shall be inserted —

"CHAPTER XVII.

"NOTARIES PUBLIC.

138. The Governor General in Council may, from time to time, by notification in the official Gazette, appoint any person, by name or by virtue of his office, to be a notary public under this Act and to exercise his functions as such within any local area, and may, by like notification, remove from office any notary public appointed under this Act.

139. The Governor General in Council may, from time to time, by notification in the official Gazette, make rules consistent with this Act for the guidance and control of notaries public appointed under this Act, and may, by such rules, (among other matters) fix the fees payable to such notaries."

R J. CROSTHWAITE,
Offg. Secretary to the Govt. of India.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 30th January, 1885, and was promulgated for general information in the *Gazette of India* on the 31st January 1885:—

Act No. III. of 1885.

An Act to amend the Transfer of Property Act, 1882.

1882 WHEREAS it is expedient to amend the Transfer of Property Act, 1882; It is hereby enacted as follows:—

1. For the fifth clause of section 1 of the said Act the following shall be substituted, namely:—

“And any Local Government may, with the previous sanction of the Governor General in Council, from time to time, by notification in the local official Gazette, exempt, either retrospectively or prospectively, any part of the territories administered by such Local Government from all or any of the following provisions, namely:—

“Sections fifty-four, paragraphs two and three, fifty-nine, one hundred and seven and one hundred and twenty-three.”

2. The following clause shall be deemed to have been added to the first section of the said Act from the date on which it came into force, namely:—

“Notwithstanding anything in the foregoing part of this section, sections fifty-four, paragraphs two and three, fifty-nine, one hundred and seven and one hundred and twenty-three shall not extend or be extended to any district or tract of country for the time being excluded from the operation of the

Indian Registration Act, 1877, under the power III of 1877 conferred by the first section of that Act or otherwise.”

3. To section 4 of the said Act the following Addition to section 4 of shall be added, namely:— same Act

“And sections fifty-four, paragraphs two and three, fifty-nine, one hundred and seven and one hundred and twenty-three shall be read as supplemental to the Indian Registration Act, 1877” III of 1877.

4. To section 6 of the said Act the following Addition to section 6 of ing clause shall be same Act added:—

“(b) Nothing in this section shall be deemed to authorize a tenant having an untransferable right of occupancy, the farmer of an estate in respect of which default has been made in paying revenue or the lessee of an estate under the management of a Court of Wards to assign his interest as such tenant, farmer or lessee.”

Amendment of section 69 5. In section 69 of of same Act. the said Act—

(a) after the words “is valid in the following cases” the words “and in no others” shall be inserted; and

(b) after the words “Hindu, Muhammadan or Buddhist,” in both places where they occur, there shall be inserted the words, “or a member of any other race, sect, tribe or class from time to time specified in this behalf by the Local Government, with the previous sanction of the Governor General in Council, in the local official Gazette.”

R. J. CROSTHWAITÉ,
Offg. Secretary to the Govt. of India.

THE



Bombay Government Gazette.

Published by Authority.

THURSDAY, 12TH FEBRUARY 1885.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 6th February, 1885, and was promulgated for general information in the *Gazette of India*, dated 7th February 1885:—

Act No. V of 1885.

An Act to amend the Indian Ports Act, 1875.

WHEREAS it is expedient to amend the Indian Ports Act, 1875, in manner hereinafter appearing; It is hereby enacted as follows:—

1. In section 42 of the said Act, for the words "Conservator of every port to which such order relates, and in the custom-house, if any, of every port subject to this Act" the following shall be substituted, namely:—"Conservator, and at the custom-house, if any, of every port to which such order relates."

Amendment of section 42 of the Indian Ports Act, 1875.
2. To the fourth paragraph of section 47 of the said Act the following shall be added, namely:—"The expenses aforesaid shall also include the pensions, allowances and gratuities of persons who have been employed under this Act in the port, or such portion of those pensions, allowances and gratuities as the Local Government may by rule determine."

Addition to section 47 of the same Act.
3. After the fifth paragraph of the same section the following shall be inserted and shall be deemed to have been inserted from the date on which the said Act came into force, namely—"With the previous sanction of the Local Government the authorities of any port may, from time to time, contribute a sum from the Port Fund Account of that port for all or any of the purposes mentioned in section sixty."

Further addition to the same section.
4. To the third paragraph of section 59 of the same Act the following shall be added, namely—"The Local Government may, from time to time, by notification in the official Gazette, cancel any such order."

Addition to paragraph 3, section 59, of the same Act.
5. In the entry relating to the Cuttack ports in Part II. of the First Schedule of the same Act, for the words "not exceeding six annas per hundred maunds" the following shall be substituted, namely:—"Not exceeding four annas per ton."

Amendment of Schedule I, Part II, of the same Act.

R. J. CROSTHWAITTE,

Offg. Secretary to the Government of India.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 6th February, 1885, and was promulgated for general information in the *Gazette of India*, dated 7th February 1885:—

Act No. VI of 1885.

An Act to amend Act XXII of 1881.

WHEREAS it is expedient to amend the Excise Act, 1881; It is hereby enacted as follows:—

1. In section 28 of the said Act, after the words
Amendment of section 28 of said Act. "ten rupees" the words "or who receives an annual remuneration equivalent to such salary" shall be inserted.

2. In the first paragraph of section 29 of the
Amendment of section 29 of same Act. same Act, after the word "salary" the words "or annual remuneration" shall be inserted; and in the second paragraph of the same section, after the word "rupees" the words "unless the Excise-officer is himself such an officer of police" shall be inserted.

New section inserted after section 34 of same Act. 3. In the same Act, after section 34, the following section shall be inserted:—

"34A. The Local Government may, from time to time, invest either by name or in virtue of his office—
Power to invest police-officers with powers of Excise-officers. to time, invest either by name or in virtue of his office—

"(a) any police-officer with the powers conferred on Excise-officers by section 27 of this Act;

"(b) any police-officer in charge of a station or any police-officer of or above the grade of head-constable or sergeant with the powers conferred on Excise-officers by sections 28 and 29 of this Act.

"Every officer so invested shall, for all purposes connected with the exercise of these powers, be deemed to be an Excise-officer within the meaning of this Act."

4. For section 47 of the
New section substituted for section 47. same Act the following shall be substituted, namely:—

"47. A Court shall not take cognizance of an offence punishable under Prosecutions restricted. any one of the following sections, namely, thirty-five, thirty-six, thirty-seven, thirty-eight, thirty-nine, forty-one, forty-two and forty-three, except on the complaint or report of the Collector or an Excise-officer, and a Court shall not take cognizance of any offence punishable under this Act unless the prosecution is instituted before the expiry of six months next after the commission of such offence."

R J. CROSTHWAIT,
Offg. Secretary to the Government of India.

[Published with the "Bombay Government Gazette" on the 19th February 1885.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 30th January, 1885, and was promulgated for general information in the *Gazette of India* dated 31st January 1885 :—

Act No. II of 1885.

An Act to amend the Negotiable Instruments Act, 1881.

XXVI of
1881.

WHEREAS it is expedient to amend the Negotiable Instruments Act, 1881, in manner herein-after appearing; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Negotiable Instruments Act, 1885.

XXVI of
1881.

2. In the fourth paragraph of section 7 of the Negotiable Instruments Act, 1881, for the words "When acceptance is refused and the bill is protested for non-acceptance" the following shall be substituted, namely—
"When a bill of exchange has been noted or protested for non-acceptance or for better security"

3. After section 45 of the same Act the following shall be inserted—

"45A. Where a bill of exchange has been lost before it is over-due, the person who was the holder of it may apply to the drawer to give him another bill of the same tenor, giving security to the drawer, if required, to indemnify him against all persons whatever in case the bill alleged to have been lost shall be found again.

"If the drawer on request as aforesaid refuses to give such duplicate bill, he may be compelled to do so."

4. To section 61, and the first paragraph of section 64, of the same Act, the following shall be added :—

"Where authorised by agreement or usage, a presentment through the post office by means of a registered letter is sufficient"

5 To section 101 of the same Act the following shall be added—

"A notary public may make the demand mentioned in clause (c) of this section either in person or by his clerk or, where authorised by agreement or usage, by registered letter.

IV.—5-1

Section inserted after section 104 of the same Act 6. After section 104 of the same Act the following shall be inserted.—

"104A. For the purposes of this Act, where a bill or note is required to be protested within a specified time or before some further proceeding is taken, it is sufficient that the bill has been noted for protest before the expiration of the specified time or the taking of the proceeding, and the formal protest may be extended at any time thereafter as of the date of the noting"

Section 108 of the same Act, in part, repealed 7. In the same Act, section 108, the second sentence is repealed.

Amendment of section 109 of same Act. 8 In the same Act, section 109,

(a) for the words "in the presence of a notary public subscribe the bill with his own hand and" the following shall be substituted, namely— "by writing on the bill under his hand", and

(b) the last twelve words are repealed.

9. In the same Act, section 113, after the words "the person so paying" the words "or his agent in that behalf" shall be inserted.

Amendment of section 113 of same Act. 10. After Chapter XVII of the same Act, the following shall be inserted.—

New chapter added to same Act.

"CHAPTER XVII.

"NOTARIES PUBLIC.

"138. The Governor General in Council may, from time to time, by notification in the official Gazette, appoint any person, by name or by virtue of his office, to be a notary public under this Act and to exercise his functions as such within any local area, and may, by like notification, remove from office any notary public appointed under this Act.

"139. The Governor General in Council may, from time to time, by notification in the official Gazette, make rules consistent with this Act for the guidance and control of notaries public appointed under this Act, and may, by such rules, (among other matters) fix the fees payable to such notaries."

R. J. CROSTHWAITE,

Offg. Secretary to the Government of India.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 30th January, 1885, and was promulgated for general information in the *Gazette of India* on the 31st January 1885.—

Act No. III. of 1885.

An Act to amend the Transfer of Property Act, 1882.

WHEREAS it is expedient to amend the Transfer of Property Act, 1882; It is hereby enacted as follows.—

1. For the fifth clause of section 1 of the said Act the following shall be substituted, namely:—

“And any Local Government may, with the previous sanction of the Governor General in Council, from time to time, by notification in the local official Gazette, exempt, either retrospectively or prospectively, any part of the territories administered by such Local Government from all or any of the following provisions, namely.—

“Sections fifty-four, paragraphs two and three, fifty-nine, one hundred and seven and one hundred and twenty-three.”

2 The following clause shall be deemed to have been added to the first section of the said Act from the date on which it came into force, namely:—

“Notwithstanding anything in the foregoing part of this section, sections fifty-four, paragraphs two and three, fifty-nine, one hundred and seven and one hundred and twenty-three shall not extend or be extended to any district or tract of country for the time being excluded from the operation of the

Indian Registration Act, 1877, under the power conferred by the first section of that Act or otherwise.”

3. To section 4 of the said Act the following Addition to section 4 of shall be added, namely— same Act.

“And sections fifty-four, paragraphs two and three, fifty-nine, one hundred and seven and one hundred and twenty-three shall be read as supplemental to the Indian Registration Act, 1877.”

4. To section 6 of the said Act the following Addition to section 6 of ing clause shall be same Act added:—

“(i) Nothing in this section shall be deemed to authorize a tenant having an untransferable right of occupancy, the farmer of an estate in respect of which default has been made in paying revenue or the lessee of an estate under the management of a Court of Wards to assign his interest as such tenant, farmer or lessee.”

Amendment of section 69 5. In section 69 of of same Act. the said Act—

(a) after the words “is valid in the following cases” the words “and in no others” shall be inserted; and

(b) after the words “Hindu, Muhammadan or Buddhist,” in both places where they occur, there shall be inserted the words, “or a member of any other race, sect, tribe or class from time to time specified in this behalf by the Local Government, with the previous sanction of the Governor General in Council, in the local official Gazette.”

R. J. CROSTHWAITE,

Offg. Secretary to the Government of India.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 6th February 1885, and was promulgated for general information in the *Gazette of India*, dated 7th February 1885:—

Act No. V of 1885.

An Act to amend the Indian Ports Act, 1875.

WHEREAS it is expedient to amend the Indian Ports Act, 1875, in manner hereinafter appearing; It is hereby enacted as follows:—

- XII of 1875.
1. In section 42 of the said Act, for the words "Conservator of every port to which such order relates, and in the custom-house, if any, of every port subject to this Act" the following shall be substituted, namely:—"Conservator, and at the custom-house, if any, of every port to which such order relates."
 2. To the fourth paragraph of section 47 of the said Act the following shall be added, namely:—"The expenses aforesaid shall also include the pensions, allowances and gratuities of persons who have been employed under this Act in the port, or such portion of those pensions, allowances and gratuities as the Local Government may by rule determine."

3. After the fifth paragraph of the same section the following shall be inserted and shall be deemed to have been inserted from the date on which the said Act came into force, namely:—"With the previous sanction of the Local Government the authorities of any port may, from time to time, contribute a sum from the Port Fund Account of that port for all or any of the purposes mentioned in section sixty."

"The sum so contributed shall, if, and so long as, the Local Government so directs, be in substitution of any Hospital Port-dues imposed under section fifty-nine at that port."

4. To the third paragraph of section 59 of the same Act the following shall be added, namely:—"The Local Government may, from time to time, by notification in the official Gazette, cancel any such order."

5. In the entry relating to the Cuttack ports in Part II. of the First Schedule of the same Act, for the words "not exceeding six annas per hundred maunds" the following shall be substituted, namely:—"Not exceeding four annas per ton."

R. J. CROSTHWAITTE,
Offg. Secretary to the Government of India.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 6th February 1885, and was promulgated for general information in the *Gazette of India*, dated 7th February 1885:—

Act No. VI of 1885.

An Act to amend Act XXII of 1881.

WHEREAS it is expedient to amend the Excise Act, 1881; It is hereby enacted as follows:—

1. In section 28 of the said Act, after the words "ten rupees" the words "or who receives an annual remuneration equivalent to such salary" shall be inserted.

2 In the first paragraph of section 29 of the same Act, after the word "salary" the words "or annual remuneration" shall be inserted; and in the second paragraph of the same section, after the word "rupees" the words "unless the Excise-officer is himself such an officer of police" shall be inserted.

New section inserted after section 34 of same Act.

3. In the same Act, after section 34, the following section shall be inserted:—

"34A. The Local Government may, from time to time, invest either by name or in virtue of his office—
Power to invest police-officers with powers of Excise-officers.

"(a) any police-officer with the powers conferred on Excise-officers by section 27 of this Act;

"(b) any police-officer in charge of a station or any police-officer of or above the grade of head-constable or sergeant with the powers conferred on Excise-officers by sections 28 and 29 of this Act.

"Every officer so invested shall, for all purposes connected with the exercise of these powers, be deemed to be an Excise-officer within the meaning of this Act."

New section substituted for section 47.

4. For section 47 of the same Act the following shall be substituted,

namely:—

"47. A Court shall not take cognizance of an offence punishable under any one of the following sections, namely, thirty-five, thirty-six, thirty-seven, thirty-eight, thirty-nine, forty-one, forty-two and forty-three, except on the complaint or report of the Collector or an Excise-officer; and a Court shall not take cognizance of any offence punishable under this Act unless the prosecution is instituted before the expiry of six months next after the commission of such offence."

R. J. CROSTHWAITE,
Offg. Secretary to the Government of India.

THE



Bombay Government Gazette.

Published by Authority.

THURSDAY, 26TH FEBRUARY 1885.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 20th February, 1885, and was promulgated for general information in the *Gazette of India* on the 21st February 1885:—

Act No. VII. of 1885.

An Act to amend the law in force in the Páñch Maháls.

WHEREAS it is expedient that the law in force in the territory comprised in the Páñch Maháls should, on and from the first day of May, 1885, be the same as the law in force in the district of Kaira, in the Bombay Presidency, and that the said territory should, on and from that day, cease to be a scheduled district under the Scheduled Districts Act, 1874, and the Laws Local Extent Act, 1874; It is hereby enacted as follows.—

IV. of 1874.
V. of 1874.

1. This Act may be called the Páñch Maháls Laws Act, 1885.

Short title.

2. (1) Save and except the enactments specified in the schedule hereto annexed, all enactments

which, on the first day of May, 1885, are in force in the district of Kaira and not in the Páñch Maháls shall be deemed to come into force in the Páñch Maháls on that day.

(2) All enactments which on that day are in force in the Páñch Maháls and not in the district of Kaira shall be deemed to be repealed on and from that day in the Páñch Maháls.

3. All proceedings commenced before any authority in the Páñch Maháls before the first day of May, 1885, and still pending on that day, shall be disposed of by such authority as the Local Government may direct, and, save as aforesaid, shall be carried on as if this Act had not been passed.

4. On and from the first day of May, 1885, the Páñch Maháls shall cease to be a scheduled district, and in Part II. of the First Schedule to the Scheduled Districts Act, 1874, and in the same Part of the Sixth Schedule to the Laws XIV of 1874, Local Extent Act, 1874, the words "The Páñch Maháls" shall be repealed.

THE SCHEDULE.

ENACTMENTS EXCEPTED FROM THE OPERATION
OF SECTION 2.*Acts of the Governor General in Council.*

Number and year.	Title	Extent of exception.
VIII. of 1870 ...	For the prevention of the murder of female infants.	The whole.
XXI. of 1881 ...	To amend the law providing for the relief of Thákurs in the districts of Broach and Kaira.	The whole.

Acts of the Governor of Bombay in Council.

Number and year.	Title.	Extent of exception.
V. of 1862 ..	For the preservation of the Bhágdári and Narwádári Tenures.	The whole.
V. of 1879 ...	To consolidate and amend the law relating to Revenue-officers and the land-revenue in the Presidency of Bombay.	Section 85 and last fifteen words of section 58.

R. J. CROSTHWAITE,
Offg. Secretary to the Government of India.

[Published with the "Bombay Government Gazette" on the 26th February 1885.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 6th February 1885, and was promulgated for general information in the *Gazette of India*, dated 7th February 1885.—

Act No. V of 1885.

An Act to amend the Indian Ports Act, 1875.

XII of 1875 WHEREAS it is expedient to amend the Indian Ports Act, 1875, in manner hereinafter appearing; It is hereby enacted as follows:—

1. In section 42 of the said Act, for the words "Conservator of every port to which such order relates, and in the custom-house, if any, of every port subject to this Act" the following shall be substituted, namely—"Conservator, and at the custom-house, if any, of every port to which such order relates."

2 To the fourth paragraph of section 47 of the said Act the following shall be added, namely—
Addition to section 47 of the same Act "The expenses aforesaid shall also include the pensions, allowances and gratuities of persons who have been employed under this Act in the port, or such portion of those pensions, allowances and gratuities as the Local Government may by rule determine."

3 After the fifth paragraph of the same section the following shall be inserted and shall be deemed to have been inserted from the date on which the said Act came into force, namely—"With the previous sanction of the Local Government the authorities of any port may, from time to time, contribute a sum from the Port Fund Account of that port for all or any of the purposes mentioned in section sixty.

"The sum so contributed shall, if, and so long as, the Local Government so directs, be in substitution of any Hospital Port-dues imposed under section fifty-nine at that port."

4. To the third paragraph of section 59 of the same Act the following shall be added, namely—
Addition to paragraph 3, section 59, of the same Act. "The Local Government may, from time to time, by notification in the official Gazette, cancel any such order."

5. In the entry relating to the Cuttack ports in Part II, of the First Schedule of the same Act, for the words "not exceeding six annas per hundred maunds" the following shall be substituted, namely—"Not exceeding four annas per ton."

R. J. CROSTHWAITE,
 Offg Secretary to the Government of India.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 6th February 1885, and was promulgated for general information in the *Gazette of India*, dated 7th February 1885.—

Act No. VI of 1885.

An Act to amend Act XXII of 1881.

WHEREAS it is expedient to amend the Excise Act, 1881; It is hereby enacted as follows—

1. In section 28 of the said Act, after the words "ten rupees" the words "or who receives an annual remuneration equivalent to such salary" shall be inserted.

2. In the first paragraph of section 29 of the same Act, after the word "salary" the words "or annual remuneration" shall be inserted; and in the second paragraph of the same section, after the word "rupees" the words "unless the Excise-officer is himself such an officer of police" shall be inserted.

New section inserted after section 34 of same Act.

3. In the same Act, after section 34, the following section shall be inserted.—

"34A. The Local Government may, from time to time, invest either by name or in virtue of his office—
Power to invest police-officers with powers of Excise-officers.

"(a) any police-officer with the powers conferred on Excise-officers by section 27 of this Act;

"(b) any police-officer in charge of a station or any police-officer of or above the grade of head-constable or sergeant with the powers conferred on Excise-officers by sections 28 and 29 of this Act.

"Every officer so invested shall, for all purposes connected with the exercise of these powers, be deemed to be an Excise-officer within the meaning of this Act."

4. For section 47 of the same Act the following shall be substituted, namely:—

"47. A Court shall not take cognizance of an offence punishable under any one of the following sections, namely, thirty-five, thirty-six, thirty-seven, thirty-eight, thirty-nine, forty-one, forty-two and forty-three, except on the complaint or report of the Collector or an Excise-officer; and a Court shall not take cognizance of any offence punishable under this Act unless the prosecution is instituted before the expiry of six months next after the commission of such offence."

R. J. CROSTHWAITÉ,
Offg Secretary to the Government of India.

[Published with the "Bombay Government Gazette" on the 5th March 1885.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 20th February, 1885, and was promulgated for general information in the *Gazette of India* on the 21st February 1885.—

Act No. VII. of 1885

An Act to amend the law in force in the Páñch Maháls.

WHEREAS it is expedient that the law in force in the territory comprised in the Páñch Maháls should, on and from the first day of May, 1885, be the same as the law in force in the district of Kaira, in the Bombay Presidency, and that the said territory should, on and from that day, cease to be a scheduled district under the Scheduled Districts Act, 1874, and the Laws Local Extent Act, 1874; It is hereby enacted as follows—

Short title.

1. This Act may be called the Páñch Maháls Laws Act, 1885

2. (1) Save and except the enactments specified in the schedule hereto annexed, all enactments

which, on the first day of May, 1885, are in force in the district of Kaira and not in the Páñch Maháls shall be deemed to come into force in the Páñch Maháls on that day.

(2) All enactments which on that day are in force in the Páñch Maháls and not in the district of Kaira shall be deemed to be repealed on and from that day in the Páñch Maháls.

3 All proceedings commenced before any authority in the Páñch Maháls before the first day of May, 1885, and still pending on that day, shall be disposed of by such authority as the Local Government may direct, and, save as aforesaid, shall be carried on as if this Act had not been passed

4. On and from the first day of May, 1885, the Páñch Maháls shall cease to be a scheduled district; and in Part II. of the First Schedule to the Scheduled Districts Act, 1874, and in the same Part of the Sixth Schedule to the Laws Local Extent Act, 1874, the words "The Páñch Maháls" shall be repealed.

THE SCHEDULE.

ENACTMENTS EXCEPTED FROM THE OPERATION OF SECTION 2.

Acts of the Governor General in Council.

Number and year.	Title	Extent of exception
VIII. of 1870 ..	For the prevention of the murder of female infants.	The whole.
XXI. of 1881 ..	To amend the law providing for the relief of Thákurs in the districts of Broach and Kaira.	The whole.

Acts of the Governor of Bombay in Council.

Number and year.	Title	Extent of exception.
V of 1862	For the preservation of the Bhágdári and Narwádári Tenures	The whole.
V. of 1879	To consolidate and amend the law relating to Revenue-officers and the land-revenue in the Presidency of Bombay	Section 85 and last fifteen words of section 58.

R. J. CROSTHWAITE,
Offg. Secretary to the Government of India.

[Published with the "Bombay Government Gazette" on the 12th March, 1885.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 20th February, 1885, and was promulgated for general information in the *Gazette of India* on the 21st February 1885 :—

Act No. VII. of 1885.

An Act to amend the law in force in the Páñch Maháls.

WHEREAS it is expedient that the law in force in the territory comprised in the Páñch Maháls should, on and from the first day of May, 1885, be the same as the law in force in the district of Kaira, in the Bombay Presidency, and that the said territory should, on and from that day, cease to be a scheduled district under the Scheduled Districts Act, 1874, and the Laws Local Extent Act, 1874; It is hereby enacted as follows :—

1. This Act may be called the Páñch Maháls Laws Act, 1885.

2. (1) Save and except the enactments specified in the schedule hereto annexed, all enactments

which, on the first day of May, 1885, are in force in the district of Kaira and not in the Páñch Maháls shall be deemed to come into force in the Páñch Maháls on that day.

(2) All enactments which on that day are in force in the Páñch Maháls and not in the district of Kaira shall be deemed to be repealed on and from that day in the Páñch Maháls.

3. All proceedings commenced before any authority in the Páñch Maháls before the first day of May, 1885, and still pending on that day, shall be disposed of by such authority as the Local Government may direct, and, save as aforesaid, shall be carried on as if this Act had not been passed.

4. On and from the first day of May, 1885, the Páñch Maháls shall cease to be a scheduled district; and in Part II. of the First Schedule to the Scheduled Districts Act, 1874, and in the same Part of the Sixth Schedule to the Laws XV. of 1874, Local Extent Act, 1874, the words "The Páñch Maháls" shall be repealed.

THE SCHEDULE.

ENACTMENTS EXCEPTED FROM THE OPERATION OF SECTION 2.

Acts of the Governor General in Council.

Number and year.	Title.	Extent of exception.
VIII. of 1870	For the prevention of the murder of female infants.	The whole.
XXI. of 1881	To amend the law providing for the relief of Thákurs in the districts of Broach and Kaira.	The whole.

Acts of the Governor of Bombay in Council.

Number and year.	Title.	Extent of exception.
V. of 1862	For the preservation of the Bhágdári and Narvárdári Tenures.	The whole.
V. of 1879	To consolidate and amend the law relating to Revenue-officers and the land-revenue in the Presidency of Bombay	Section 85 and last fifteen words of section 58.

R. J. CROSTHWAITE,
Offg. Secretary to the Government of India.



Bombay Government Gazette.

Published by Authority.

THURSDAY, 4TH JUNE 1885.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 29th May 1885, and is hereby promulgated for general information:—

Act No. IX of 1885

An Act to repeal part of section 6 of the Indian Tariff Act, 1882, and to amend the Excise Act, 1881, the Bengal Excise Act, 1878, and the Sea Customs Act, 1878.

WHEREAS it is expedient to repeal part of section 6 of the Indian Tariff Act, 1882, and to amend section 7 of the Excise Act, 1881, section 18 of the Bengal Excise Act, 1878, and sections 145, 149 and 207 of the Sea Customs Act, 1878, in manner hereinafter appearing; It is hereby enacted as follows:—

1. The part of section 6 of the Indian Tariff Act, 1882, beginning with the words "And whereas," down to and including the words "been paid," is repealed.

2. For clause (a) of section 7 of the Excise Act, 1881, the following clause shall be substituted:—

"(a) such duty as the Local Government may from time to time fix in respect of such spirit has been paid, or."

3. In section 18 of the Bengal Excise Act, 1878, for the words "at the rate leviable under any Tariff Act for the time being in force" the

words "at such rate as the Local Government may from time to time fix in respect of such spirituous liquor" shall be substituted; but nothing in this section shall affect any Act passed after this Act comes into force by the Lieutenant-Governor of Bengal in Council.

4. The duty now fixed by the Local Government under section 6 of the Indian Tariff Act, 1882, as leviable on spirit manufactured in all or any of the distilleries situate in the territories under its administration, or in any part of such territories, shall, in places in which the Excise Act, 1881, or the Bengal Excise Act, 1878, is in force, be deemed to be the duty fixed by the Local Government under sections 7 and 18 of those Acts, as amended by this Act, respectively.

5. (1) In section 145 of the Sea Customs Act, 1878, after the word "shall" the words "except when provision is made by any enactment for the time being in force for its being intermediately deposited in a licensed warehouse" shall be inserted.

(2) In section 149 of the same Act, after the words "custom-house" the words "or to a warehouse licensed under any enactment for the time being in force" shall be inserted.

6. In section 207 of the same Act, for the word "respectively" the words "or any like body hereafter created for any other port" shall be substituted.

D. FITZPATRICK,
Secretary to the Government of India.

[Published with the "Bombay Government Gazette" on the 11th June 1885.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 29th May 1885, and is hereby promulgated for general information:—

Act No. IX of 1885.

An Act to repeal part of section 6 of the Indian Tariff Act, 1882, and to amend the Excise Act, 1881, the Bengal Excise Act, 1878, and the Sea Customs Act, 1878.

WHEREAS it is expedient to repeal part of section 6 of the Indian Tariff Act, 1882, and to amend section 7 of the Excise Act, 1881, section 18 of the Bengal Excise Act, 1878, and sections 145, 149 and 207 of the Sea Customs Act, 1878, in manner hereinafter appearing; It is hereby enacted as follows:—

- XI of 1882.
XXII of 1881.
Beng Act
VII of 1878
VIII of 1878.
- XI of 1882.
- XXII of 1881.
- Beng. Act
VII of 1878.
1. The part of section 6 of the Indian Tariff Act, 1882, beginning with the words "And whereas," down to and including the words "been paid," is repealed.
 2. For clause (a) of section 7 of the Excise Act, 1881, the following clause shall be substituted:—
 "(a) such duty as the Local Government may from time to time fix in respect of such spirit has been paid, or."
 3. In section 18 of the Bengal Excise Act, 1878, for the words "at the rate leviable under any Tariff Act for the time being in force" the

words "at such rate as the Local Government may from time to time fix in respect of such spirituous liquor" shall be substituted; but nothing in this section shall affect any Act passed after this Act comes into force by the Lieutenant-Governor of Bengal in Council.

4. The duty now fixed by the Local Government under section 6 of the Indian Tariff Act, 1882, as leviable on spirit manufactured in all or any of the distilleries situate in the territories under its administration, or in any part of such territories, shall, in places in which the Excise Act, 1881, or the Bengal Excise Act, 1878, is in force, be deemed to be the duty fixed by the Local Government under sections 7 and 18 of those Acts, as amended by this Act, respectively.
5. (1) In section 145 of the Sea Customs Act, 1878, after the word "shall" the words "except when provision is made by any enactment for the time being in force for its being intermediately deposited in a licensed warehouse" shall be inserted.
- (2) In section 149 of the same Act, after the words "custom-house" the words "or to a warehouse licensed under any enactment for the time being in force" shall be inserted.
6. In section 207 of the same Act, for the word "respectively" the words "or any like body hereafter created for any other port" shall be substituted.

D. FITZPATRICK,
Secretary to the Government of India.

Published with the "Bombay Government Gazette" on the 18th June 1885.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 29th May 1885, and is hereby promulgated for general information.—

Act No. IX of 1885

An Act to repeal part of section 6 of the Indian Tariff Act, 1882, and to amend the Excise Act, 1881, the Bengal Excise Act, 1878, and the Sea Customs Act, 1878.

WHEREAS it is expedient to repeal part of section 6 of the Indian Tariff Act, 1882, and to amend section 7 of the Excise Act, 1881, section 18 of the Bengal Excise Act, 1878, and sections 145, 149 and 207 of the Sea Customs Act, 1878, in manner hereinafter appearing, It is hereby enacted as follows:—

XI of 1882
XXII of 1881
Beng Act VII of 1878.
VIII of 1878.

1. The part of section 6 of the Indian Tariff Act, 1882, beginning with the words "And whereas," down to and including the words "been paid," is repealed.

XXII of 1881

2. For clause (a) of section 7 of the Excise Act, 1881, the following clause shall be substituted:—

"(a) such duty as the Local Government may from time to time fix in respect of such spirit has been paid, or"

Beng Act VII of 1878.

3. In section 18 of the Bengal Excise Act, 1878, for the words "at the rate leviable under any Tariff Act for the time being in force" the

words "at such rate as the Local Government may from time to time fix in respect of such spirituous liquor" shall be substituted; but nothing in this section shall affect any Act passed after this Act comes into force by the Lieutenant-Governor of Bengal in Council.

4 The duty now fixed by the Local Government under section 6 of the Indian Tariff Act, 1882, as leviable on spirit manufactured in all or any of the distilleries situate in the territories under its administration, or in any part of such territories, shall, in places in which the Excise Act, 1881, or the Bengal Excise Act, 1878, is in force, be deemed to be the duty fixed by the Local Government under sections 7 and 18 of those Acts, as amended by this Act, respectively.

5. (1) In section 145 of the Sea Customs Act, 1878, after the word "shall" the words "except when provision is made by any enactment for the time being in force for its being intermediately deposited in a licensed warehouse" shall be inserted.

(2) In section 149 of the same Act, after the words "custom-house" the words "or to a warehouse licensed under any enactment for the time being in force" shall be inserted.

6 In section 207 of the same Act, for the word "respectively" the words "or any like body hereafter created for any other port" shall be substituted.

D FITZPATRICK,
Secretary to the Government of India.



Bombay Government Gazette.

Published by Authority.

THURSDAY, 2ND JULY 1885.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 13th June 1885, and the assent of His Excellency the Viceroy and Governor General on the 1st July 1885, and is published for general information :—

Bombay Act No. III. of 1885.

An Act to provide for the occasional appointment of a Deputy Municipal Commissioner for the City of Bombay.

[First publication.]

WHEREAS it is expedient to make provision for the temporary appointment, whenever necessary, of a Deputy Municipal Commissioner for the City of Bombay; it is enacted as follows :—

1. Government may at any time, and from time to time, whenever necessary, appoint a Deputy Municipal Commissioner for the City of Bombay; if it shall for any reason appear expedient so to do, and any such appointment may be for such period as Government shall deem proper.

Allowances and duties of a Deputy Municipal Commissioner so appointed.

2. A Deputy Municipal Commissioner so appointed shall :

- (a) receive such allowances as shall from time to time be fixed by Government ;
- (b) be subordinate to and assist the Municipal Commissioner in the performance of his duties under the Bombay Municipal Acts of 1872 and 1878.

Bom. III,
1872, and
IV., 1878.

And all acts and things performed and done by a Deputy Municipal Commissioner by virtue of and during his tenure of the office of Deputy shall, for all purposes, be deemed to have been performed and done by the Municipal Commissioner.

3. If the Municipal Corporation of the City of Bombay shall sanction the payment of the allowances of a Deputy Municipal Commissioner, or of any portion thereof, from the municipal fund, such payment shall be deemed to be a purpose expressly authorized by the Bombay Municipal Act of 1872, within the meaning of Section 136 of that Act: Provided that no such payment shall be made out of the municipal fund without the sanction of the said Corporation.

Bom. III. of 1872.

4. Sections 3, 4 and 5 of Bombay Act II. of 1885 (*An Act to empower the Municipal Corporation of the City of Bombay to subscribe to the Guarantee Fund of the Bombay International Exhibition and for other purposes*) and the words "and, in the event of his becoming a member of the said Committee, to provide for the appointment of a Deputy Municipal Commissioner to aid him in the discharge of his municipal duties," in the preamble of the said Act are repealed.

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

E. LAWRENCE,

Acting Under Secretary to Government.

Poona, 1st July 1885.

[Published with the "Bombay Government Gazette" on the 9th July 1885.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

LEGISLATIVE DEPARTMENT.

Poona, 7th July 1885.

No. 87.—*Erratum.*—In the Government Notification* dated 1st July 1885, publishing for general information Bombay Act No. III. of 1885, for the words "the assent of His Excellency the Viceroy and Governor General on the 1st July 1885" read "the assent of His Excellency the Viceroy and Governor General on the 30th June 1885."

* Published as Part IV of the *Bombay Government Gazette* on the 2nd July 1885.

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

E. LAWRENCE,

Acting Under Secretary to Government.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 13th June 1885, and the assent of His Excellency the Viceroy and Governor General on the 30th June 1885, and is published for general information :—

Bombay Act No. III. of 1885.

An Act to provide for the occasional appointment of a Deputy Municipal Commissioner for the City of Bombay.

[Second publication.]

The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 2nd July 1885.

WHEREAS it is expedient to make provision for the temporary appointment, whenever necessary, of a Deputy Municipal Commissioner for the City of Bombay; it is enacted as follows :—

1. Government may at any time, and from time to time, whenever necessary, appoint a Deputy Municipal Commissioner for the City of Bombay, if it shall for any reason appear expedient so to do, and any such appointment may be for such period as Government shall deem proper.

2. A Deputy Municipal Commissioner so appointed shall :—
(a) receive such allowances as shall from time to time be fixed by Government; and
(b) be subordinate to and assist the Municipal Commissioner in the performance of his duties under the Bombay Municipal Acts of 1872 and 1878.

And all acts and things performed and done by a Deputy Municipal Commissioner by virtue of and during his tenure of the office of Deputy shall, for all purposes, be

deemed to have been performed and done by the Municipal Commissioner.

3. If the Municipal Corporation of the City of Bombay shall sanction the payment of the allowances of a Deputy Municipal Commissioner, or of any portion thereof, from the municipal fund, such payment shall be deemed to be a purpose expressly authorized by the Bombay Municipal Act of 1872, within the meaning of Section 136 of that Act: Provided that no such payment shall be made out of the municipal fund without the sanction of the said Corporation.

4. Sections 3, 4 and 5 of Bombay Act II. of 1885 (*An Act to empower the Municipal Corporation of the City of Bombay to subscribe to the Guarantee Fund of the Bombay International Exhibition and for other purposes*) and the words "and, in the event of his becoming a member of the said Committee, to provide for the appointment of a Deputy Municipal Commissioner to aid him in the discharge of his municipal duties," in the preamble of the said Act are repealed.

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

E. LAWRENCE,

Acting Under Secretary to Government.

Poona, 1st July 1885.

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.

THE



Bombay Government Gazette

Published by Authority.

THURSDAY, 30TH JULY 1885.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 22nd July, 1885, and was promulgated for general information in the *Gazette of India* dated 25th July 1885:—

Act No. XII of 1885.

An Act to amend the law relating to the carriage of passengers by sea.

8 & 19 Vic.,
119

WHEREAS by section 99 of an Act of the Imperial Parliament called "The Passengers Act, 1855," it is enacted that "it shall be lawful for the Governor-General of India in Council, from time to time, by any Act or Acts to be passed for that purpose, to declare that this Act or any part thereof shall apply to the carriage of passengers upon any voyage, from any ports or places within the territories of British India, to be specified in such Act or Acts, to any other places whatsoever, to be also specified in such Act or Acts;" and it is thereby also enacted that "on the passing of such Indian Act or Acts, and whilst the same shall remain in force, all such parts of this Act as shall be adopted therein shall apply to and extend to the carriage of passengers upon such voyages as in the said Indian Act or Acts shall be specified. The provisions of such Indian Act shall be enforced in all Her Majesty's possessions in like manner as the provisions of this Act may be enforced;"

And whereas certain parts of the said Act of Parliament were by Act II of 1860 (*to amend the law relating to the carriage of passengers by sea*) made applicable to the carriage of passengers upon certain specified voyages;

26 & 27 Vic.,
c 51
18 & 19 Vic.,
c 119.

And whereas by an Act of the Imperial Parliament called "The Passengers Act Amendment Act, 1863," certain parts of the Passengers Act, 1855, which were so made applicable, have been

amended, and it is provided that the said Acts of the Imperial Parliament shall be construed together as one Act;

And whereas it is expedient that the amendments so made in the Passengers Act, 1855, should also be made in the parts of that Act so made applicable, and it is also expedient to apply those parts so amended to the carriage of passengers upon certain voyages not specified in Act II of 1860,

It is hereby enacted as follows:—

Short title and commencement 1. (1) This Act may be called the Indian Sea Passengers Act, 1885; and

(2) It shall come into force on the first day of October, 1885.

2. On and from the day on which this Act comes into force, Act II of 1860 (*to amend the law relating to the carriage of passengers by sea*) shall be repealed.

3. The provisions contained in sections 4, 5 and 6 of this Act, and the schedule hereto annexed (being parts of the Passengers Act, 1855, as amended by the Passengers Act Amendment Act, 1863), are declared applicable to the carriage of passengers upon the following voyages, namely:—

- (a) voyages from the ports of Calcutta, Madras and Bombay to the British Colonies of Mauritius, Jamaica, British Guiana, Trinidad, St Lucia, Grenada, St. Vincent, Natal, St Kitts, Nevis and Fiji;
- (b) voyages from the ports of Calcutta, Madras and Bombay to the French Colonies of Réunion, Martinique, Guadeloupe and its dependencies, and Guiana;
- (c) voyages from the ports of Calcutta, Madras, and Bombay to the Netherlands colony of Dutch Guiana;

VIII of 1876.

- (d) voyages from the ports of Calcutta, Madras and Bombay to the Danish colony of St. Croix ;
- (e) voyages under the Native Passenger Ships Act, 1876, from Calcutta, Madras, Bombay, Karáchi, Rangoon and other ports in British India to the Straits Settlements, to the protected Native States adjoining the Straits Settlements, to Australia, and to ports in the Red Sea, Gulf of Aden or Persian Gulf and on the East Coast of Africa.

4. If the passengers or cabin-passengers upon any such voyage as is specified in the last preceding section are taken off from the ship carrying them or are picked up at sea from any boat, raft or otherwise, it shall be lawful, if the port or place to which they are conveyed is in any of Her Majesty's colonial possessions, for the Governor of such colony, or for any person authorized by him for the purpose, or, if any foreign country, for Her Majesty's Consular Officer at such port or place therein, to defray all or any part of the expenses thereby incurred.

Governors or Consuls may pay expenses of passengers taken of passenger-ship.

5. If any passenger or cabin-passenger of any such passenger-ship as aforesaid, without any neglect or default of his own, finds himself within any colonial or foreign port or place other than that for which the ship was originally bound, or at which he, or the Emigration Agent, or any public officer or other person on his behalf, has contracted that he should land, it shall be lawful for the Governor of the colony, or for any person authorized by him for the purpose, or for Her Majesty's Consular Officer at the foreign port or place, as the case may be, to forward the passenger or cabin-passenger to his intended destination, unless the master of the ship, within forty-eight hours of the arrival of such passenger or cabin-passenger, gives to the Governor or Consular Officer, as the case may be, a written undertaking to forward or carry on within six weeks thereafter the passenger or cabin-passenger to his original destination, and unless the master accordingly forwards or carries him on within that period.

6. (1) All expenses incurred under the last two preceding sections, or either under sections 4 and 5 of them, by or by the authority of a Governor or Consular Officer, or other person as therein respectively mentioned, including the cost of maintaining the passengers and cabin-passengers until forwarded to their destination and of all necessary bedding, provisions and stores, shall become a debt to Her Majesty and Her successors from the owner, charterer and master of the ship, and shall be recoverable from them, or from any one or more of them, at the suit and for the use of Her Majesty, in like manner as in the case of other Crown debts.

(2) A certificate in the form given in the Schedule hereto annexed, or as near thereto as the circumstances of the case will admit, purporting to be under the hand of any such Governor or Consular Officer (as the case may be), stating the total amount of the expenses, shall, in any suit or other proceeding for the recovery of the debt, be received in evidence without proof of the hand-

writing or of the official character of the Governor or Consular Officer, and shall be deemed sufficient evidence of the amount of the expenses, and that the same were duly incurred ;

nor shall it be necessary to adduce on behalf of Her Majesty any other evidence in support of the claim, but judgment shall pass for the Crown, with costs of suit, unless the defendant specially pleads and duly proves that the certificate is false or fraudulent, or specially pleads and duly proves any facts showing that the expenses were not duly incurred ;

Provided, nevertheless, that in no case shall any larger sum be recovered on account of the expenses than a sum equal to twice the total amount of passage-money received or due to and recoverable by or on account of the owner, charterer or master of the passenger-ship or any of them from or on account of the whole number of passengers and cabin-passengers who may have embarked in the ship ; which total amount of passage-money shall be proved by the defendant if he will have the advantage of this limitation of the debt ; but if any such passengers are forwarded or conveyed to their intended destination under the provisions of the last preceding section, they shall not be entitled to the return of their passage-money, or to any compensation for loss of passage.

7. No policy of assurance effected in respect of any passages or of any passage or compensation money by any person by this Act made liable in the events aforesaid to provide those passages or to pay that money, or in respect of any other risk under this Act, shall be deemed invalid by reason of the nature of the risk or interest sought to be covered by the policy of assurance.

THE SCHEDULE.

Form of Governor's or Consul's Certificate of expenditure in the case of Passengers shipwrecked, &c.

(See Section 6.)

I hereby certify that acting under, and in conformity with, the provisions of the Indian Sea Passengers Act, 1885, I have defrayed the expenses incurred in rescuing, maintaining, supplying with necessary bedding, provisions and stores (a), and in forwarding to their destination passengers (including cabin-passengers (b)), who were proceeding from to in the passenger-ship which was wrecked at sea, &c. (c)

And I further certify, for the purposes of the sixth section of the said Indian Sea Passengers Act, 1885, that the total amount of such expenses is , and that such expenses were duly incurred by me under the said Act.

(a) N B -1. If more passengers were rescued than forwarded, or if bedding, &c., was not supplied, alter the certificate to suit the facts of the case.

(b) N B -2 Omit words in brackets when necessary

(c) N B -3 State generally the nature of the disaster and where it occurred. But if the passengers were only left behind without any default of their own, state the fact accordingly

Given under my hand this 18 day of

{ Governor of, &c., (or, as the case may be) Her Britannic Majesty's Consul at

D FITZPATRICK,
Secretary to the Government of India.

LEGISLATIVE DEPARTMENT.

The following Report on the Bill to amend the law relating to the carriage of passengers by sea was presented to the Council of the Governor-General of India for the purpose of making laws and Regulations on the 8th July, 1885 :—

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

From Officiating Secretary to Chief Commissioner, British Burma, No. 304—5M S, dated 13th February, 1885 [Paper No. 1]
 From Secretary to Government, Bengal, No. 409, dated 19th February, 1885, and enclosures [Papers No 2]
 From Chief Secretary to Government, Madras, No. 486J., dated 20th February, 1885, and enclosures [Papers No 3]
 From Under Secretary to Government, Bombay, No. 753, dated 28th February, 1885, and enclosures [Papers No. 4].
 From Officiating Registrar, High Court, Calcutta, No. 1018, dated, 27th March, 1885 [Papers No 5].

lating to the carriage of passengers by sea 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 papers contain several suggestions both by officials and by commercial bodies which might be well worthy of consideration if the

question were one as to the amendment of the English Passengers Acts, but which, having regard to the conditions under which we are now proceeding, it is beyond our power to entertain.

Acting, as we are, under the 99th section of the 18, & 19 Vic., c. 119, which is recited in the preamble to the Bill, we are restricted to applying to the voyages here in question the provisions of the English Passengers Acts as they stand; and if we were to introduce any modifications in the substance of those provisions, we should in all probability fail to secure for our Act the effect referred to at the end of the preamble, namely, that its provisions "shall be enforced in all Her Majesty's possessions in like manner as the provisions" of the English Passengers Acts.

3 Thus, we have no power to adopt the suggestion of the Bengal Chamber of Commerce that we should amend section 5 of the Bill so as to compel a Colonial Governor or Consular Officer to accept an undertaking to forward passengers offered by the owner, charterer or agent of a ship. We may observe, however, that, having regard to the definition of "master" in the Passengers Acts, and to the duties of a master of a wrecked ship, the contingency of there being no master of a wrecked ship, which this amendment was intended to meet, is one likely to be of very rare occurrence.

Moreover, as the Governor or Consular Officer is not compelled to act under the section, but has a discretion in the matter, there can be little doubt that in the case put he would accept the undertaking of the owner, charterer or agent.

4 Similarly, it would be beyond our powers, even if we thought it desirable to do so, to adopt the suggestion of the Madras Chamber that a shipowner should be relieved of the liability imposed by section 6 of the Bill in cases in which the ship is prevented from completing her voyage by the act of God or the Queen's enemies.

It appears to us, however, that the risk involved is one which should be provided against by insurance; and, in order to remove all doubt as to the possibility of so providing against it, we have introduced into the Bill a section (7) similar to section 55 of the Passengers Act, 1855, expressly legalizing such insurances.

5. The Government of Bombay draw attention to the want of a provision like section 14 of the Passengers Act Amendment Act, 1863, to meet the case of passengers who may be left in British India owing to their ship being wrecked before she leaves the territorial waters, or who may be brought back to British India owing to their ship being wrecked or disabled after proceeding some short distance on her voyage. We are disposed to agree in thinking some such provision desirable, but the extraordinary powers under which we are now acting are not needed for its enactment, and we think the matter could be more conveniently dealt with in our Native Passengers and Emigration Acts, where we should be free to mould the law as we think fit to suit local requirements.

6. We have, at the suggestion of Brigadier-General Blair, the Political Resident at Aden, amended section 3 (c) so as to extend the Bill to voyages to ports on the East Coast of Africa and in the Gulf of Aden.

7. We have also made such amendments as were necessary to render it clear that the Bill extends, as the English Acts do, to cabin-passengers

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

<i>Gazette.</i>		<i>In English</i>		<i>Date</i>
	<i>Gazette of India</i>	...	20th and 27th December 1884 and 3rd January 1885.	
	<i>Fort St George Gazette</i>	...	13th January 1885.	
	<i>Bombay Government Gazette</i>	...	25th December 1884 and 1st and 8th January 1885.	
	<i>Calcutta Gazette</i>	...	24th and 31st December 1884 and 7th January 1885	
	<i>British Burma Gazette</i>	...	10th, 17th and 24th January 1885	

<i>Province</i>		<i>In the Vernaculars.</i>		<i>Date</i>
	<i>Language.</i>			
Bombay	Maráthi	..	} 12th February, 1885	
	Gujaráthi	...		
	Kánarese	...		
Bengal	Bengali	...	} 20th and 27th January and 3rd February 1885.	
	Hindi	...		
	Uríya	...		
British Burma	Burmese	...	7th, 14th and 21st February 1885	

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

The 8th July 1885.

(Signed) C. P. ILBERT.

() S. C. BAYLEY.

D. FITZPATRICK,
 Secretary to the Government of India.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 22nd July, 1885, and was promulgated for general information in the *Gazette of India* dated 25th July 1885:—

Act No. XIII of 1885.

THE INDIAN TELEGRAPH ACT, 1885.

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The Indian Telegraph Act, 1885.

(Part I.—Preliminary.—Sections 1-3.)

An Act to amend the law relating to Telegraphs in India

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

PART I.

PRELIMINARY.

1 (1) This Act may be called the Indian Short title, local extent and commencement. Telegraph Act, 1885.

(2) It extends to the whole of British India, and, so far as regards subjects of Her Majesty, to the dominions of Princes and States in India in alliance with Her Majesty; and

(3) It shall come into force on the first day of October 1885.

2. The Indian Telegraph Act, 1876, is hereby repealed.

SECTION.

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But all licenses granted and rules made under that Act or any Act thereby repealed, and now in force, shall, so far as they could be granted or made under this Act, be deemed to have been respectively granted and made hereunder.

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

(1) "Telegraph" means an electric, galvanic or magnetic telegraph, and includes appliances and apparatus for transmitting or making telegraphic, telephonic or other communications by means of electricity, galvanism or magnetism:

(2) "Telegraph officer" means any person employed either permanently or temporarily in connection with a telegraph established, maintained or worked by the Government or by a person licensed under this Act:

*The Indian Telegraph Act, 1885.**(Part II.—Privileges and Powers of the Government.—Sections 4-9.)**(Part III.—Power to place Telegraph Lines and Posts.—Section 10.)*

(3) "Message" means any communication sent by telegraph, or given to a telegraph officer to be sent by telegraph or to be delivered.

(4) "Telegraph line" means a wire or wires used for the purpose of a telegraph, with any casing, coating, tube or pipe enclosing the same, and any appliances and apparatus connected therewith for the purpose of fixing or insulating the same.

(5) "Post" means a post, pole, standard, stay, strut or other above-ground contrivance for carrying, suspending or supporting a telegraph line:

(6) "Telegraph authority" means the Director General of Telegraphs, and includes any officer empowered by him to perform all or any of the functions of the telegraph, authority under this Act.

(7) "Local authority" means any municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of any municipal or local fund.

PART II.

PRIVILEGES AND POWERS OF THE GOVERNMENT.

4. Within British India, the Governor-General in Council shall have the

Exclusive privilege in respect of telegraphs, and power to grant licenses.

exclusive privilege of establishing, maintaining and working telegraphs:

Provided that the Governor-General in Council may grant a license, on such conditions and in consideration of such payments as he thinks fit, to any person to establish, maintain or work a telegraph within any part of British India.

5. (1) On the occurrence of any public emergency, or in the interest

Power for Government to take possession of licensed telegraphs and to order interception of messages

of the public safety, the Governor-General in Council or a Local Government, or any officer specially authorised in this behalf by the Governor-General in Council, may—

(a) take temporary possession of any telegraph established, maintained or worked by any person licensed under this Act; or

(b) order that any message or class of messages to or from any person or class of persons, or relating to any particular subject, brought for transmission by or transmitted or received by any telegraph, shall not be transmitted, or shall be intercepted or detained, or shall be disclosed to the Government or an officer thereof mentioned in the order.

(2) If any doubt arises as to the existence of a public emergency, or whether any act done under sub-section (1) was in the interest of the public safety, a certificate signed by a Secretary to the Government of India or to the Local Government shall be conclusive proof on the point.

6. Any Railway Company, on being required

Power to establish telegraph on land of Railway Company.

so to do by the Governor-General in Council, shall permit the Government to establish and maintain a telegraph upon any part of the land of the Company, and shall give every reasonable facility for working the same.

7. (1) The Governor-General in Council may, from time to time by notification in the *Gazette of India*, make rules consistent with this Act for the conduct of all or any telegraphs established, maintained or worked by the Government or by persons licensed under this Act.

(2) Rules under this section may provide for all or any of the following, among other matters, that is to say:—

(a) the rates at which, and the other conditions and restrictions subject to which, messages shall be transmitted;

(b) the precautions to be taken for preventing the improper interception or disclosure of messages;

(c) the period for which, and the conditions subject to which, telegrams and other documents belonging to, or being in the custody of, telegraph officers shall be preserved; and

(d) the fees to be charged for searching for telegrams or other documents in the custody of any telegraph officer.

(3) When making rules for the conduct of any telegraph established, maintained or worked by any person licensed under this Act, the Governor-General in Council may by the rules prescribe fines for any breach of the same:

Provided that the fines so prescribed shall not exceed the following limits, namely:—

(i) when the person licensed under this Act is punishable for the breach, one thousand rupees, and in the case of a continuing breach a further fine of two hundred rupees for every day after the first during the whole or any part of which the breach continues;

(ii) when a servant of the person so licensed, or any other person, is punishable for the breach, one-fourth of the amounts specified in clause (i).

8. The Governor-General in Council may, at any time, revoke any license granted under section 4, on the breach of any of the conditions therein contained, or in default of payment of any consideration payable thereunder.

9. The Secretary of State for India in Council shall not be responsible for any loss or damage which may occur in consequence of any telegraph officer failing in his duty with respect to the receipt, transmission or delivery of any message; and no such officer shall be responsible for any such loss or damage, unless he causes the same negligently, maliciously or fraudulently.

PART III

POWER TO PLACE TELEGRAPH LINES AND POSTS.

10. The telegraph authority may, from time to time, place and maintain a telegraph line under, over, along or across, and posts in or upon, any im-

moveable property:

The Indian Telegraph Act, 1885.

(Part III.—Power to place Telegraph Lines and Posts.—Sections 11-16).

Provided that—

- (a) the telegraph authority shall not exercise the powers conferred by this section except for the purposes of a telegraph established or maintained by the Government, or to be so established or maintained;
- (b) the Government shall not acquire any right other than that of user only in the property under, over, along, across, in or upon which the telegraph authority places any telegraph line or post; and
- (c) except as hereinafter provided, the telegraph authority shall not exercise those powers in respect of any property vested in or under the control or management of any local authority, without the permission of that authority; and
- (d) in the exercise of the powers conferred by this section, the telegraph authority shall do as little damage as possible, and, when it has exercised those powers in respect of any property other than that referred to in clause (c), shall pay full compensation to all persons interested for any damage sustained by them by reason of the exercise of those powers.

11. The telegraph authority may, at any time, Power to enter on property in order to repair or remove telegraph lines or posts. for the purpose of examining, repairing, altering or removing any telegraph line or post, enter on the property under, over, along, across, in or upon which the line or post has been placed.

Provisions applicable to Property vested in or under the Control or Management of Local Authorities.

12. Any permission given by a local authority under section 10, clause (c), Power for local authority to give permission under section 10, clause (c), subject to conditions. subject to conditions, to such reasonable conditions as that authority thinks fit to impose, as to the payment of any expenses to which the authority will necessarily be put in consequence of the exercise of the powers conferred by that section, or as to the time or mode of execution of any work, or as to any other thing connected with or relative to any work undertaken by the telegraph authority under those powers.

13. When, under the foregoing provisions of this Act, a telegraph line or post has been placed by the telegraph authority under, over, along, across, in or upon any property vested in or under the control or management of a local authority, and the local authority, having regard to circumstances which have arisen since the telegraph line or post was so placed, considers it expedient that it should be removed or that its position should be altered, the local authority may require the telegraph authority to remove it or alter its position, as the case may be.

14. The telegraph authority may, for the purpose of exercising the powers conferred upon it by this Act in respect of any property, Power to alter position of gas or water pipes or drains.

vested in or under the control or management of a local authority, alter the position thereunder of any pipe (not being a main) for the supply of gas or water, or of any drain (not being a main drain):

Provided that—

- (a) when the telegraph authority desires to alter the position of any such pipe or drain it shall give reasonable notice of its intention to do so, specifying the time at which it will begin to do so, to the local authority, and, when the pipe or drain is not under the control of the local authority, to the person under whose control the pipe or drain is;
- (b) a local authority or person receiving notice under clause (a) may send a person to superintend the work, and the telegraph authority shall execute the work to the reasonable satisfaction of the person so sent.

15. (1) If any dispute arises between the telegraph authority and a local authority in consequence of the local authority refusing the permission referred to in section 10, clause (c), or prescribing any condition under section 12, or in consequence of the telegraph authority omitting to comply with a requisition made under section 13, or otherwise in respect of the exercise of the powers conferred by this Act, it shall be determined by such officer as the Local Government may appoint either generally or specially in this behalf.

(2) An appeal from the determination of the officer so appointed shall lie to the Local Government; and the order of the Local Government shall be final.

Provisions applicable to other Property.

16. (1) If the exercise of the powers mentioned in section 10 in respect of property referred to in clause (d) of that section is resisted or obstructed, the District Magistrate may, in his discretion, order that the telegraph authority shall be permitted to exercise them.

(2) If, after the making of an order under sub-section (1), any person resists the exercise of those powers, or, having control over the property, does not give all facilities for their being exercised, he shall be deemed to have committed an offence under section 188 of the Indian Penal Code. XLV of 1864

(3) If any dispute arises concerning the sufficiency of the compensation to be paid under section 10, clause (d), it shall, on application for that purpose by either of the disputing parties to the District Judge within whose jurisdiction the property is situate, be determined by him.

(4) If any dispute arises as to the persons entitled to receive compensation, or as to the proportions in which the persons interested are entitled to share in it, the telegraph authority may pay into the Court of the District Judge such amount as he deems sufficient or, where all

*The Indian Telegraph Act, 1885.**(Part III.—Power to place Telegraph Lines and Posts.—Sections 17-19.)**(Part IV.—Penalties.—Sections 20-24.)*

the disputing parties have in writing admitted the amount tendered to be sufficient or the amount has been determined under sub-section (3), that amount; and the District Judge, after giving notice to the parties and hearing such of them as desire to be heard, shall determine the persons entitled to receive the compensation or, as the case may be, the proportions in which the persons interested are entitled to share in it.

(5) Every determination of a dispute by a District Judge under sub-section (3) or sub-section (4) shall be final:

Provided that nothing in this sub-section shall affect the right of any person to recover by suit the whole or any part of any compensation paid by the telegraph authority, from the person who has received the same.

17. (1) When, under the foregoing provisions of this Act, a telegraph line or post has been placed by the telegraph authority under, over, along, across, in or upon any property, not being property vested in or under the control or management of a local authority, and any person entitled to do so desires to deal with that property in such a manner as to render it necessary or convenient that the telegraph line or post should be removed to another part thereof or to a higher or lower level or altered in form, he may require the telegraph authority to remove or alter the line or post accordingly:

Provided that, if compensation has been paid under section 10, clause (d), he shall, when making the requisition, tender to the telegraph authority the amount requisite to defray the expense of the removal or alteration, or half of the amount paid as compensation, whichever may be the smaller sum.

(2) If the telegraph authority omits to comply with the requisition, the person making it may apply to the District Magistrate within whose jurisdiction the property is situate to order the removal or alteration.

(3) A District Magistrate receiving an application under sub-section (2) may, in his discretion, reject the same or make an order, absolutely or subject to conditions, for the removal of the telegraph line or post to any other part of the property or to a higher or lower level or for the alteration of its form; and the order so made shall be final.

Provisions applicable to all Property.

18. (1) If any tree standing or lying near a telegraph line interrupts, or is likely to interrupt, telegraphic communication, a Magistrate of the first or second class may, on the application of the telegraph authority, cause the tree to be removed or dealt with in such other way as he deems fit.

(2) When disposing of an application under sub-section (1), the Magistrate shall, in the case of any tree in existence before the telegraph line was placed, award to the persons interested in the tree such compensation as he thinks reasonable, and the award shall be final.

19. Every telegraph line or post placed before the passing of this Act, under, over, along, across, in or upon any property, for the purposes of a telegraph established or maintained by the Government, shall be deemed to have been placed in exercise of the powers conferred by, and after observance of all the requirements of, this Act.

PART IV.

PENALTIES.

20. If any person establishes, maintains or works a telegraph within British India, otherwise than as permitted by a license granted under section 4, or breaks any condition contained in such a license, he shall be punished with fine which may extend to one thousand rupees, and with a further fine which may extend to five hundred rupees for every week during which the line is maintained or worked or the breach of the condition continues.

21. If any person, knowing or having reason to believe that a telegraph has been established or is maintained or worked in contravention of this Act, transmits or receives any message by such telegraph, or performs any service incidental thereto, or delivers any message for transmission by such telegraph or accepts delivery of any message sent thereby, he shall be punished with fine which may extend to fifty rupees.

22. If a Railway Company, or an officer of a Railway Company, neglects or refuses to comply with the provisions of section 6, it or he shall be punished with fine which may extend to one thousand rupees for every day during which the neglect or refusal continues.

23. If any person—

- (a) without permission of competent authority, enters the signal-room of a telegraph office of the Government, or of a person licensed under this Act, or
- (b) enters a fenced enclosure round such a telegraph office in contravention of any rule or notice not to do so, or
- (c) refuses to quit such room or enclosure on being requested to do so by any officer or servant employed therein, or
- (d) wilfully obstructs or impedes any such officer or servant in the performance of his duty,

he shall be punished with fine which may extend to five hundred rupees.

24. If any person does any of the acts mentioned in section 23 with the intention of unlawfully learning the contents of any message, or of committing any offence punishable under this Act, he may (in addition to the fine with which he is punishable

Removal or alteration of telegraph line or post on property other than that of a local authority.

Removal or alteration of telegraph line or post on property other than that of a local authority.

Establishing, maintaining or working unlicensed telegraph or breaking condition of license

works a telegraph within British India, otherwise than as permitted by a license granted under

Using such telegraphs.

to believe that a telegraph has been established or is

Opposing establishment of telegraphs on railway land.

a Railway Company, neglects or refuses to comply with the provisions of section 6, it or he

Intrusion into signal-room, trespass in telegraph office or obstruction.

23. If any person—

Unlawfully attempting to learn contents of messages.

tioned in section 23 with the intention of unlawfully learning the contents of any message, or of committing any offence punishable under this Act, he may (in addition to the fine with which he is punishable

*The Indian Telegraph Act, 1885.**(Part IV.—Penalties.—Sections 25-32.)**(Part V.—Supplemental Provision.—Section 33.)*

under section 23) be punished with imprisonment for a term which may extend to one year.

Intentionally damaging telegraphs. 25. If any person, intending—

- (a) to prevent or obstruct the transmission or delivery of any message, or
- (b) to intercept or to acquaint himself with the contents of any message, or
- (c) to commit mischief,

damages, removes, tampers with or touches any battery, machinery, telegraph line, post or other thing whatever, being part of or used in or about any telegraph or in the working thereof, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

26. If any telegraph officer, or any person, not being a telegraph officer but having official duties connected with any office which is used as a telegraph office,—

Telegraph officer or other official making away with or altering, or unlawfully intercepting or disclosing, messages, or divulging purport of signals.

- (a) wilfully secretes, makes a way with or alters any message which he has received for transmission or delivery, or

- (b) wilfully, and otherwise than in obedience to an order of the Governor General in Council or of a Local Government, or of an officer specially authorised by the Governor General in Council to make the order, omits to transmit, or intercepts or detains, any message or any part thereof, or otherwise than in pursuance of his official duty or in obedience to the direction of a competent Court, discloses the contents or any part of the contents of any message, to any person not entitled to receive the same, or

- (c) divulges the purport of any telegraphic signal to any person not entitled to become acquainted with the same,

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

27. If any telegraph officer transmits by telegraph any message on which the charge prescribed by the Government, or by a person licensed under this Act, as the case may be, has not been paid, intending thereby to defraud the Government or that person, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

Telegraph officer fraudulently sending messages without payment.

28. If any telegraph officer, or any person not being a telegraph officer but having official duties connected with any office which is used as a telegraph office, is guilty of any act of drunkenness, carelessness or other misconduct whereby the correct transmission or the delivery of any message is impeded or delayed, or if any telegraph officer loiters or delays in the transmission or delivery of any message, he shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

29. If any person transmits or causes to be transmitted by telegraph a message which he knows to be false or fabricated, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

Sending fabricated message. 30. If any person fraudulently retains, or wilfully secretes, makes away with or detains a message which ought to have been delivered to some other person, or being required by a telegraph officer to deliver up any such message, neglects or refuses to do so, he shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

Retaining a message delivered by mistake. 31. A telegraph officer shall be deemed a public servant within the meaning of sections 161, 162, 163, 164 and 165 of the Indian Penal Code, and in the definition of "legal remuneration" contained in the said section 161, the word "Government" shall, for the purposes of this Act, be deemed to include a person licensed under this Act.

Bribery. 32. Whoever attempts to commit any offence punishable under this Act shall be punished with the punishment herein provided for the offence.

Attempts to commit offences. 33. (1) Whenever it appears to the Local Government that any act causing or likely to cause wrongful damage to any telegraph is repeatedly and maliciously committed in any place, and that the employment of an additional police-force in that place is thereby rendered necessary, the Local Government may send such additional police-force as it thinks fit to the place, and employ the same therein so long as, in the opinion of that Government, the necessity of doing so continues.

(2) The inhabitants of the place shall be charged with the cost of the additional police-force, and the District Magistrate shall, subject to the orders of the Local Government, assess the proportion in which the cost shall be paid by the inhabitants according to his judgment of their respective means.

(3) All moneys payable under sub-section (2) shall be recoverable either under the warrant of a Magistrate by distress and sale of the moveable property of the defaulter within the local limits of his jurisdiction, or by suit in any competent Court.

(4) The Local Government may, by order in writing, define the limits of any place for the purposes of this section.

XLV 1860.

PART V.

SUPPLEMENTAL PROVISION.

33. (1) Whenever it appears to the Local Government that any act causing or likely to cause wrongful damage to any telegraph is repeatedly and maliciously committed in any place, and that the employment of an additional police-force in that place is thereby rendered necessary, the Local Government may send such additional police-force as it thinks fit to the place, and employ the same therein so long as, in the opinion of that Government, the necessity of doing so continues.

(2) The inhabitants of the place shall be charged with the cost of the additional police-force, and the District Magistrate shall, subject to the orders of the Local Government, assess the proportion in which the cost shall be paid by the inhabitants according to his judgment of their respective means.

(3) All moneys payable under sub-section (2) shall be recoverable either under the warrant of a Magistrate by distress and sale of the moveable property of the defaulter within the local limits of his jurisdiction, or by suit in any competent Court.

(4) The Local Government may, by order in writing, define the limits of any place for the purposes of this section.

D. FITZPATRICK,

Secretary to the Government of India.

LEGISLATIVE DEPARTMENT.

THE following Report on the Bill to facilitate the construction of Telegraphs, and to amend the Indian Telegraph Act, 1876, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 8th July 1885 :—

We, the undersigned, Members of the Select Committee to which the Bill to facilitate the construction of Telegraphs, and to amend the Indian Telegraph Act, 1876, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

2 We are of opinion that it would be for the convenience of the Telegraph Department and the public that Act I of 1876 should be repealed and re-enacted with most of the modifications and additions proposed by the Bill as introduced. We have accordingly re-drawn the Bill as a consolidating measure.

3. Objection having been taken to licensees being entrusted with the powers with which it was proposed to invest them as telegraph authorities, we have defined "telegraph authority" to mean the Government

From Officiating Registrar, High Court, Calcutta, No 2609, dated 15th September, 1884 [Paper No 1]
 From Secretary to Chief Commissioner, Coorg, No 807—111, dated 13th September, 1884 [Paper No. 2].
 From Officiating Secretary to Chief Commissioner, British Burma, No. 771-181, dated 26th September, 1884, and enclosures [Papers No. 3].
 From Officiating Secretary to Chief Commissioner, Assam, No 1536, dated 27th September, 1884, and enclosures [Papers No 4].
 From Chief Commissioner, Ajmer-Merwara, No. 842, dated 3rd October, 1884 [Paper No 5].
 From Officiating Secretary to Government, North-Western Provinces and Oudh, No 1057—VII-276-24, dated 7th October, 1884, and enclosures [Papers No 6].
 From Secretary for Berar to Resident, Hyderabad, No. 359G, dated 9th October, 1884 [Paper No 7].
 From Chief Secretary to Government, Madras, No. 2541, dated 6th October, 1884, and enclosures [Papers No 8].
 From Officiating Secretary to Government, Punjab, No. 911, dated 23rd October, 1884, and enclosures [Papers No. 9].
 From Assistant Secretary to Chief Commissioner, Central Provinces, No. 5183—240, dated 5th November, 1884 [Paper No. 10].
 From Under Secretary to Government, Bombay, No. 7782, dated 7th November, 1884, and enclosures [Papers No. 11].
 From Secretary to Government, Bengal, No 1461T—R, dated 23rd October, 1884, and enclosures [Papers No. 12].
 Extract, paragraph III from Proceedings of the Meerut Association, No. 13, dated 16th November, 1884 [Paper No 13].
 Telegram from Secretary to Government, North-Western Provinces and Oudh, dated 13th December, 1884 [Paper No 14].

Telegraph Department (section 3, clause (6)), and provided that that authority shall not exercise the power of placing telegraph lines and posts except for the purposes of a telegraph established or maintained by the Government or to be so established or maintained (section 10).

4. We have also amended the definition of "local authority" so as to make that expression include a cantonment authority and clearly exclude any commercial association however incorporated (section 3, clause (7)).

5. In declaring, in section 4, the exclusive privilege of the Government to extend to establishing, maintaining and working telegraphs, and in empowering the Government to grant licenses to establish, maintain or work telegraphs, we formulate what is, and has always been understood to be, the existing law, and at the same time avoid the necessity of using the words "lease" and "lessee" which were introduced into the Bill of last year (section 13). A lease is a license to work a line established and maintained by the Government, and a lessee is the holder of such a license.

6. By section 7, sub-section (2), clause (b), we propose to give the Government the power of requiring licensees to provide for the seclusion of telegraph instruments at all offices open for the receipt of public messages. Clauses (c) and (d) of the same sub-section have been suggested to us by correspondence that has been placed at our disposal by the Public Works Department of the Government of India, respecting applications from time to time, made by private persons to the Telegraph Department for the preservation of telegrams.

7. Most of the objections that were taken to the Bill as introduced, chiefly, by commercial bodies in Calcutta, will, it is believed, have been met by our proposal that the power of placing telegraph lines and posts shall only be exercised by the Government Telegraph Department for the purposes of telegraphs established or maintained by the Government.

8. In section 11 we have, following a recent English Act, proposed to empower the telegraph authority to enter at any time on property for the purpose of examining, repairing, altering or removing any telegraph line or post that has been placed on it.

9. In section 14 we have adhered to the provisions of the English Act (26 & 27 Vic., c. 112, sections 6 and 8), though in practice the officers of the Telegraph Department will doubtless arrange for the alteration of the position of any pipe or drain being carried out by the authority having control of it.

10. In section 15 we have provided, on the suggestion of the Government of Bombay, that disputes between the telegraph authority and local authorities shall be determined by a local officer whose decision will be subject to appeal to the Local Government.

11. In section 16, sub-sections (1) and (2), we have provided for recourse being had by the telegraph authority to the District Magistrate where the exercise of the powers conferred on that authority is resisted. We have also provided in this section, sub-section (4), in accordance with the suggestion of the Government of Bombay, that the telegraph authority may pay compensation into Court where any dispute arises as to the persons entitled to receive it.

12. We have met the objections that were taken to section 10 of the Bill as introduced by providing in section 17 of the present Bill that a person desiring the removal or the alteration of the position of a telegraph line or post shall tender the cost of the removal or alteration in those cases only in which compensation has been paid by the telegraph authority, and that in those cases he shall not be required to tender more than half the sum that was paid to him as compensation.

13. By section 18 we have proposed to provide for the removal by order of a Magistrate of trees interrupting or likely to interrupt telegraphic communication. A somewhat similar provision in the case of trees dangerous to railways is contained in the Regulation of Railways Act, 1868 (31 & 32 Vic., c. 119, section 24).

14. By section 26 we propose to subject a person who is not a telegraph officer, but has official duties connected with an office which is used as a telegraph office, to the same penalty as that to which a telegraph officer is liable for secreting or altering telegrams or unlawfully intercepting or disclosing them. Many post offices in India are now used as telegraph offices, and we consider that postal officials should be restrained by penalty, as they are under the English Telegraph Act of 1868, from abusing such opportunities as they may have of becoming acquainted with the contents of telegraphic messages.

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

<i>Gazette.</i>		<i>In English.</i>	
			<i>Date.</i>
<i>Gazette of India</i> .. .. .	.. .. .	23rd and 30th August and 6th September	1884.
<i>Fort Saint George Gazette</i> .. .. .	.. .. .	9th September	1884.
<i>Bombay Government Gazette</i> .. .. .	.. .. .	28th August and 4th and 11th September	1884.
<i>Calcutta Gazette</i> .. .. .	.. .. .	3rd, 10th and 17th September	1884.
<i>North Western Provinces and Oudh Government</i>			
<i>Gazette</i> .. .. .	.. .. .	30th August and 6th and 13th September	1884.
<i>Punjab Government Gazette</i> .. .. .	.. .. .	4th, 11th and 18th September	1884.
<i>Central Provinces Gazette</i> .. .. .	.. .. .	30th August and 6th and 13th September	1884.
<i>British Burma Gazette</i> .. .. .	.. .. .	13th, 20th and 27th September	1884.
<i>Assam Gazette</i> .. .. .	.. .. .	13th September	1884.
<i>In the Vernaculars</i>			
<i>Province.</i>	<i>Language</i>	<i>Date</i>	
<i>Madrás</i>	Tamil	..	18th November 1884
<i>Bombay</i>	Gujarathi	..	13th November 1884.
	Kanarese	..	13th November 1884.
<i>Bengal</i>	Bengali	..	4th November 1884.
	Hindi	..	4th November 1884
	Urdu	..	13th November 1884
<i>North-Western Provinces and Oudh.</i>	Urdu	..	13th December 1884 and 24th and 31st January 1885.
<i>Punjab</i>	Urdu	..	22nd and 29th September and 6th October 1884.
<i>Burma</i>	Burmese	..	27th September and 4th and 11th October 1884.

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) T. C. HOPE.
(") C. P. LEBERT.

The 8th July 1885.

D FITZPATRICK,
Secretary to the Government of India.

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 22nd July, 1885, and was promulgated for general information in the *Gazette of India* dated 25th July 1885:—

Act No XII of 1885.

An Act to amend the law relating to the carriage of passengers by sea.

18 & 19 Vic.,
c. 119.

WHEREAS by section 99 of an Act of the Imperial Parliament called "The Passengers Act, 1855," it is enacted that "it shall be lawful for the Governor-General of India in Council, from time to time, by any Act or Acts to be passed for that purpose, to declare that this Act or any part thereof shall apply to the carriage of passengers upon any voyage, from any ports or places within the territories of British India, to be specified in such Act or Acts, to any other places whatsoever, to be also specified in such Act or Acts;" and it is thereby also enacted that "on the passing of such Indian Act or Acts, and whilst the same shall remain in force, all such parts of this Act as shall be adopted therein shall apply to and extend to the carriage of passengers upon such voyages as in the said Indian Act or Acts shall be specified. The provisions of such Indian Act shall be enforced in all Her Majesty's possessions in like manner as the provisions of this Act may be enforced;"

And whereas certain parts of the said Act of Parliament were by Act II of 1860 (*to amend the law relating to the carriage of passengers by sea*) made applicable to the carriage of passengers upon certain specified voyages;

26 & 27 Vic.,
c. 51.
18 & 19 Vic.,
c. 119.

And whereas by an Act of the Imperial Parliament called "The Passengers Act Amendment Act, 1863," certain parts of the Passengers Act, 1855, which were so made applicable, have been amended, and it is provided that the said Acts of the Imperial Parliament shall be construed together as one Act;

18 & 19 Vic.,
c. 119.

And whereas it is expedient that the amendments so made in the Passengers Act, 1855, should also be made in the parts of that Act so made applicable, and it is also expedient to apply those parts so amended to the carriage of passengers upon certain voyages not specified in Act II of 1860;

It is hereby enacted as follows. —

Short title and commencement + 1. (1) This Act may be called the Indian Sea Passengers Act, 1885; and

iv.—11—1

(2) It shall come into force on the first day of October, 1885.

2. On and from the day on which this Act Repeal of Act II of 1860. comes into force, Act II of 1860 (*to amend the law relating to the carriage of passengers by sea*) shall be repealed.

3. The provisions contained in sections 4, 5 and 6 of this Act, and Certain provisions of the Statutes made applicable to specified voyages from India. and the schedule hereto annexed (being parts of the Passengers Act, 1855, as amended by the Passengers Act Amendment Act, 18 & 19 Vic., 1863), are declared applicable to the carriage of passengers upon the following voyages, namely:— c. 119 26 & 27 Vic., c. 51.

- (a) voyages from the ports of Calcutta, Madras and Bombay to the British Colonies of Mauritius, Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, Natal, St. Kitts, Nevis and Fiji;
- (b) voyages from the ports of Calcutta, Madras and Bombay to the French Colonies of Réunion, Martinique, Guadeloupe and its dependencies, and Guiana;
- (c) voyages from the ports of Calcutta, Madras, and Bombay to the Netherlands colony of Dutch Guiana;
- (d) voyages from the ports of Calcutta, Madras and Bombay to the Danish colony of St. Croix;
- (e) voyages under the Native Passenger Ships VIII of 1876 Act, 1876, from Calcutta, Madras, Bombay, Karachi, Rangoon and other ports in British India to the Straits Settlements, to the protected Native States adjoining the Straits Settlements, to Australia, and to ports in the Red Sea, Gulf of Aden or Persian Gulf and on the East Coast of Africa.

4. If the passengers or cabin-passengers upon any such voyage as is specified in the last preceding section are taken off from the ship carrying them or are picked up at sea, from any boat, raft or otherwise, it shall be lawful, if the port or place to which they are conveyed is in any of Her Majesty's colonial possessions, for the Governor of such colony, or for any person authorized by him for the purpose, or, if in any foreign country, for Her Majesty's Consular Officer at such port or place therein, to defray all or any part of the expenses thereby incurred.
Governors or Consuls may pay expenses of passengers taken off passenger-ship.

5. If any passenger or cabin-passenger of any such passenger-ship as aforesaid, without any neglect or default of his own, finds himself within any colonial or foreign port or place other than that for which the ship was originally bound, or at which he, or the Emigration Agent, or any public officer or other person on his behalf, has contracted that he should land, it shall be lawful for the Governor of the colony, or for any person authorized by him for the purpose, or for Her Majesty's Consular Officer at the foreign port or place, as the case may be, to forward the passenger or cabin-passenger to his intended destination, unless the master of the ship, within forty-eight hours of the arrival of such passenger or cabin-passenger, gives to the Governor or Consular Officer, as the case may be, a written undertaking to forward or carry on within six weeks thereafter the passenger or cabin-passenger to his original destination, and unless the master accordingly forwards or carries him on within that period.

6. (1) All expenses incurred under the last two preceding sections, or either of them, by or by the authority of a Governor or Consular Officer, or other person as therein respectively mentioned, including the cost of maintaining the passengers and cabin-passengers until forwarded to their destination, and of all necessary bedding; provisions and stores, shall become a debt to Her Majesty and Her successors from the owner, charterer and master of the ship, and shall be recoverable from them, or from any one or more of them, at the suit and for the use of Her Majesty, in like manner as in the case of other Crown debts.

(2) A certificate in the form given in the Schedule hereto annexed, or as near thereto as the circumstances of the case will admit, purporting to be under the hand of any such Governor or Consular Officer (as the case may be), stating the total amount of the expenses, shall, in any suit or other proceeding for the recovery of the debt, be received in evidence without proof of the handwriting or of the official character of the Governor or Consular Officer, and shall be deemed sufficient evidence of the amount of the expenses, and that the same were duly incurred;

nor shall it be necessary to adduce on behalf of Her Majesty any other evidence in support of the claim, but judgment shall pass for the Crown, with costs of suit, unless the defendant specially pleads and duly proves that the certificate is false or fraudulent, or specially pleads and duly proves any facts showing that the expenses were not duly incurred.

Provided, nevertheless, that in no case shall any larger sum be recovered on account of the

expenses than a sum equal to twice the total amount of passage-money received or due to and recoverable by or on account of the owner, charterer or master of the passenger-ship or any of them from or on account of the whole number of passengers and cabin-passengers who may have embarked in the ship; which total amount of passage-money shall be proved by the defendant if he will have the advantage of this limitation of the debt; but if any such passengers are forwarded or conveyed to their intended destination under the provisions of the last preceding section, they shall not be entitled to the return of their passage-money, or to any compensation for loss of passage.

7. No policy of assurance effected in respect of any passages or of any passage or compensation Insurance. money by any person by this Act made liable in the events aforesaid to provide those passages or to pay that money, or in respect of any other risk under this Act, shall be deemed invalid by reason of the nature of the risk or interest sought to be covered by the policy of assurance

THE SCHEDULE.

Form of Governor's or Consul's Certificate of expenditure in the case of Passengers shipwrecked, &c.

(See Section 6)

I hereby certify that acting under, and in conformity with, the provisions of the Indian Sea Passengers Act, 1885, I have defrayed the expenses incurred in rescuing, maintaining, supplying with necessary bedding, provisions and stores (a), and in forwarding to their destination passengers [including cabin-passengers (b)], who were proceeding from to in the passenger-ship which was wrecked at sea, &c (c).

And I further certify, for the purposes of the sixth section of the said Indian Sea Passengers Act, 1885, that the total amount of such expenses is , and that such expenses were duly incurred by me under the said Act.

(a) *N B*—1. If more passengers were rescued than forwarded, or if bedding, &c, was not supplied, alter the certificate to suit the facts of the case.

(b) *N B*—2. Omit words in brackets when necessary

(c) *N B*—3. State generally the nature of the disaster and where it occurred. But if the passengers were only left behind without any default of their own, state the fact accordingly

Given under my hand this 18 day of

{ Governor of, &c., (or, as the case may be) Her Britannic Majesty's Consul at

D. FITZPATRICK,
Secretary to the Government of India

LEGISLATIVE DEPARTMENT.

The following Report on the Bill to amend the law relating to the carriage of passengers by sea was presented to the Council of the Governor-General of India for the purpose of making laws and Regulations on the 8th July, 1885 :—

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

From Officiating Secretary to Chief Commissioner, British Burma, No. 304—5M S, dated 13th February, 1885 [Paper No. 1]
 From Secretary to Government, Bengal, No. 409, dated 19th February, 1885, and enclosures [Papers No. 2]
 From Chief Secretary to Government, Madras, No. 486J, dated 20th February, 1885, and enclosures [Papers No. 3]
 From Under Secretary to Government, Bombay, No. 753, dated 28th February, 1885, and enclosures [Papers No. 4]
 From Officiating Registrar, High Court, Calcutta, No. 1018, dated 27th March, 1885 [Papers No. 5].

2. The papers contain several suggestions both by officials and by commercial bodies which might be well worthy of consideration if the question were one as to the amendment of the English Passengers Acts, but which, having regard to the conditions under which we are now proceeding, it is beyond our power to entertain

Acting, as we are, under the 99th section of the 18 & 19 Vic., c. 119, which is recited in the preamble to the Bill, we are restricted to applying to the voyages here in question the provisions of the English Passengers Acts as they stand, and if we were to introduce any modifications in the substance of those provisions, we should in all probability fail to secure for our Act the effect referred to at the end of the preamble, namely, that its provisions "shall be enforced in all Her Majesty's possessions in like manner as the provisions" of the English Passengers Acts.

3. Thus, we have no power to adopt the suggestion of the Bengal Chamber of Commerce that we should amend section 5 of the Bill so as to compel a Colonial Governor or Consular Officer to accept an undertaking to forward passengers offered by the owner, charterer or agent of a ship. We may observe, however, that, having regard to the definition of "master" in the Passengers Acts, and to the duties of a master of a wrecked ship, the contingency of there being no master of a wrecked ship, which this amendment was intended to meet, is one likely to be of very rare occurrence.

Moreover, as the Governor or Consular Officer is not compelled to act under the section, but has a discretion in the matter, there can be little doubt that in the case put he would accept the undertaking of the owner, charterer or agent.

4. Similarly, it would be beyond our powers, even if we thought it desirable to do so, to adopt the suggestion of the Madras Chamber that a shipowner should be relieved of the liability imposed by section 6 of the Bill in cases in which the ship is prevented from completing her voyage by the act of God or the Queen's enemies.

It appears to us, however, that the risk involved is one which should be provided against by insurance, and, in order to remove all doubt as to the possibility of so providing against it, we have introduced into the Bill a section (7) similar to section 55 of the Passengers Act, 1855, expressly legalizing such insurances.

5. The Government of Bombay draw attention to the want of a provision like section 14 of the Passengers Act Amendment Act, 1863, to meet the case of passengers who may be left in British India owing to their ship being wrecked before she leaves the territorial waters, or who may be brought back to British India owing to their ship being wrecked or disabled after proceeding some short distance on her voyage. We are disposed to agree in thinking some such provision desirable, but the extraordinary powers under which we are now acting are not needed for its enactment, and we think the matter could be more conveniently dealt with in our Native Passengers and Emigration Acts, where we should be free to mould the law as we think fit to suit local requirements.

6. We have, at the suggestion of Brigadier-General Blair, the Political Resident at Aden, amended section 3 (c) so as to extend the Bill to voyages to ports on the East Coast of Africa and in the Gulf of Aden.

7. We have also made such amendments as were necessary to render it clear that the Bill extends, as the English Acts do, to cabin-passengers.

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

<i>Gazette.</i>	<i>In English.</i>	<i>Date</i>
<i>Gazette of India</i>	...	20th and 27th December 1884 and 3rd January 1885.
<i>Fort St. George Gazette</i>	...	13th January 1885
<i>Bombay Government Gazette</i>	...	25th December 1884 and 1st and 8th January 1885.
<i>Calcutta Gazette</i>	...	24th and 31st December 1884 and 7th January 1885.
<i>British Burma Gazette</i>	...	10th, 17th and 24th January 1885.

In the Vernaculars.

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Bombay ..	... Maráthi ..	} 12th February, 1885.
	... Gujaráthi ...	
	... Kánarese ...	
Bengal ...	.. Bengali ..	} 20th and 27th January and 3rd February 1885.
	.. Hindi ..	
British Burma...	... Uriya ...	} 29th January and 5th and 12th February 1885.
	.. Burmese ..		7th, 14th and 21st February 1885.

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

The 8th July 1885.

(Signed) C. P. LBERT.

(„) S. C. BAYLEY.

D. FITZPATRICK,
Secretary to the Government of India.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 22nd July, 1885, and was promulgated for general information in the *Gazette of India* dated 25th July 1885.—

Act No. XIII of 1885.
THE INDIAN TELEGRAPH ACT, 1885

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The Indian Telegraph Act, 1885.
(Part I.—Preliminary.—Sections 1-3.)

An Act to amend the law relating to Telegraphs in India.

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

PART I
PRELIMINARY.

1. (1) This Act may be called the Indian Short title, local extent and commencement. Telegraph Act, 1885.
- (2) It extends to the whole of British India, and, so far as regards subjects of Her Majesty, to the dominions of Princes and States in India in alliance with Her Majesty, and
- (3) It shall come into force on the first day of October 1885.

1 of 1876 Repeal and savings.

2. The Indian Telegraph Act, 1876, is hereby repealed.

SECTIONS.

15. Disputes, between telegraph authority and local authority.
Provisions applicable to other Property.
16. Exercise of powers conferred by section 10, and disputes as to compensation, in case of property other than that of a local authority.
17. Removal or alteration of telegraph line or post on property other than that of a local authority.
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18. Removal of trees interrupting telegraphic communication.
19. Telegraph lines and posts placed before the passing of this Act.

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20. Establishing, maintaining, or working unlicensed telegraph or breaking condition of license.
21. Using such telegraphs
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23. Intrusion into signal-room, trespass in telegraph office or obstruction
24. Unlawfully attempting to learn contents of messages.
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26. Telegraph officer or other official making away with or altering, or unlawfully intercepting or disclosing, messages, or divulging purport of signals
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29. Sending fabricated message.
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PART V.

SUPPLEMENTAL PROVISION

33. Power to employ additional police in places where mischief to telegraphs is repeatedly committed.

But all licenses granted and rules made under that Act or any Act thereby repealed, and now in force, shall, so far as they could be granted or made under this Act, be deemed to have been respectively granted and made hereunder.

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

(1) "Telegraph" means an electric, galvanic or magnetic telegraph, and includes appliances and apparatus for transmitting or making telegraphic, telephonic or other communications by means of electricity, galvanism or magnetism.

(2) "Telegraph officer" means any person employed either permanently or temporarily in connection with a telegraph established, maintained or worked by the Government or by a person licensed under this Act:

*The Indian Telegraph Act, 1885.**(Part II.—Privileges and Powers of the Government.—Sections 4-9.)**(Part III.—Power to place Telegraph Lines and Posts.—Section 10.)*

(3) "Message" means any communication sent by telegraph, or given to a telegraph officer to be sent by telegraph or to be delivered :

(4) "Telegraph line" means a wire or wires used for the purpose of a telegraph, with any casing, coating, tube or pipe enclosing the same, and any appliances and apparatus connected therewith for the purpose of fixing or insulating the same :

(5) "Post" means a post, pole, standard, stay, strut or other above-ground contrivance for carrying, suspending or supporting a telegraph line :

(6) "Telegraph authority" means the Director General of Telegraphs, and includes any officer empowered by him to perform all or any of the functions of the telegraph authority under this Act.

(7) "Local authority" means any municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of any municipal or local fund.

PART II.

PRIVILEGES AND POWERS OF THE GOVERNMENT.

4. Within British India, the Governor-General in Council shall have the exclusive privilege of establishing, maintaining and working telegraphs.

Exclusive privilege in respect of telegraphs, and power to grant licenses.

Provided that the Governor-General in Council may grant a license, on such conditions and in consideration of such payments as he thinks fit, to any person to establish, maintain or work a telegraph within any part of British India.

5. (1) On the occurrence of any public emergency, or in the interest of the public safety, the Governor-General in Council or a Local Government, or any officer specially authorised in this behalf by the Governor-General in Council, may—

Power for Government to take possession of licensed telegraphs and to order interception of messages.

(a) take temporary possession of any telegraph established, maintained or worked by any person licensed under this Act ; or

(b) order that any message or class of messages to or from any person or class of persons, or relating to any particular subject, brought for transmission by or transmitted or received by any telegraph, shall not be transmitted, or shall be intercepted or detained, or shall be disclosed to the Government or an officer thereof mentioned in the order

(2) If any doubt arises as to the existence of a public emergency, or whether any act done under sub-section (1) was in the interest of the public safety, a certificate signed by a Secretary to the Government of India or to the Local Government shall be conclusive proof on the point.

6. Any Railway Company, on being required so to do by the Governor-General in Council, shall permit the Government to establish and maintain a telegraph upon any part of the land of the Company, and shall give every reasonable facility for working the same.

Power to establish telegraph on land of Railway Company.

7. (1) The Governor-General in Council may, from time to time by notification in the *Gazette of India*, make rules consistent with this Act for the conduct of all or any telegraphs established, maintained or worked by the Government or by persons licensed under this Act.

(2) Rules under this section may provide for all or any of the following, among other matters, that is to say :—

(a) the rates at which, and the other conditions and restrictions subject to which, messages shall be transmitted ;

(b) the precautions to be taken for preventing the improper interception or disclosure of messages ;

(c) the period for which, and the conditions subject to which, telegrams and other documents belonging to, or being in the custody of, telegraph officers shall be preserved ; and

(d) the fees to be charged for searching for telegrams or other documents in the custody of any telegraph officer.

(3) When making rules for the conduct of any telegraph established, maintained or worked by any person licensed under this Act, the Governor-General in Council may by the rules prescribe fines for any breach of the same :

Provided that the fines so prescribed shall not exceed the following limits, namely :—

(i) when the person licensed under this Act is punishable for the breach, one thousand rupees, and in the case of a continuing breach a further fine of two hundred rupees for every day after the first during the whole or any part of which the breach continues ;

(ii) when a servant of the person so licensed, or any other person, is punishable for the breach, one-fourth of the amounts specified in clause (i).

8. The Governor-General in Council may, at any time, revoke any license granted under section 4, on the breach of any of the conditions therein contained, or in default of payment of any consideration payable thereunder.

9. The Secretary of State for India in Council shall not be responsible for any loss or damage which may occur in consequence of any telegraph officer failing in his duty with respect to the receipt, transmission or delivery of any message ; and no such officer shall be responsible for any such loss or damage, unless he causes the same negligently, maliciously or fraudulently.

Government not responsible for loss or damage.

PART III.

POWER TO PLACE TELEGRAPH LINES AND POSTS.

10. The telegraph authority may, from time to time, place and maintain a telegraph line under, over, along or across, and posts in or upon, any immoveable property :

Power for telegraph authority to place and maintain telegraph lines and posts.

The Indian Telegraph Act, 1885.

(Part III.—Power to place Telegraph Lines and Posts.—Sections 11-16).

Provided that—

- (a) the telegraph authority shall not exercise the powers conferred by this section except for the purposes of a telegraph established or maintained by the Government, or to be so established or maintained;
- (b) the Government shall not acquire any right other than that of user only in the property under, over, along, across, in, or upon which the telegraph authority places any telegraph line or post; and
- (c) except as hereinafter provided, the telegraph authority shall not exercise those powers in respect of any property vested in or under the control or management of any local authority, without the permission of that authority; and
- (d) in the exercise of the powers conferred by this section, the telegraph authority shall do as little damage as possible, and, when it has exercised those powers in respect of any property other than that referred to in clause (c), shall pay full compensation to all persons interested for any damage sustained by them by reason of the exercise of those powers.

11. The telegraph authority may, at any time,

Power to enter on property in order to repair or remove telegraph lines or posts

on the property under, over, along, across, in or upon which the line or post has been placed.

Provisions applicable to Property vested in or under the Control or Management of Local Authorities.

12. Any permission given by a local authority

Power for local authority to give permission under section 10, clause (c), subject to conditions.

under section 10, clause (c), may be given subject to such reasonable conditions as that authority thinks fit to impose, as to the payment of any expenses to which the authority will necessarily be put in consequence of the exercise of the powers conferred by that section, or as to the time or mode of execution of any work, or as to any other thing connected with or relative to any work undertaken by the telegraph authority under those powers.

13. When, under the foregoing provisions of

Power for local authority to require removal or alteration of telegraph line or post

this Act, a telegraph line or post has been placed by the telegraph authority under, over, along, across, in or upon any property vested in or under the control or management of a local authority, and the local authority, having regard to circumstances which have arisen since the telegraph line or post was so placed, considers it expedient that it should be removed or that its position should be altered, the local authority may require the telegraph authority to remove it or alter its position, as the case may be.

14. The telegraph authority may, for the

Power to alter position of gas or water pipes or drains.

purpose of exercising the powers conferred upon it by this Act in respect of any property

vested in or under the control or management of a local authority, alter the position thereunder of any pipe (not being a main) for the supply of gas or water, or of any drain (not being a main drain).

Provided that—

- (a) when the telegraph authority desires to alter the position of any such pipe or drain it shall give reasonable notice of its intention to do so, specifying the time at which it will begin to do so, to the local authority, and, when the pipe or drain is not under the control of the local authority, to the person under whose control the pipe or drain is;
- (b) a local authority or person receiving notice under clause (a) may send a person to superintend the work, and the telegraph authority shall execute the work to the reasonable satisfaction of the person so sent.

15. (1) If any dispute arises between the

Disputes between telegraph authority and local authority

telegraph authority and a local authority in consequence of the local authority refusing the

permission referred to in section 10, clause (c), or prescribing any condition under section 12, or in consequence of the telegraph authority omitting to comply with a requisition made under section 13, or otherwise in respect of the exercise of the powers conferred by this Act, it shall be determined by such officer as the Local Government may appoint either generally or specially in this behalf.

(2) An appeal from the determination of the officer so appointed shall lie to the Local Government, and the order of the Local Government shall be final.

Provisions applicable to other Property

16. (1) If the exercise of the powers men-

Exercise of powers conferred by section 10, and disputes as to compensation, in case of property other than that of a local authority

tioned in section 10 in respect of property referred to in clause (d) of that section is resisted or

obstructed, the District Magistrate may, in his discretion, order that the telegraph authority shall be permitted to exercise them.

(2) If, after the making of an order under sub-section (1), any person resists the exercise of those powers, or, having control over the property, does not give all facilities for their being exercised, he shall be deemed to have committed an offence under section 188 of the Indian Penal Code.

XLV of 1860.

(3) If any dispute arises concerning the sufficiency of the compensation to be paid under section 10, clause (d), it shall, on application for that purpose by either of the disputing parties to the District Judge within whose jurisdiction the property is situate, be determined by him.

(4) If any dispute arises as to the persons entitled to receive compensation, or as to the proportions in which the persons interested are entitled to share in it, the telegraph authority may pay into the Court of the District Judge such amount as he deems sufficient or, where all

*
The Indian Telegraph Act, 1885.

(Part III.—Power to place Telegraph Lines and Posts.—Sections 17-19.)

(Part IV.—Penalties.—Sections 20-24.)

the disputing parties have in writing admitted the amount tendered to be sufficient or the amount has been determined under sub-section (3), that amount; and the District Judge, after giving notice to the parties and hearing such of them as desire to be heard, shall determine the persons entitled to receive the compensation or, as the case may be, the proportions in which the persons interested are entitled to share in it.

(5) Every determination of a dispute by a District Judge under sub-section (3) or sub-section (4) shall be final:

Provided that nothing in this sub-section shall affect the right of any person to recover by suit the whole or any part of any compensation paid by the telegraph authority, from the person who has received the same.

17. (1) When, under the foregoing provisions of this Act, a telegraph line or post has been placed by the telegraph authority under, over, along, across, in or

upon any property, not being property vested in or under the control or management of a local authority, and any person entitled to do so desires to deal with that property in such a manner as to render it necessary or convenient that the telegraph line or post should be removed to another part thereof or to a higher or lower level or altered in form, he may require the telegraph authority to remove or alter the line or post accordingly:

Provided that, if compensation has been paid under section 10, clause (d), he shall, when making the requisition, tender to the telegraph authority the amount requisite to defray the expense of the removal or alteration, or half of the amount paid as compensation, whichever may be the smaller sum

(2) If the telegraph authority omits to comply with the requisition, the person making it may apply to the District Magistrate within whose jurisdiction the property is situate to order the removal or alteration.

(3) A District Magistrate receiving an application under sub-section (2) may, in his discretion, reject the same or make an order, absolutely or subject to conditions, for the removal of the telegraph line or post to any other part of the property or to a higher or lower level or for the alteration of its form; and the order so made shall be final.

Provisions applicable to all Property.

18. (1) If any tree standing or lying near a telegraph line interrupts, or is likely to interrupt, telegraphic communication, a Magistrate of the first or second class may, on the application of the telegraph authority, cause the tree to be removed or dealt with in such other way as he deems fit.

(2) When disposing of an application under sub-section (1), the Magistrate shall, in the case of any tree in existence before the telegraph line was placed, award to the persons interested in the tree such compensation as he thinks reasonable, and the award shall be final.

19. Every telegraph line or post placed before the passing of this Act under, over, along, across, in or upon any property, for the purposes of a telegraph established or maintained by the Government, shall be deemed to have been placed in exercise of the powers conferred by, and after observance of all the requirements of, this Act.

PART IV.

PENALTIES.

20. If any person establishes, maintains or works a telegraph within British India, otherwise than as permitted by a license granted under section 4, or breaks any condition contained in such a license, he shall be punished with fine which may extend to one thousand rupees, and with a further fine which may extend to five hundred rupees for every week during which the line is maintained or worked or the breach of the condition continues.

21. If any person, knowing or having reason to believe that a telegraph has been established or is maintained or worked in contravention of this Act, transmits or receives any message by such telegraph, or performs any service incidental thereto, or delivers any message for transmission by such telegraph or accepts delivery of any message sent thereby, he shall be punished with fine which may extend to fifty rupees.

22. If a Railway Company, or an officer of a Railway Company, neglects or refuses to comply with the provisions of section 6, it or he shall be punished with fine which may extend to one thousand rupees for every day during which the neglect or refusal continues.

23. If any person—

(a) without permission of competent authority, enters the signal-room of a telegraph office of the Government, or of a person licensed under this Act, or

(b) enters a fenced enclosure round such a telegraph office in contravention of any rule or notice not to do so, or

(c) refuses to quit such room or enclosure on being requested to do so by any officer or servant employed therein, or

(d) wilfully obstructs or impedes any such officer or servant in the performance of his duty,

he shall be punished with fine which may extend to five hundred rupees.

24. If any person does any of the acts mentioned in section 23, with the intention of unlawfully learning the contents of any message, or of committing any offence punishable under this Act, he may (in addition to the fine with which he is punishable

*The Indian Telegraph Act, 1885.**(Part IV.—Penalties.—Sections 25-32.)**(Part V.—Supplemental Provision.—Section 33.)*

under section 23) be punished with imprisonment for a term which may extend to one year.

Intentionally damaging or tampering with telegraphs.

25. If any person, intending—
- to prevent or obstruct the transmission or delivery of any message, or
 - to intercept or to acquaint himself with the contents of any message, or
 - to commit mischief,

damages, removes, tampers with or touches any battery, machinery, telegraph line, post or other thing whatever, being part of or used in or about any telegraph or in the working thereof,

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

26. If any telegraph officer, or any person, not being a telegraph officer but having official duties connected with any office which is used as a telegraph office,—

Telegraph officer or other official making away with or altering, or unlawfully intercepting or disclosing, messages, or divulging purport of signals.

- wilfully secretes, makes away with or alters any message which he has received for transmission or delivery, or

- wilfully, and otherwise than in obedience to an order of the Governor General in Council or of a Local Government, or of an officer specially authorised by the Governor General in Council to make the order, omits to transmit, or intercepts or detains, any message or any part thereof, or otherwise than in pursuance of his official duty or in obedience to the direction of a competent Court, discloses the contents or any part of the contents of any message, to any person not entitled to receive the same, or
- divulges the purport of any telegraphic signal to any person not entitled to become acquainted with the same,

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

27. If any telegraph officer transmits by telegraph any message on which the charge prescribed by the Government, or by a person licensed under this Act, as the case may be, has not been paid, intending thereby to defraud the Government or that person, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

Telegraph officer fraudulently sending messages without payment

28. If any telegraph officer, or any person not being a telegraph officer but having official duties connected with any office which is used as a telegraph office, is guilty of any act of drunkenness, carelessness or other misconduct whereby the correct transmission or the delivery of any message is impeded or delayed, or if any telegraph officer loiters or delays in the transmission or delivery of any message, he shall be punished with imprisonment for a term which may extend

Misconduct.

to three months, or with fine which may extend to one hundred rupees, or with both.

29. If any person transmits or causes to be transmitted by telegraph a message which he knows to be false or fabricated, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

30. If any person fraudulently retains, or wilfully secretes, makes away with or detains a message which ought to have been delivered to some other person, or, being required by a telegraph officer to deliver up any such message, neglects or refuses to do so, he shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

31. A telegraph officer shall be deemed a public servant within the meaning of sections 161, 162, 163, 164 and 165 of the Indian Penal Code; and in the definition of "legal remuneration" contained in the said section 161, the word "Government" shall, for the purposes of this Act, be deemed to include a person licensed under this Act

32. Whoever attempts to commit any offence punishable under this Act shall be punished with the punishment herein provided for the offence.

PART V

SUPPLEMENTAL PROVISION.

33. (1) Whenever it appears to the Local Government that any act causing or likely to cause wrongful damage to any telegraph is repeatedly and maliciously committed in any place, and that the employment of an additional police-force in that place is thereby rendered necessary, the Local Government may send such additional police-force as it thinks fit to the place, and employ the same therein so long as, in the opinion of that Government, the necessity of doing so continues

Power to employ additional police in places where mischief to telegraphs is repeatedly committed.

(2) The inhabitants of the place shall be charged with the cost of the additional police-force, and the District Magistrate shall, subject to the orders of the Local Government, assess the proportion in which the cost shall be paid by the inhabitants according to his judgment of their respective means.

(3) All moneys payable under sub-section (2) shall be recoverable either under the warrant of a Magistrate by distress and sale of the moveable property of the defaulter within the local limits of his jurisdiction, or by suit in any competent Court

(4) The Local Government may, by order in writing, define the limits of any place for the purposes of this section.

D. FITZPATRICK,

Secretary to the Government of India.

LEGISLATIVE DEPARTMENT.

THE following Report on the Bill to facilitate the construction of Telegraphs, and to amend the Indian Telegraph Act, 1876, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 8th July 1885 :—

We, the undersigned, Members of the Select Committee to which the Bill to facilitate the construction of Telegraphs, and to

- amend the Indian Telegraph Act, 1876, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.
- 2 We are of opinion that it would be for the convenience of the Telegraph Department and the public that Act I of 1876 should be repealed and re-enacted with most of the modifications and additions proposed by the Bill as introduced. We have accordingly re-drawn the Bill as a consolidating measure.
- 3 Objection having been taken to licensees being entrusted with the powers with which it was proposed to invest them as telegraph authorities, we have defined "telegraph authority" to mean the Government
- From Officiating Registrar, High Court, Calcutta, No. 2609, dated 15th September, 1884 [Paper No 1]
 From Secretary to Chief Commissioner, Coorg, No. 807—111, dated 13th September, 1884 [Paper No. 2].
 From Officiating Secretary to Chief Commissioner, British Burma, No. 771-18L., dated 26th September, 1884, and enclosures [Papers No. 3].
 From Officiating Secretary to Chief Commissioner, Assam, No. 1536, dated 27th September, 1884, and enclosures [Papers No 4]
 From Chief Commissioner, Ajmer-Merwara, No. 842, dated 3rd October, 1884 [Paper No. 5].
 From Officiating Secretary to Government, North-Western Provinces and Oudh, No. 1057—VII-276-24, dated 7th October, 1884, and enclosures [Papers No. 6].
 From Secretary for Berar to Resident, Hyderabad, No. 359G., dated 9th October, 1884 [Paper No. 7].
 From Chief Secretary to Government, Madras, No. 2541, dated 6th October, 1884, and enclosures [Papers No. 8].
 From Officiating Secretary to Government, Punjab, No. 911, dated 23rd October, 1884, and enclosures [Papers No. 9].
 From Assistant Secretary to Chief Commissioner, Central Provinces, No. 5183—240, dated 5th November, 1884 [Paper No. 10].
 From Under Secretary to Government, Bombay, No. 7782, dated 7th November, 1884, and enclosures [Papers No 11].
 From Secretary to Government, Bengal, No 1461T.—R., dated 23rd October, 1884, and enclosures [Papers No. 12]
 Extract, paragraph III. from Proceedings of the Meerut Association, No. 13, dated 16th November, 1884 [Paper No. 13].
 Telegram from Secretary to Government, North-Western Provinces and Oudh, dated 13th December, 1884 [Paper No 14].

Telegraph Department (section 3, clause (6)), and provided that that authority shall not exercise the power of placing telegraph lines and posts except for the purposes of a telegraph established or maintained by the Government or to be so established or maintained (section 10).

4. We have also amended the definition of "local authority" so as to make that expression include a cantonment authority and clearly exclude any commercial association however incorporated (section 3, clause (7)).

5. In declaring, in section 4, the exclusive privilege of the Government to extend to establishing, maintaining and working telegraphs, and in empowering the Government to grant licenses to establish, maintain or work telegraphs, we formulate what is, and has always been understood to be, the existing law, and at the same time avoid the necessity of using the words "lease" and "lessee" which were introduced into the Bill of last year (section 13). A lease is a license to work a line established and maintained by the Government, and a lessee is the holder of such a license.

6. By section 7, sub-section (2), clause (b), we propose to give the Government the power of requiring licensees to provide for the seclusion of telegraph instruments at all offices open for the receipt of public messages. Clauses (c) and (d) of the same sub-section have been suggested to us by correspondence that has been placed at our disposal by the Public Works Department of the Government of India, respecting applications from time to time made by private persons to the Telegraph Department for the preservation of telegrams.

7. Most of the objections that were taken to the Bill as introduced, chiefly by commercial bodies in Calcutta, will, it is believed, have been met, by our proposal that the power of placing telegraph lines and posts shall only be exercised by the Government Telegraph Department for the purposes of telegraphs established or maintained by the Government.

8. In section 11 we have, following a recent English Act, proposed to empower the telegraph authority to enter at any time on property for the purpose of examining, repairing, altering or removing any telegraph line or post that has been placed on it.

9. In section 14 we have adhered to the provisions of the English Act (26 & 27 Vic., c. 112, sections 6 and 8), though in practice the officers of the Telegraph Department will doubtless arrange for the alteration of the position of any pipe or drain being carried out by the authority having control of it.

10. In section 15 we have provided, on the suggestion of the Government of Bombay, that disputes between the telegraph authority and local authorities shall be determined by a local officer whose decision will be subject to appeal to the Local Government.

11. In section 16, sub-sections (1) and (2), we have provided for recourse being had by the telegraph authority to the District Magistrate where the exercise of the powers conferred on that authority is resisted. We have also provided in this section, sub-section (4), in accordance with the suggestion of the Government of Bombay, that the telegraph authority may pay compensation into Court where any dispute arises as to the persons entitled to receive it.

12. We have met the objections that were taken to section 10 of the Bill as introduced by providing in section 17 of the present Bill that a person desiring the removal or the alteration of the position of a telegraph line or post shall tender the cost of the removal or alteration in those cases only in which compensation has been paid by the telegraph authority, and that in those cases he shall not be required to tender more than half the sum that was paid to him as compensation.

13. By section 18 we have proposed to provide for the removal by order of a Magistrate of trees interrupting or likely to interrupt telegraphic communication. A somewhat similar provision in the case of trees dangerous to railways is contained in the Regulation of Railways Act, 1868 (31 & 32 Vic, c. 119, section 24).

14. By section 26 we propose to subject a person who is not a telegraph officer, but has official duties connected with an office which is used as a telegraph office, to the same penalty as that to which a telegraph officer is liable for secreting or altering telegrams or unlawfully intercepting or disclosing them. Many post offices in India are now used as telegraph offices, and we consider that postal officials should be restrained by penalty, as they are under the English Telegraph Act of 1868, from abusing such opportunities as they may have of becoming acquainted with the contents of telegraphic messages.

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

		<i>In English</i>	
<i>Gazette.</i>			<i>Date.</i>
<i>Gazette of India</i>	23rd and 30th August and 6th September 1884.
<i>Fort Saint George Gazette</i>	9th September 1884.
<i>Bombay Government Gazette</i>	28th August and 4th and 11th September 1884
<i>Calcutta Gazette</i>	3rd, 10th and 17th September 1884.
<i>North Western Provinces and Oudh Government</i>			
<i>Gazette</i>	30th August and 6th and 13th September 1884
<i>Punjab Government Gazette</i>	4th, 11th and 18th September 1884
<i>Central Provinces Gazette</i>	30th August and 6th and 13th September 1884.
<i>British Burma Gazette</i>	13th, 20th and 27th September 1884
<i>Assam Gazette</i>	13th September 1884.

		<i>In the Vernaculars.</i>	
<i>Province</i>	<i>Language</i>		<i>Date</i>
Madras .. .	Tamil ..	..	18th November 1884.
Bombay .. .	Gujarathi ..	..	13th November 1884.
	Kanarese	..	13th November 1884.
Bengal .. .	Bengali ..	..	4th November 1884.
	Hindi ..	..	4th November 1884.
	Urdu	..	13th November 1884
<i>North-Western Provinces</i>			
and Oudh .. .	Urdu ..	..	13th December 1884 and 24th and 31st January 1885
Punjab .. .	Urdu ..	..	22nd and 29th September and 6th October 1884.
Burma .. .	Burmese ..	..	27th September and 4th and 11th October 1884.

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) T. C. HOPE
(") C. P. LIBERT.

The 8th July 1885.

D FITZPATRICK,
Secretary to the Government of India.

[Published with the "Bombay Government Gazette" on the 13th August 1885.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 22nd July, 1885, and was promulgated for general information in the *Gazette of India* dated 25th July 1885.—

Act No. XII of 1885.

An Act to amend the law relating to the carriage of passengers by sea.

18 & 19 Vic.,
c. 119.

WHEREAS by section 99 of an Act of the Imperial Parliament called "The Passengers Act, 1855," it is enacted that "it shall be lawful for the Governor-General of India in Council, from time to time, by any Act or Acts to be passed for that purpose, to declare that this Act or any part thereof shall apply to the carriage of passengers upon any voyage, from any ports or places within the territories of British India, to be specified in such Act or Acts, to any other places whatsoever, to be also specified in such Act or Acts;" and it is thereby also enacted that "on the passing of such Indian Act or Acts, and whilst the same shall remain in force, all such parts of this Act as shall be adopted, therein shall apply to and extend to the carriage of passengers upon such voyages as in the said Indian Act or Acts shall be specified. The provisions of such Indian Act shall be enforced in all Her Majesty's possessions in like manner as the provisions of this Act may be enforced;"

And whereas certain parts of the said Act of Parliament were by Act II of 1860 (*to amend the law relating to the carriage of passengers by sea*) made applicable to the carriage of passengers upon certain specified voyages;

26 & 27 Vic.,
c. 51.
18 & 19 Vic.,
c. 119.

And whereas by an Act of the Imperial Parliament called "The Passengers Act Amendment Act, 1863," certain parts of the Passengers Act, 1855, which were so made applicable, have been amended, and it is provided that the said Acts of the Imperial Parliament shall be construed together as one Act;

18 & 19 Vic.,
c. 119.

And whereas it is expedient that the amendments so made in the Passengers Act, 1855, should also be made in the parts of that Act so made applicable, and it is also expedient to apply those parts so amended to the carriage of passengers upon certain voyages not specified in Act II of 1860;

It is hereby enacted as follows.—

Short title and commencement.
1. (1) This Act may be called the Indian Sea Passengers Act, 1885; and

(2) It shall come into force on the first day of October, 1885.

2. On and from the day on which this Act comes into force, Act II of 1860 (*to amend the law relating to the carriage of passengers by sea*) shall be repealed.

3. The provisions contained in sections 4, 5 and 6 of this Act, and certain provisions of the Statutes made applicable to specified voyages from India, annexed (being parts of the Passengers Act, 1855, as amended by the Passengers Act Amendment Act, 1863), are declared applicable to the carriage of passengers upon the following voyages, namely.—

18 & 19 Vic.,
c. 119
26 & 27 Vic.,
c. 51.

(a) voyages from the ports of Calcutta, Madras and Bombay to the British Colonies of Mauritius, Jamaica, British Guiana, Trinidad, St Lucia, Grenada, St Vincent, Natal, St. Kitts, Nevis and Fiji;

(b) voyages from the ports of Calcutta, Madras and Bombay to the French Colonies of Réunion, Martinique, Guadeloupe and its dependencies, and Guiana;

(c) voyages from the ports of Calcutta, Madras, and Bombay to the Netherlands colony of Dutch Guiana;

(d) voyages from the ports of Calcutta, Madras and Bombay to the Danish colony of St. Croix,

(e) voyages under the Native Passenger Ships Act, 1876, from Calcutta, Madras, Bombay, Karáchi, Rangoon and other ports in British India to the Straits Settlements, to the protected Native States adjoining the Straits Settlements, to Australia, and to ports in the Red Sea, Gulf of Aden or Persian Gulf and on the East Coast of Africa.

VIII. of 1876.

4. If the passengers or cabin-passengers upon any such voyage as is specified in the last preceding section are taken off from the ship carrying them, or are picked up at sea from any boat, raft or otherwise, it shall be lawful, if the port or place to which they are conveyed is in any of Her Majesty's colonial possessions, for the Governor of such colony, or for any person authorized by him for the purpose, or, if in any foreign country, for Her Majesty's Consular Officer at such port or place therein, to defray all or any part of the expenses thereby incurred.

5. If any passenger or cabin-passenger of any such passenger-ship as may send on passengers, if the master of the ship fail to do so. neglect or default of his own, finds himself within any colonial or foreign port or place other than that for which the ship was originally bound, or at which he, or the Emigration Agent, or any public officer or other person on his behalf, has contracted that he should land, it shall be lawful for the Governor of the colony, or for any person authorized by him for the purpose, or for Her Majesty's Consular Officer at the foreign port or place, as the case may be, to forward the passenger or cabin-passenger to his intended destination, unless the master of the ship, within forty-eight hours of the arrival of such passenger or cabin-passenger, gives to the Governor or Consular Officer, as the case may be, a written undertaking to forward or carry on within six weeks thereafter the passenger or cabin-passenger to his original destination, and unless the master accordingly forwards or carries him on within that period.

6. (1) All expenses incurred under the last two preceding sections, or either of them, by or by the authority of a Governor or Consular Officer, or other person as therein respectively mentioned, including the cost of maintaining the passengers and cabin-passengers until forwarded to their destination, and of all necessary bedding, provisions and stores, shall become a debt to Her Majesty and Her successors from the owner, charterer and master of the ship, and shall be recoverable from them, or from any one or more of them, at the suit and for the use of Her Majesty, in like manner as in the case of other Crown debts.

(2) A certificate in the form given in the Schedule hereto annexed, or as near thereto as the circumstances of the case will admit, purporting to be under the hand of any such Governor or Consular Officer (as the case may be), stating the total amount of the expenses, shall, in any suit or other proceeding for the recovery of the debt, be received in evidence without proof of the handwriting or of the official character of the Governor or Consular Officer, and shall be deemed sufficient evidence of the amount of the expenses, and that the same were duly incurred;

nor shall it be necessary to adduce on behalf of Her Majesty any other evidence in support of the claim, but judgment shall pass for the Crown, with costs of suit, unless the defendant specially pleads and duly proves that the certificate is false or fraudulent, or specially pleads and duly proves any facts showing that the expenses were not duly incurred:

Provided, nevertheless, that in no case shall any larger sum be recovered on account of the

expenses than a sum equal to twice the total amount of passage-money received or due to and recoverable by or on account of the owner, charterer or master of the passenger-ship or any of them from or on account of the whole number of passengers and cabin-passengers who may have embarked in the ship; which total amount of passage-money shall be proved by the defendant if he will have the advantage of this limitation of the debt; but if any such passengers are forwarded or conveyed to their intended destination under the provisions of the last preceding section, they shall not be entitled to the return of their passage-money, or to any compensation for loss of passage.

7. No policy of assurance effected in respect of any passages or of any passage or compensation Insurance. money by any person by this Act made liable in the events aforesaid to provide those passages or to pay that money, or in respect of any other risk under this Act, shall be deemed invalid by reason of the nature of the risk or interest sought to be covered by the policy of assurance.

THE SCHEDULE.

Form of Governor's or Consul's Certificate of expenditure in the case of Passengers shipwrecked, &c.

(See Section 6.)

I hereby certify that acting under, and in conformity with, the provisions of the Indian Sea Passengers Act, 1885, I have defrayed the expenses incurred in rescuing, maintaining, supplying with necessary bedding, provisions and stores (a), and in forwarding to their destination passengers [including cabin-passengers (b)], who were proceeding from to in the passenger-ship which was wrecked at sea, &c. (c).

And I further certify, for the purposes of the sixth section of the said Indian Sea Passengers Act, 1885, that the total amount of such expenses is, and that such expenses were duly incurred by me under the said Act.

(a) N.B.—1 If more passengers were rescued than forwarded, or if bedding, &c., was not supplied, alter the certificate to suit the facts of the case.

(b) N.B.—2 Omit words in brackets when necessary.

(c) N.B.—3 State generally the nature of the disaster and where it occurred. But if the passengers were only left behind without any default of their own, state the fact accordingly.

Given under my hand this 18 day of

{ Governor of, &c., (or, as the case may be) Her Britannic Majesty's Consul at

D FITZPATRICK,

Secretary to the Government of India.

LEGISLATIVE DEPARTMENT.

THE following Report on the Bill to amend the law relating to the carriage of passengers by sea was presented to the Council of the Governor-General of India for the purpose of making laws and Regulations on the 8th July, 1885 :—

We, the undersigned, Members of the Select Committee to which the Bill to amend the law relating to the carriage of passengers by sea 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 papers contain several suggestions both by officials and by commercial bodies which might be well worthy of consideration if the

question were one as to the amendment of the English Passengers Acts, but which, having regard to the conditions under which we are now proceeding, it is beyond our power to entertain.

Acting, as we are, under the 99th section of the 18 & 19 Vic., c. 119, which is recited in the preamble to the Bill, we are restricted to applying to the voyages here in question the provisions of the English Passengers Acts as they stand; and if we were to introduce any modifications in the substance of those provisions, we should in all probability fail to secure for our Act the effect referred to at the end of the preamble, namely, that its provisions "shall be enforced in all Her Majesty's possessions in like manner as the provisions" of the English Passengers Acts.

3. Thus, we have no power to adopt the suggestion of the Bengal Chamber of Commerce that we should amend section 5 of the Bill so as to compel a Colonial Governor or Consular Officer to accept an undertaking to forward passengers offered by the owner, charterer or agent of a ship. We may observe, however, that, having regard to the definition of "master" in the Passengers Acts, and to the duties of a master of a wrecked ship, the contingency of there being no master of a wrecked ship, which this amendment was intended to meet, is one likely to be of very rare occurrence.

Moreover, as the Governor or Consular Officer is not compelled to act under the section, but has a discretion in the matter, there can be little doubt that in the case put he would accept the undertaking of the owner, charterer or agent.

4. Similarly, it would be beyond our powers, even if we thought it desirable to do so, to adopt the suggestion of the Madras Chamber that a shipowner should be relieved of the liability imposed by section 6 of the Bill in cases in which the ship is prevented from completing her voyage by the act of God or the Queen's enemies.

It appears to us, however, that the risk involved is one which should be provided against by insurance; and, in order to remove all doubt as to the possibility of so providing against it, we have introduced into the Bill a section (7) similar to section 55 of the Passengers Act, 1855, expressly legalizing such insurances.

5. The Government of Bombay draw attention to the want of a provision like section 14 of the Passengers Act Amendment Act, 1863, to meet the case of passengers who may be left in British India owing to their ship being wrecked before she leaves the territorial waters, or who may be brought back to British India owing to their ship being wrecked or disabled after proceeding some short distance on her voyage. We are disposed to agree in thinking some such provision desirable, but the extraordinary powers under which we are now acting are not needed for its enactment, and we think the matter could be more conveniently dealt with in our Native Passengers and Emigration Acts, where we should be free to mould the law as we think fit to suit local requirements.

6. We have, at the suggestion of Brigadier-General Blair, the Political Resident at Aden, amended section 3 (c) so as to extend the Bill to voyages to ports on the East Coast of Africa and in the Gulf of Aden.

7. We have also made such amendments as were necessary to render it clear that the Bill extends, as the English Acts do, to cabin-passengers.

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

Gazette	In English.	Date.
Gazette of India	...	20th and 27th December 1884 and 3rd January 1885.
Fort St. George Gazette	...	13th January 1885
Bombay Government Gazette	...	25th December 1884 and 1st and 8th January 1885.
Calcutta Gazette	...	24th and 31st December 1884 and 7th January 1885.
British Burma Gazette	..	10th, 17th and 24th January 1885.

In the Vernaculars.

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Bombay ...	Maráthi ...	} 12th February, 1885.
	Gujaráthi ...	
	Kánarese ..	
Bengal ...	Bengali ...	} 20th and 27th January and 3rd February 1885.
	Hindi ..	
British Burma ...	Uriya ...	29th January and 5th and 12th February 1885.
	Burmese ...	7th, 14th and 21st February 1885.

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

The 8th July 1885.

(Signed) C. P. ILBERT.
(„) S. C. BAYLEY.

D. FITZPATRICK,
Secretary to the Government of India.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 22nd July, 1885, and was promulgated for general information in the *Gazette of India* dated 25th July 1885:—

Act No. XIII of 1885
THE INDIAN TELEGRAPH ACT, 1885.

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The Indian Telegraph Act, 1885.

(Part I.—Preliminary.—Sections 1-3.)

An Act to amend the law relating to Telegraphs in India.

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

PART I.

PRELIMINARY.

1 (1) This Act may be called the Indian Short title, local extent and commencement. Telegraph Act, 1885.

(2) It extends to the whole of British India, and, so far as regards subjects of Her Majesty, to the dominions of Princes and States in India in alliance with Her Majesty; and

(3) It shall come into force on the first day of October 1885.

1 of 1876

Repeal and savings.

2. The Indian Telegraph Act, 1876, is hereby repealed.

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SECTION

15. Disputes between telegraph authority and local authority.
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33. Power to employ additional police in places where mischief to telegraphs is repeatedly committed.

But all licenses granted and rules made under that Act or any Act thereby repealed, and now in force, shall, so far as they could be granted or made under this Act, be deemed to have been respectively granted and made hereunder.

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

(1) "Telegraph" means an electric, galvanic or magnetic telegraph, and includes appliances and apparatus for transmitting or making telegraphic, telephonic or other communications by means of electricity, galvanism or magnetism.

(2) "Telegraph officer" means any person employed either permanently or temporarily in connection with a telegraph established, maintained or worked by the Government or by a person licensed under this Act:

*The Indian Telegraph Act, 1885.**(Part II.—Privileges and Powers of the Government.—Sections 4-9.)**(Part III.—Power to place Telegraph Lines and Posts.—Section 10.)*

(3) "Message" means any communication sent by telegraph, or given to a telegraph officer to be sent by telegraph or to be delivered:

(4) "Telegraph line" means a wire or wires used for the purpose of a telegraph, with any casing, coating, tube or pipe enclosing the same, and any appliances and apparatus connected therewith for the purpose of fixing or insulating the same.

(5) "Post" means a post, pole, standard, stay, strut or other above-ground contrivance for carrying, suspending or supporting a telegraph line:

(6) "Telegraph authority" means the Director General of Telegraphs, and includes any officer empowered by him to perform all or any of the functions of the telegraph authority under this Act:

(7) "Local authority" means any municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of any municipal or local fund.

PART II.

PRIVILEGES AND POWERS OF THE GOVERNMENT.

4. Within British India, the Governor-General in Council shall have the exclusive privilege in respect of telegraphs, and power to grant licenses establishing, maintaining and working telegraphs:

Provided that the Governor-General in Council may grant a license, on such conditions and in consideration of such payments as he thinks fit, to any person to establish, maintain or work a telegraph within any part of British India.

5. (1) On the occurrence of any public emergency, or in the interest of the public safety, the Governor-General in Council or a Local Government, or any officer specially authorised in this behalf by the Governor-General in Council, may—

- (a) take temporary possession of any telegraph established, maintained or worked by any person licensed under this Act; or
- (b) order that any message or class of messages to or from any person or class of persons, or relating to any particular subject, brought for transmission by or transmitted or received by any telegraph, shall not be transmitted, or shall be intercepted or detained, or shall be disclosed to the Government or an officer thereof mentioned in the order.

(2) If any doubt arises as to the existence of a public emergency, or whether any act done under sub-section (1) was in the interest of the public safety, a certificate signed by a Secretary to the Government of India or to the Local Government shall be conclusive proof on the point.

6. Any Railway Company, on being required so to do by the Governor-General in Council, shall permit the Government to establish and maintain a telegraph upon any part of the land of the Company, and shall give every reasonable facility for working the same.

7. (1) The Governor-General in Council may, from time to time by notification in the *Gazette of India*, make rules consistent with this Act for the conduct of all or any telegraphs established, maintained or worked by the Government or by persons licensed under this Act.

(2) Rules under this section may provide for all or any of the following, among other matters, that is to say:—

- (a) the rates at which, and the other conditions and restrictions subject to which, messages shall be transmitted;
- (b) the precautions to be taken for preventing the improper interception or disclosure of messages;
- (c) the period for which, and the conditions subject to which, telegrams and other documents belonging to, or being in the custody of, telegraph officers shall be preserved, and
- (d) the fees to be charged for searching for telegrams or other documents in the custody of any telegraph officer.

(3) When making rules for the conduct of any telegraph established, maintained or worked by any person licensed under this Act, the Governor-General in Council may by the rules prescribe fines for any breach of the same:

Provided that the fines so prescribed shall not exceed the following limits, namely:—

- (i) when the person licensed under this Act is punishable for the breach, one thousand rupees, and in the case of a continuing breach a further fine of two hundred rupees for every day after the first during the whole or any part of which the breach continues;
- (ii) when a servant of the person so licensed, or any other person, is punishable for the breach, one-fourth of the amounts specified in clause (i).

8. The Governor-General in Council may, at any time, revoke any license granted under section 4, on the breach of any of the conditions therein contained, or in default of payment of any consideration payable thereunder.

9. The Secretary of State for India in Council shall not be responsible for any loss or damage which may occur in consequence of any telegraph officer failing in his duty with respect to the receipt, transmission or delivery of any message; and no such officer shall be responsible for any such loss or damage, unless he causes the same negligently, maliciously or fraudulently.

PART III.

POWER TO PLACE TELEGRAPH LINES AND POSTS.

10. The telegraph authority may, from time to time, place and maintain a telegraph line under, over, along or across, and posts in or upon, any immoveable property:

The Indian Telegraph Act, 1885.

(Part III.—Power to place Telegraph Lines and Posts.—Sections 11-16).

Provided that—

- (a) the telegraph authority shall not exercise the powers conferred by this section except for the purposes of a telegraph established or maintained by the Government, or to be so established or maintained;
- (b) the Government shall not acquire any right other than that of user only in the property under, over, along, across, in or upon which the telegraph authority places any telegraph line or post; and
- (c) except as hereinafter provided, the telegraph authority shall not exercise those powers in respect of any property vested in or under the control or management of any local authority, without the permission of that authority; and
- (d) in the exercise of the powers conferred by this section, the telegraph authority shall do as little damage as possible, and, when it has exercised those powers in respect of any property other than that referred to in clause (c), shall pay full compensation to all persons interested for any damage sustained by them by reason of the exercise of those powers

11. The telegraph authority may, at any time,

Power to enter on property in order to repair or remove telegraph lines or posts

on the property under, over, along, across, in or upon which the line or post has been placed.

Provisions applicable to Property vested in or under the Control or Management of Local Authorities.

12. Any permission given by a local authority under section 10, clause

Power for local authority to give permission under section 10, clause (c), subject to conditions.

thinks fit to impose, as to the payment of any expenses to which the authority will necessarily be put in consequence of the exercise of the powers conferred by that section, or as to the time or mode of execution of any work, or as to any other thing connected with or relative to any work undertaken by the telegraph authority under those powers

13. When, under the foregoing provisions of

Power for local authority to require removal or alteration of telegraph line or post.

this Act, a telegraph line or post has been placed by the telegraph authority under, over, along, across, in or upon any property vested in or under the control or management of a local authority, and the local authority, having regard to circumstances which have arisen since the telegraph line or post was so placed, considers it expedient that it should be removed or that its position should be altered, the local authority may require the telegraph authority to remove it or alter its position, as the case may be.

14 The telegraph authority may, for the

Power to alter position of gas or water pipes or drains.

purpose of exercising the powers conferred upon it by this Act in respect of any property

vested in or under the control or management of a local authority, alter the position thereunder of any pipe (not being a main) for the supply of gas or water, or of any drain (not being a main drain):

Provided that—

- (a) when the telegraph authority desires to alter the position of any such pipe or drain it shall give reasonable notice of its intention to do so, specifying the time at which it will begin to do so, to the local authority, and, when the pipe or drain is not under the control of the local authority, to the person, under whose control the pipe or drain is,
- (b) a local authority or person receiving notice under clause (a) may send a person to superintend the work, and the telegraph authority shall execute the work to the reasonable satisfaction of the person so sent.

15 (1) If any dispute arises between the

Disputes between telegraph authority and local authority

telegraph authority and a local authority in consequence of the local authority refusing the permission referred to in section 10, clause (c), or prescribing any condition under section 12, or in consequence of the telegraph authority omitting to comply with a requisition made under section 13, or otherwise in respect of the exercise of the powers conferred by this Act, it shall be determined by such officer as the Local Government may appoint either generally or specially in this behalf.

(2) An appeal from the determination of the officer so appointed shall lie to the Local Government, and the order of the Local Government shall be final.

Provisions applicable to other Property.

16. (1) If the exercise of the powers men-

Exercise of powers conferred by section 10, and disputes as to compensation, in case of property other than that of a local authority.

tioned in section 10 in respect of property referred to in clause (d) of that section is resisted or obstructed, the District Magistrate may, in his discretion, order that the telegraph authority shall be permitted to exercise them.

(2) If, after the making of an order under sub-section (1), any person resists the exercise of those powers, or, having control over the property, does not give all facilities for their being exercised, he shall be deemed to have committed an offence under section 188 of the Indian Penal Code. XLV of 1860.

(3) If any dispute arises concerning the sufficiency of the compensation to be paid under section 10, clause (d), it shall, on application for that purpose by either of the disputing parties to the District Judge within whose jurisdiction the property is situate, be determined by him.

(4) If any dispute arises as to the persons entitled to receive compensation, or as to the proportions in which the persons interested are entitled to share in it, the telegraph authority may pay into the Court of the District Judge such amount as he deems sufficient or, where all

*The Indian Telegraph Act, 1885.**(Part III.—Power to place Telegraph Lines and Posts.—Sections 17-19.)**(Part IV.—Penalties.—Sections 20-24.)*

the disputing parties have in writing admitted the amount tendered to be sufficient or the amount has been determined under sub-section (3), that amount; and the District Judge, after giving notice to the parties and hearing such of them as desire to be heard, shall determine the persons entitled to receive the compensation or, as the case may be, the proportions in which the persons interested are entitled to share in it.

(5) Every determination of a dispute by a District Judge under sub-section (3) or sub-section (4) shall be final:

Provided that nothing in this sub-section shall affect the right of any person to recover by suit the whole or any part of any compensation paid by the telegraph authority, from the person who has received the same.

17. (1) When, under the foregoing provisions of this Act, a telegraph line or post has been placed by the telegraph authority under, over, along, across, in or upon any property, not being property vested in or under the control or management of a local authority, and any person entitled to do so desires to deal with that property in such a manner as to render it necessary or convenient that the telegraph line or post should be removed to another part thereof or to a higher or lower level or altered in form, he may require the telegraph authority to remove or alter the line or post accordingly:

Provided that, if compensation has been paid under section 10, clause (d), he shall, when making the requisition, tender to the telegraph authority the amount requisite to defray the expense of the removal or alteration, or half of the amount paid as compensation, whichever may be the smaller sum.

(2) If the telegraph authority omits to comply with the requisition, the person making it may apply to the District Magistrate within whose jurisdiction the property is situate to order the removal or alteration.

(3) A District Magistrate receiving an application under sub-section (2) may, in his discretion, reject the same or make an order, absolutely or subject to conditions, for the removal of the telegraph line or post to any other part of the property or to a higher or lower level or for the alteration of its form; and the order so made shall be final.

Provisions applicable to all Property.

18. (1) If any tree standing or lying near a telegraph line interrupts, or is likely to interrupt, telegraphic communication, a Magistrate of the first or second class may, on the application of the telegraph authority, cause the tree to be removed or dealt with in such other way as he deems fit.

(2) When disposing of an application under sub-section (1), the Magistrate shall, in the case of any tree in existence before the telegraph line was placed, award to the persons interested in the tree such compensation as he thinks reasonable, and the award shall be final.

19. Every telegraph line or post placed before the passing of this Act under, over, along, across, in or upon any property, for the purposes of a telegraph established or maintained by the Government, shall be deemed to have been placed in exercise of the powers conferred by, and after observance of all the requirements of, this Act.

PART IV.

PENALTIES.

20. If any person establishes, maintains or works a telegraph within British India, otherwise than as permitted by a license granted under section 4, or breaks any condition contained in such a license, he shall be punished with fine which may extend to one thousand rupees, and with a further fine which may extend to five hundred rupees for every week during which the line is maintained or worked or the breach of the condition continues.

21. If any person, knowing or having reason to believe that a telegraph has been established or is maintained or worked in contravention of this Act, transmits or receives any message by such telegraph, or performs any service incidental thereto, or delivers any message for transmission by such telegraph or accepts delivery of any message sent thereby, he shall be punished with fine which may extend to fifty rupees.

22. If a Railway Company, or an officer of a Railway Company, neglects or refuses to comply with the provisions of section 6, it or he shall be punished with fine which may extend to one thousand rupees for every day during which the neglect or refusal continues.

23. If any person—

- (a) without permission of competent authority, enters the signal-room of a telegraph office of the Government, or of a person licensed under this Act, or
- (b) enters a fenced enclosure round such a telegraph office in contravention of any rule or notice not to do so, or
- (c) refuses to quit such room or enclosure on being requested to do so by any officer or servant employed therein, or
- (d) wilfully obstructs or impedes any such officer or servant in the performance of his duty,

he shall be punished with fine which may extend to five hundred rupees.

24. If any person does any of the acts mentioned in section 23 with the intention of unlawfully learning the contents of any message, or of committing any offence punishable under this Act, he may (in addition to the fine with which he is punishable

*The Indian Telegraph Act, 1885.**(Part IV.—Penalties.—Sections 25-32.)**(Part V.—Supplemental Provision.—Section 33)*

under section 23) be punished with imprisonment for a term which may extend to one year.

Intentionally damaging or tampering with telegraphs. 25. If any person, intending—

- (a) to prevent or obstruct the transmission or delivery of any message, or
 (b) to intercept or to acquaint himself with the contents of any message, or
 (c) to commit mischief,

damages, removes, tampers with or touches any battery, machinery, telegraph line, post or other thing whatever, being part of or used in or about any telegraph or in the working thereof, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

26 If any telegraph officer, or any person, not being a telegraph officer but having official duties connected with any office which is used as a telegraph office,—

Telegraph officer or other official making away with or altering, or unlawfully intercepting or disclosing messages, or divulging purport of signals

(a) wilfully secretes, makes away with or alters any message which he has received for transmission or delivery, or

(b) wilfully, and otherwise than in obedience to an order of the Governor General in Council or of a Local Government, or of an officer specially authorised by the Governor General in Council to make the order, omits to transmit, or intercepts or detains, any message or any part thereof, or otherwise than in pursuance of his official duty or in obedience to the direction of a competent Court, discloses the contents or any part of the contents of any message, to any person not entitled to receive the same, or

(c) divulges the purport of any telegraphic signal to any person not entitled to become acquainted with the same,

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

27 If any telegraph officer transmits by telegraph any message on which the charge prescribed by the Government, or by a person licensed under this Act, as the case may be, has not been paid, intending thereby to defraud the Government or that person, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

Telegraph officer fraudulently sending messages without payment

28. If any telegraph officer, or any person not being a telegraph officer but having official duties connected with any office which is used as a telegraph office, is guilty of any act of drunkenness, carelessness or other misconduct whereby the correct transmission or the delivery of any message is impeded or delayed, or if any telegraph officer loiters or delays in the transmission or delivery of any message, he shall be punished with imprisonment for a term which may extend

Misconduct

to three months, or with fine which may extend to one hundred rupees, or with both.

29 If any person transmits or causes to be transmitted by telegraph a message which he knows to be false or fabricated, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

30 If any person fraudulently retains, or wilfully secretes, makes away with or detains a message which ought to have been delivered to some other person, or, being required by a telegraph officer to deliver up any such message, neglects or refuses to do so, he shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

31. A telegraph officer shall be deemed a public servant within the meaning of sections 161, 162, 163, 164 and 165 of the Indian Penal Code, and in the definition of "legal remuneration" contained in the said section 161, the word "Government" shall, for the purposes of this Act, be deemed to include a person licensed under this Act.

32. Whoever attempts to commit any offence punishable under this Act shall be punished with the punishment herein provided for the offence.

PART V.

SUPPLEMENTAL PROVISION

33 (1) Whenever it appears to the Local Government that any act causing or likely to cause wrongful damage to any telegraph is repeatedly and maliciously committed in any place, and that the employment of an additional police-force in that place is thereby rendered necessary, the Local Government may send such additional police-force as it thinks fit to the place, and employ the same therein so long as, in the opinion of that Government, the necessity of doing so continues

Power to employ additional police in places where mischief to telegraphs is repeatedly committed.

(2) The inhabitants of the place shall be charged with the cost of the additional police-force, and the District Magistrate shall, subject to the orders of the Local Government, assess the proportion in which the cost shall be paid by the inhabitants according to his judgment of their respective means

(3) All moneys payable under sub-section (2) shall be recoverable either under the warrant of a Magistrate by distress and sale of the moveable property of the defaulter within the local limits of his jurisdiction, or by suit in any competent Court

(4) The Local Government may, by order in writing, define the limits of any place for the purposes of this section.

D. FITZPATRICK,

Secretary to the Government of India.

LEGISLATIVE DEPARTMENT.

THE following Report on the Bill to facilitate the construction of Telegraphs, and to amend the Indian Telegraph Act, 1876, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 8th July 1885 :—

We, the undersigned, Members of the Select Committee to which the Bill to facilitate the construction of Telegraphs, and to

- amend the Indian Telegraph Act, 1876, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.
- 2 We are of opinion that it would be for the convenience of the Telegraph Department and the public that Act I of 1876 should be repealed and re-enacted with most of the modifications and additions proposed by the Bill as introduced. We have accordingly re-drawn the Bill as a consolidating measure.
- 3 Objection having been taken to licensees being entrusted with the powers with which it was proposed to invest them as telegraph authorities, we have defined "telegraph authority" to mean the Government
- From Officiating Registrar, High Court, Calcutta, No. 2609, dated 15th September, 1884 [Paper No 1]
 From Secretary to Chief Commissioner, Coorg, No 807—111, dated 13th September, 1884 [Paper No. 2].
 From Officiating Secretary to Chief Commissioner, British Burma, No. 771-18L., dated 26th September, 1884, and enclosures [Papers No. 3].
 From Officiating Secretary to Chief Commissioner, Assam, No 1536, dated 27th September, 1884, and enclosures [Papers No. 4]
 From Chief Commissioner, Ajmer-Merwara, No. 842, dated 3rd October, 1884 [Paper No. 5].
 From Officiating Secretary to Government, North-Western Provinces and Oudh, No 1057—VII-276-24, dated 7th October, 1884, and enclosures [Papers No 6]
 From Secretary for Berar to Resident, Hyderabad, No. 359G, dated 9th October, 1884 [Paper No. 7]
 From Chief Secretary to Government, Madras, No. 2541, dated 6th October, 1884, and enclosures [Papers No. 8].
 From Officiating Secretary to Government, Punjab, No 911, dated 23rd October, 1884, and enclosures [Papers No. 9].
 From Assistant Secretary to Chief Commissioner, Central Provinces, No. 5183—240, dated 5th November, 1884 [Paper No. 10]
 From Under Secretary to Government, Bombay, No 7782, dated 7th November, 1884, and enclosures [Papers No 11].
 From Secretary to Government, Bengal, No. 1461T.—R, dated 23rd October, 1884, and enclosures [Papers No 12].
 Extract, paragraph III. from Proceedings of the Meerut Association, No. 13, dated 16th November, 1884 [Paper No 13]
 Telegram from Secretary to Government, North-Western Provinces and Oudh, dated 13th December, 1884 [Paper No 14]

Telegraph Department (section 3, clause (6)), and provided that that authority shall not exercise the power of placing telegraph lines and posts except for the purposes of a telegraph established or maintained by the Government or to be so established or maintained (section 10).

4. We have also amended the definition of "local authority" so as to make that expression include a cantonment authority and clearly exclude any commercial association however incorporated (section 3, clause (7)).

5. In declaring, in section 4, the exclusive privilege of the Government to extend to establishing, *maintaining and working* telegraphs, and in empowering the Government to grant licenses to establish, maintain *or work* telegraphs, we formulate what is, and has always been understood to be, the existing law, and at the same time avoid the necessity of using the words "lease" and "lessee" which were introduced into the Bill of last year (section 13). A lease is a license to work a line established and maintained by the Government, and a lessee is the holder of such a license.

6. By section 7, sub-section (2), clause (b), we propose to give the Government the power of requiring licensees to provide for the seclusion of telegraph instruments at all offices open for the receipt of public messages. Clauses (c) and (d) of the same sub-section have been suggested to us by correspondence that has been placed at our disposal by the Public Works Department of the Government of India, respecting applications from time to time made by private persons to the Telegraph Department for the preservation of telegrams.

7. Most of the objections that were taken to the Bill as introduced, chiefly by commercial bodies in Calcutta, will, it is believed, have been met by our proposal that the power of placing telegraph lines and posts shall only be exercised by the Government Telegraph Department for the purposes of telegraphs established or maintained by the Government.

8. In section 11 we have, following a recent English Act, proposed to empower the telegraph authority to enter at any time on property for the purpose of examining, repairing, altering or removing any telegraph line or post that has been placed on it.

9. In section 14 we have adhered to the provisions of the English Act (26 & 27 Vic., c. 112, sections 6 and 8), though in practice the officers of the Telegraph Department will doubtless arrange for the alteration of the position of any pipe or drain being carried out by the authority having control of it.

10. In section 15 we have provided, on the suggestion of the Government of Bombay, that disputes between the telegraph authority and local authorities shall be determined by a local officer whose decision will be subject to appeal to the Local Government.

11. In section 16, sub-sections (1) and (2), we have provided for recourse being had by the telegraph authority to the District Magistrate where the exercise of the powers conferred on that authority is resisted. We have also provided in this section, sub-section (4), in accordance with the suggestion of the Government of Bombay, that the telegraph authority may pay compensation into Court where any dispute arises as to the persons entitled to receive it.

12. We have met the objections that were taken to section 10 of the Bill as introduced by providing in section 17 of the present Bill that a person desiring the removal or the alteration of the position of a telegraph line or post shall tender the cost of the removal or alteration in those cases only in which compensation has been paid by the telegraph authority, and that in those cases he shall not be required to tender more than half the sum that was paid to him as compensation.

13. By section 18 we have proposed to provide for the removal by order of a Magistrate of trees interrupting or likely to interrupt telegraphic communication. A somewhat similar provision in the case of trees dangerous to railways is contained in the Regulation of Railways Act, 1868 (31 & 32 Vic, c 119, section 24)

14. By section 26 we propose to subject a person who is not a telegraph officer, but has official duties connected with an office which is used as a telegraph office, to the same penalty as that to which a telegraph officer is liable for secreting or altering telegrams or unlawfully intercepting or disclosing them. Many post offices in India are now used as telegraph offices, and we consider that postal officials should be restrained by penalty, as they are under the English Telegraph Act of 1868, from abusing such opportunities as they may have of becoming acquainted with the contents of telegraphic messages

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

In English.

<i>Gazette.</i>	<i>Date.</i>
<i>Gazette of India</i>	23rd and 30th August and 6th September 1884.
<i>Port Saint George Gazette</i>	9th September 1884.
<i>Bombay Government Gazette</i>	28th August and 4th and 11th September 1884.
<i>Calcutta Gazette</i>	3rd, 10th and 17th September 1884.
<i>North-Western Provinces and Oudh Government Gazette</i>	30th August and 6th and 13th September 1884.
<i>Punjab Government Gazette</i>	4th, 11th and 18th September 1884.
<i>Central Provinces Gazette</i>	30th August and 6th and 13th September 1884.
<i>British Burma Gazette</i>	13th, 20th and 27th September 1884.
<i>Assam Gazette</i>	13th September 1884.

In the Vernaculars.

<i>Province.</i>	<i>Language.</i>	<i>Date</i>
Madras	Tamil	18th November 1884
Bombay	Gujarathi	13th November 1884.
	Kanarese	13th November 1884.
Bengal	Bengali	4th November 1884.
	Hindi	4th November 1884
	Uriya	13th November 1884.
North-Western Provinces and Oudh	Urdu	13th December 1884 and 24th and 31st January 1885.
Punjab	Urdu	22nd and 29th September and 6th October 1884.
Burma	Burmese	27th September and 4th and 11th October 1884.

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) T. C. HOPE.
(") C. P. ILBERT

The 5th July 1885.

D FITZPATRICK
Secretary to the Government of India

THE



Bombay Government Gazette.

Published by Authority.

THURSDAY, 8TH OCTOBER 1885.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 2nd October 1885, and was promulgated for general information on the 3rd October 1885.—

Act No. XV. of 1885.

An Act to amend the Local Authorities Loan Act, 1879.

WHEREAS it is expedient to amend the Local Authorities Loan Act, 1879; It is hereby enacted as follows—

Addition to section 8, Act XI. of 1879.

1. After clause (b) of the proviso to section 8 of the said Act the following shall be added.—

“ or

“(c) to affect the power conferred on any local authority by any such enactment to charge its funds by guaranteeing the payment of interest on money to be applied to any purpose to which the funds of the local authority can legally be applied.”

D. FITZPATRICK,
Secretary to the Govt of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the Local Authorities Loan Act, 1879, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 23rd September 1885.—

WE, the undersigned, Members of the Select Committee to which the Bill to amend the Local Authorities Loan Act, 1879, was

From Secretary to Chief Commissioner, British Burma, No. 303—24L, dated 13th June 1885 [Paper No. 1].

From Secretary to Chief Commissioner, Assam, No. 972, dated 18th June 1885 [Paper No. 2]

From Chief Commissioner, Ajmer-Merwara, No. 722, dated 3rd July 1885 [Paper No. 3].

referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

From Secretary to Government, North-Western Provinces and Oudh, No. 3051—X-518, dated 10th July 1885, [Paper No. 4].
 From Officiating Secretary to Government, Punjab, No. 731S., dated 17th July 1885, and enclosures [Papers No. 5].
 From Secretary for Berar to Resident, Hyderabad, No. 274G, dated 13th July 1885 [Paper No. 6].
 From Secretary to Chief Commissioner, Coorg, No. 688—89, dated 14th July 1885 [Paper No. 7].
 From Chief Secretary to Government, Madras, No. 1800, dated 10th July 1885 and enclosures [Papers No. 8].
 From Under Secretary to Government, Bombay, No. 2054, dated 18th July 1885, and enclosures [Papers No. 9].
 From Officiating Secretary to Government, Bengal, No. 1370, dated 20th July 1885, and enclosures [Papers No. 10].
 From Assistant Secretary to Chief Commissioner, Central Provinces, No. 3052—147, dated 11th August 1885 [Paper No. 11].

2. It has been suggested that the term "raised" should be altered so as to include money devoted to any particular purpose by a person who may not have occasion to raise it, and we have accordingly substituted the words "apply to" for "raised for."

3. The only other alteration we have made in the Bill is a purely verbal one.

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

In English.

Gazette			Date.
Gazette of India	...	...	16th, 23rd and 30th May 1885.
Port St. George Gazette	...	...	2nd June 1885.
Bombay Government Gazette	...	...	28th May and 4th and 11th June 1885.
Calcutta Gazette	...	...	27th May and 3rd and 10th June 1885.
North-Western Provinces and Oudh Government Gazette	...	...	23rd and 30th May and 6th June 1885.
Punjab Government Gazette	...	...	21st and 28th May and 4th June 1885.
Central Provinces Gazette	...	...	23rd and 30th May and 6th June 1885.
British Burma Gazette	...	...	6th, 13th and 20th June 1885.
Assam Gazette	...	...	6th and 13th June 1885.
Coorg District Gazette	...	...	1st July 1885.

In the Vernaculars.

Province.	Language.	Date.
Bombay	Maráthí	25th June 1885.
	Gujaráthí	
	Kánarese	
	Sindhí	
Bengal	Bengálí	30th June 1885.
	Hindí	
	Uriya	
North-Western Provinces and Oudh	Urdu	4th, 11th and 18th July 1885.
Punjab	Urdu	15th, 22nd and 29th June 1885.
Central Provinces	Maráthí	11th, 18th and 25th July 1885.
Coorg	Kánarese	1st July 1885.

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) T. C. HOPE.
 " C. P. ILBERT.
 " S. C. BAYLEY.

The 23rd September 1885.

D. FITZPATRICK,
 Secretary to the Government of India.

[Published with the "Bombay Government Gazette" on the 15th October 1885.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 2nd October 1885, and was promulgated for general information on the 3rd October 1885.—

Act No. XV. of 1885.

An Act to amend the Local Authorities Loan Act, 1879.

XI. of 1879. WHEREAS it is expedient to amend the Local Authorities Loan Act, 1879; It is hereby enacted as follows:—

Addition to section 8, Act XI. of 1879.

1. After clause (b) of the proviso to section 8 of the said Act the following shall be added —

" or

"(c) to affect the power conferred on any local authority by any such enactment to charge its funds by guaranteeing the payment of interest on money to be applied to any purpose to which the funds of the local authority can legally be applied."

D. FITZPATRICK,
Secretary to the Govt. of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the Local Authorities Loan Act, 1879, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 23rd September 1885:—

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

Authorities Loan Act, 1879, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

From Secretary to Chief Commissioner, British Burma, No. 303—24L, dated 13th June 1885 [Paper No. 1].

From Secretary to Chief Commissioner, Assam, No. 972, dated 18th June 1885 [Paper No. 2].

From Chief Commissioner, Ajmer-Merwara, No. 722, dated 3rd July 1885 [Paper No. 3].

From Secretary to Government, North-Western Provinces and Oudh, No. 3051—X-518, dated 10th July 1885 [Paper No. 4].

From Officiating Secretary to Government, Punjab, No. 731S., dated, 17th July 1885, and enclosures [Papers No. 5].

From Secretary for Berar to Resident, Hyderabad, No. 274G, dated 13th July 1885 [Paper No. 6].

From Secretary to Chief Commissioner, Coorg, No. 688—89, dated 14th July 1885 [Paper No. 7].

From Chief Secretary to Government, Madras, No. 1800, dated 10th July 1885, and enclosures [Papers No. 8].

From Under Secretary to Government, Bombay, No. 2054, dated 18th July 1885, and enclosures [Papers No. 9].

From Officiating Secretary to Government, Bengal, No. 1370, dated 20th July 1885, and enclosures [Papers No. 10].

From Assistant Secretary to Chief Commissioner, Central Provinces, No. 3052—147, dated 11th August 1885 [Paper No. 11].

2. It has been suggested that the term "raised" should be altered so as to include money devoted to any particular purpose by a person who may not have occasion to raise it, and we have accordingly substituted the words "apply to" for "raised for."

3. The only other alteration we have made in the Bill is a purely verbal one

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

		<i>In English</i>	
<i>Gazette</i>	...	Date	
<i>Gazette of India</i>	...	16th, 23rd and 30th May 1885.	
<i>Fort St George Gazette</i>	..	2nd June 1885.	
<i>Bombay Government Gazette</i>	...	28th May and 4th and 11th June 1885.	
<i>Calcutta Gazette</i>	..	27th May and 3rd and 10th June 1885.	
<i>North-Western Provinces and Oudh Government Gazette</i>	...	23rd and 30th May and 6th June 1885.	
<i>Punjab Government Gazette</i>	...	21st and 26th May and 4th June 1885	
<i>Central Provinces Gazette</i>	..	23rd and 30th May and 6th June 1885.	
<i>British Burma Gazette</i>	...	6th, 13th and 20th June 1885	
<i>Assam Gazette</i>	...	6th and 13th June 1885.	
<i>Coorg District Gazette</i>	...	1st July 1885	

			<i>In the Vernaculars.</i>	
<i>Province.</i>			<i>Language.</i>	<i>Date.</i>
Bombay	...	...	Maráthí	} 25th June 1885.
			Gujaráthí	
			Kánarese	
Bengal	...	...	Sindhí	} 30th June 1885.
			Bengálí	
			Hindí	
North-Western Provinces and Oudh			Uriya	... 9th July 1885.
Punjab	...	...	Urdu	... 4th, 11th and 18th July 1885.
Central Provinces	...	...	Urdu	... 15th, 22nd and 29th June 1885.
Coorg	...	...	Maráthí	... 11th, 18th and 25th July 1885.
			Kánarese	... 1st July 1885.

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) T. C. HOPE.
 (") C. P. ILBERT.
 (") S. C. BAYLEY.

The 23rd September 1885.

D. FITZPATRICK,
 Secretary to the Government of India.



THE Bombay Government Gazette.

Published by Authority.

TUESDAY, 20TH OCTOBER 1885.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 3rd August 1885, and the assent of His Excellency the Viceroy and Governor General on the 17th September 1885, and is published for general information :—

Bombay Act No. IV. of 1885.

Bo. I. of 1884.
Bo. II. of
1884.

An Act to amend the Bombay Local Boards Act, 1884, and the Bombay District Municipal Act Amendment Act, 1884.

[First publication.]

Bo. I. of 1884
Whereas it is expedient to amend the Bombay Local Boards Act, 1884, in manner hereinafter appearing; It is enacted as follows :

1. For clause (c) of section 11 of the said Act the following shall be substituted, namely.

Amendment of clause (c) section 11 of Bombay Act I, of 1884.

“(c) who has been sentenced by a criminal court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence not having been subsequently reversed or quashed and whose disqualification on account of such sentence has not been

removed by an order which the Governor in Council is hereby empowered to make; if he shall think fit, in this behalf.”

2. The first paragraph of section 42 of the said Act is repealed.

3. In paragraph two of section 50 of the said Act the words “or of a letter of credit” shall be inserted after the word “cheque”.

4. In clause (b) of section 57 of the said Act the words “for which” shall be omitted.

Bo II. of
1884. Amend-
ment Act, 1884, in manner herein-
after appearing; It is further enacted as
follows:

Bo II. of
1884. Amend-
ment Act, 1884, the
following shall be sub-
stituted (namely):

5. For clause (c) of section 16 of the
said Bombay District
Municipal Act Amend-
ment Act, 1884, the
following shall be sub-
stituted (namely):

“(c) who has been sentenced by a
criminal court to imprisonment or whip-
ping for an offence punishable with impri-
sonment for a term exceeding six months,
or to transportation, such sentence not
having been subsequently reversed or
quashed and whose disqualification on
account of such sentence has not been
removed by an order which the Gover-
nor in Council is hereby empowered to
make, if he shall think fit, in this
behalf.”

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

Poona, 17th October 1885.

C. G. W. MACPHERSON,

Under Secretary to Government.

[Published with the "Bombay Government Gazette" on the 22nd October 1885.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 3rd August 1885, and the assent of His Excellency the Viceroy and Governor General on the 17th September 1885, and is published for general information :—

Bombay Act No. IV. of 1885.

An Act to amend the Bombay Local Boards Act, 1884, and the Bombay District Municipal Act Amendment Act, 1884.

Bo I of 1884
Bo II of
1884

[Second publication.]

The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 20th October 1885

Whereas it is expedient to amend the Bombay Local Boards Act, 1884, in manner hereinafter appearing; It is enacted as follows

1. For clause (c) of section 11 of the said Act the following shall be substituted, namely

Amendment of clause (c) section 11 of Bombay Act I, of 1884.

"(c) who has been sentenced by a criminal court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence not having been subsequently reversed or quashed and whose disqualification on account of such sentence has not been removed by an order which the Governor in Council is hereby empowered to make, if he shall think fit, in this behalf."

2. The first paragraph of section 42 of the said Act is repealed.

Repeal of paragraph 1 of section 42

3. In paragraph two of section 50 of the said Act the words "or of a letter of credit" shall be inserted after the word "cheque".

Amendment of section 50

4. In clause (b) of section 57 of the said Act the words "for which" shall be omitted.

Amendment of section 57, clause (b)

And whereas it is also expedient to amend the Bombay District Municipal Act Amendment Act, 1884, in manner hereinafter appearing; It is further enacted as follows:

5. For clause (c) of section 16 of the said Bombay District Municipal Act Amendment Act, 1884, the following shall be substituted (namely):

Amendment of section 16, clause (c) of Bombay Act II. of 1884.

"(c) who has been sentenced by a criminal court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence not having been subsequently reversed or quashed and whose disqualification on account of such sentence has not been removed by an order which the Governor in Council is hereby empowered to make, if he shall think fit, in this behalf."

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

Poona, 17th October 1885.

C. G. W. MACPHERSON,
Under Secretary to Government.

[Published with the "Bombay Government Gazette" on the 22nd October 1885.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 2nd October 1885, and was promulgated for general information in the *Gazette of India* on the 3rd October 1885.—

Act No XV. of 1885.

An Act to amend the *Local Authorities Loan Act, 1879.*

XI of 1879. WHEREAS it is expedient to amend the Local Authorities Loan Act, 1879, It is hereby enacted as follows.—

Addition to section 8, Act XI. of 1879.

1. After clause (b) of the proviso to section 8 of the said Act the following shall be added.—

"or

"(c) to affect the power conferred on any local authority by any such enactment to charge its funds by guaranteeing the payment of interest on money to be applied to any purpose to which the funds of the local authority can legally be applied."

D FITZPATRICK,
Secretary to the Government of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the Local Authorities Loan Act, 1879, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 23rd September 1885.—

WE, the undersigned, Members of the Select Committee to which the Bill to amend the Local

Authorities Loan Act, 1879, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report

From Secretary to Chief Commissioner, British Burma, No. 303—24L, dated 13th June 1885 [Paper No. 1].

From Secretary to Chief Commissioner, Assam, No 972, dated 18th June 1885 [Paper No. 2]

From Chief Commissioner, Ajmer-Merwara, No. 722, dated 3rd July 1885 [Paper No. 3].

From Secretary to Government, North-Western Provinces and Oudh, No. 3051—X-518, dated 10th July 1885 [Paper No 4].

From Officiating Secretary to Government, Punjab, No 731S, dated 17th July 1885, and enclosures [Papers No 5]

From Secretary for Berar to Resident, Hyderabad, No. 274G, dated 13th July 1885 [Paper No. 6].

From Secretary to Chief Commissioner, Coorg, No. 688—89, dated 14th July 1885 [Paper No. 7]

From Chief Secretary to Government, Madras, No. 1800, dated 10th July 1885, and enclosures [Papers No. 8]

From Under Secretary to Government, Bombay, No. 2054, dated 18th July 1885, and enclosures [Papers No 9]

From Officiating Secretary to Government, Bengal, No. 1370, dated 20th July 1885, and enclosures [Papers No. 10]

From Assistant Secretary to Chief Commissioner, Central Provinces, No 3052—147, dated 11th August 1885 [Paper No. 11]

2 It has been suggested that the term "raised" should be altered so as to include money devoted to any particular purpose by a person who may not have occasion to raise it, and we have accordingly substituted the words "apply to" for "raised for".

3 The only other alteration we have made in the Bill is a purely verbal one

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

In English.

Gazette.	Date
<i>Gazette of India</i>	16th, 23rd and 30th May 1885.
<i>Port St George Gazette</i>	2nd June 1885.
<i>Bombay Government Gazette</i>	23th May and 4th and 11th June 1885.
<i>Calcutta Gazette</i>	27th May and 3rd and 10th June 1885.
<i>North-Western Provinces and Oudh Government Gazette</i>	23rd and 30th May and 6th June 1885.
<i>Punjab Government Gazette</i>	21st and 28th May and 4th June 1885.
<i>Central Provinces Gazette</i>	23rd and 30th May and 6th June 1885.
<i>British Burma Gazette</i>	6th, 13th and 20th June 1885.
<i>Assam Gazette</i>	6th and 13th June 1885.
<i>Coorg District Gazette</i>	1st July 1885.

			<i>In the Vernaculars.</i>	
Province			Language	Date
Bombay	...	...	Maráthi	} 25th June 1885
			Gujaráthi	
			Kánarese	
			Sindhi	
Bengal	...	...	Bengálí	} 30th June 1885.
			Hindí	
			Uríya	... 9th July 1885
North-Western Provinces and Oudh			Urdu	... 4th, 11th and 18th July 1885
Punjab		..	Urdu	15th, 22nd and 29th June 1885.
Central Provinces	...	...	Maráthi	11th, 18th and 25th July 1885
Coorg		..	Kánarese	1st July 1885.

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) T C HOPE.
 (") C. P. ILBERT.
 (") S. C BAYLEY.

The 23rd September 1885

D FITZPATRICK,
 Secretary to the Government of India.



THE Bombay Government Gazette.

Published by Authority.

THURSDAY, 22ND OCTOBER 1885.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 16th October, 1885, and is hereby promulgated for general information:—

Act No. XVIII of 1885.

THE LAND ACQUISITION (MINES) ACT, 1885.

CONTENTS.

SECTION.

1. Short title, commencement and local extent.
 2. Saving for mineral rights of the Government.
 3. Declaration that mines are not needed.
 4. Notice to be given before working mines lying under land.
 5. Power to prevent or restrict working.
 6. Mode of determining persons interested and amount of compensation.
 7. If local Government does not offer to pay compensation, mines may be worked in a proper manner.
 8. Mining communications.
 9. Local Government to pay compensation for injury done to mines.
 10. And also for injury arising from any airway or other work.
 11. Power to officer of Local Government to enter and inspect the working of mines.
 12. Penalty for refusal to allow inspection.
 13. If mines worked contrary to provisions of this Act, Local Government may require means to be adopted for safety of land acquired.
 14. Construction of Act when land acquired has been transferred to a local authority or Company.
- IV.—14.

SECTION.

15. Pending cases.
16. Definition of local authority and Company.
17. This Act to be read with Land Acquisition Act, 1870.

An Act to provide cases in which Mines or Minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870.

WHEREAS it is expedient to provide for cases in which mines or minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870; It is hereby enacted as follows:—

1. (1) This Act may be called the Land Acquisition (Mines) Act, 1885, and
(2) It shall come into force at once,
(3) It extends in the first instance to the territories administered by the Governor of Madras in Council and the Lieutenant-Governor of Bengal, but any other Local Government may, from time to time, by notification in the official Gazette, extend this Act to the whole or any specified part of the territories under its administration.
2. Except as expressly provided by this Act, Saving for mineral nothing in this Act shall rights of the Government. affect the right of the Government to any mines or minerals.
3. (1) When the Local Government makes a Declaration that mines declaration under section 6 of the Land Acquisition Act, 1870, that land is needed for a public purpose or for a Company, it may, if it thinks fit, insert in the declaration a statement that the mines of coal, iron-stone, slate or other

X of 1870.

The Land Acquisition (Mines) Act, 1885.—Sections 4-9.

minerals lying under the land or any particular portion of the land, except only such parts of the mines or minerals as it may be necessary to dig or carry away or use in the construction of the work for the purpose of which the land is being acquired, are not needed.

(2) When a statement as aforesaid has not been inserted in the declaration made in respect of any land under section 6 of the Land Acquisition Act, 1870, and the Collector is of opinion that the provisions of this Act ought to be applied to the land, he may abstain from tendering compensation under section 11 of the said Land Acquisition Act in respect of the mines, and may—

- (a) when he makes an award under section 14 of that Act, insert such a statement in his award;
- (b) when he makes a reference to the Court under section 15 of that Act, insert such a statement in his reference; or
- (c) when he takes possession of the land under section 17 of that Act, publish such a statement in such manner as the Governor-General in Council may, from time to time, prescribe.

(3) If any such statement is inserted in the declaration, award or reference, or published as aforesaid, the mines of coal, iron-stone, slate or other minerals under the land or portion of the land specified in the statement, except as aforesaid, shall not vest in the Government when the land so vests under the said Act.

4 If the person for the time being immediately entitled to work or get any mines or minerals lying under any land so acquired is desirous of working or getting the same, he shall give the Local Government notice in writing of his intention so to do sixty days before the commencement of working.

5. (1) At any time or times after the receipt of a notice under the last foregoing section, and whether before or after the expiration of the said period of sixty days, the Local Government may cause the mines or minerals to be inspected by a person appointed by it for the purpose; and

(2) If it appears to the Local Government that the working or getting of the mines or minerals, or any part thereof, is likely to cause damage to the surface of the land or any works thereon, the Local Government may publish, in such manner as the Governor General in Council may, from time to time, direct, a declaration of its willingness either—

- (a) to pay compensation for the mines or minerals still unworked or ungot, or that part thereof, to all persons having an interest in the same; or
- (b) to pay compensation to all such persons in consideration of those mines or minerals, or that part thereof, being worked or gotten in such manner and subject to such restrictions as the Local Government may in its declaration specify

(3) If the declaration mentioned in case (a) is made, then those mines or minerals, or that part thereof, shall not thereafter be worked or gotten by any person.

(4). If the declaration mentioned in case (b) is made, then those mines or minerals, or that part thereof, shall not thereafter be worked or gotten by any person save in the manner and subject to the restrictions specified by the Local Government.

6. When the working or getting of any mines or minerals has been prevented or restricted under section 5, the persons interested in those mines or minerals and the amounts of compensation payable to them respectively shall, subject to all necessary modifications, be ascertained in the manner provided by the Land Acquisition Act, 1870, for ascertaining the persons interested in the land to be acquired under that Act, and the amounts of compensation payable to them, respectively,

7. (1) If before the expiration of the said sixty days the Local Government does not publish a declaration as provided in section 5, the owner, lessee or occupier of the mines may, unless and until such a declaration is subsequently made, work the mines or any part thereof in a manner proper and necessary for the beneficial working thereof, and according to the usual manner of working such mines in the local area where the same are situate.

(2) If any damage or obstruction is caused to the surface of the land or any works thereon by improper working of the mines, the owner, lessee or occupier of the mines shall at once, at his own expense, repair the damage or remove the obstruction, as the case may require.

(3) If the repair or removal is not at once effected, or, if the Local Government so thinks fit, without waiting for the same to be effected by the owner, lessee or occupier, the Local Government may execute the same and recover from the owner, lessee or occupier the expense occasioned thereby.

8. If the working of any mines is prevented or restricted under section 5, the respective owners, lessees and occupiers of the mines, if their mines extend so as to lie on both sides of the mines the working of which is prevented or restricted, may cut and make such and so many airways, headways, gateways or water-levels through the mines, measures or strata, the working whereof is prevented or restricted, as may be requisite to enable them to ventilate, drain and work their said mines; but no such airway, headway, gateway or water-level shall be of greater dimensions or section than may be prescribed by the Governor General in Council in this behalf, and, where no dimensions are so prescribed, not greater than eight feet wide and eight feet high, nor shall the same be cut or made upon any part of the surface or works, or so as to injure the same, or to interfere with the use thereof.

9. The Local Government shall, from time to time, pay to the owner, lessee or occupier of any such mines extending so as to lie on both sides of the mines, the working of

X of 1870.

X of 1870.

The Land Acquisition (Mines) Act, 1885.—(Sections 10-17.)

which is prevented or restricted, all such additional expenses and losses as may be incurred by him by reason of the severance of the lands lying over those mines or of the continuous working of those mines being interrupted as aforesaid, or by reason of the same being worked in such manner and under such restrictions as not to prejudice or injure the surface or works, and for any minerals not acquired by the Local Government which cannot be obtained by reason of the action taken under the foregoing sections; and if any dispute or question arises between the Local Government and the owner lessee or occupier as aforesaid, touching the amount of those losses or expenses, the same shall be settled as nearly as may be in the manner provided for the settlement of questions touching the amount of compensation payable under the Land Acquisition Act, 1870.

f 1870.

10. If any loss or damage is sustained by the owner or occupier of the lands lying over any such mines, the working whereof has been so prevented or restricted as aforesaid (and not being the owner, lessee or occupier of those mines), by reason of the making of any such airway or other works as aforesaid, which or any like work it would not have been necessary to make but for the working of the mines having been so prevented or restricted as aforesaid, the Local Government shall pay full compensation to that owner or occupier of the surface lands for the loss or damage so sustained by him.

11. For better ascertaining whether any mines lying under land acquired in accordance with the provisions of this Act are being worked, or have been worked, or are likely to be worked so as to damage the land or the works thereon, an officer appointed for this purpose by the Local Government may, after giving twenty-four hours' notice in writing enter into and return from any such mines or the works connected therewith; and for that purpose the officer so appointed may make use of any apparatus or machinery belonging to the owner, lessee or occupier of the mines, and use all necessary means for discovering the distance from any part of the land acquired to the parts of the mines which have been, are being, or are about to be worked.

12. If any owner, lessee or occupier of any such mines or works refuses to allow any officer appointed by the Local Government for that purpose to enter into and inspect any such mines or works in manner aforesaid, he shall be punished with fine which may extend to two hundred rupees.

13. If it appears that any such mines have been worked contrary to the provisions of this Act, the Local Government may, if it thinks fit, give notice to the owner, lessee or occupier thereof to construct such works and to adopt such means as may be necessary or proper for making safe the land acquired, and the works thereon, and preventing injury thereto; and, if after

such notice, any such owner, lessee or occupier does not forthwith proceed to construct the works, necessary for making safe the land acquired and the works thereon, the Local Government may itself construct the works and recover the expense thereof from the owner, lessee or occupier.

14. When a statement under section 3 has been made regarding any land, and the land has been acquired by the Local Government, and has been transferred to or has vested by operation of law in a local authority or Company, then sections 4 to 13, both inclusive, shall be read as if for the words "the Local Government" wherever they occur in those sections the words "the local authority or Company, as the case may be, which has acquired the land" were substituted.

15. (1) This Act shall apply to any land for the acquisition whereof proceedings under the Land Acquisition Act, 1870, are pending at the time when this Act comes into force, unless before that time the Collector has made, in respect of the land, an award under section 14 or a reference to the Court under section 15 of that Act, or has taken possession of the land under section 17 of the same.

(2) When the Collector has before the said time made an award or reference in respect of any such land or taken possession thereof as aforesaid, and all the persons interested in the land, or entitled under the Land Acquisition Act, 1870, to act for persons so interested, who have attended or may attend in the course of the proceedings under sections 11 to 15, both inclusive, of the Land Acquisition Act, 1870, consent in writing to the application of this Act to the land, the Collector may by an order in writing direct that it shall apply, and thereupon it shall be deemed to have applied from the commencement of the proceedings; and the Collector shall be deemed, as the case may be, to have inserted in his award or reference, or to have published in the prescribed manner, when he took possession, the statement mentioned in section 3 of this Act.

16. In this Act—

(a) "local authority" means any municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of any municipal or local fund; and

(b) "Company" means a Company registered under any of the enactments relating to Companies from time to time in force in British India, or formed in pursuance of an Act of Parliament or by Royal Charter or Letters Patent.

17. This Act shall, for the purposes of all enactments for the time being in force, be read with and taken as part of the Land Acquisition Act, 1870.

This Act to be read with Land Acquisition Act, 1870.

D. FITZPATRICK,

Secretary to the Government of India.

X of 1870.

X of 1870.

X of 1870

X of 1870

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to provide for cases in which Mines or Minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 23rd September 1885 :—

We, the undersigned, Members of the Select Committee to which the Bill to provide for cases in which Mines or Minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

2. Some of the Local Governments have objected to the Bill being applied to the provinces under their administration on the ground that, having regard to the manner in which the right to minerals is regulated in those provinces, it is unnecessary there, and that, if unnecessary, it would only prove an encumbrance and complication in the acquisition of lands. To meet these objections we have made the measure applicable by its own vigour only to the territories under

From Messrs. Macneill & Co., Managing Agents, Equitable Coal Company, Limited, dated 24th April 1885, and enclosure [Papers No. 1].
 From Officiating Secretary to Chief Commissioner, Assam, No. 649, dated 24th April 1885 [Paper No. 2]
 From Secretary to Chief Commissioner, Coorg, No. 206—25, dated 4th May 1885 [Paper No. 3]
 From Chief Commissioner, Ajmer-Merwara, No. 479, dated 7th May 1885, and enclosure [Papers No. 4]
 From Officiating Secretary to Chief Commissioner, British Burmah, No. 708-94R, dated 29th April 1885 [Paper No. 5].
 From Secretary for Berar to Resident, Hyderabad, No. 161G., dated 9th May 1885 [Paper No. 6]
 From Registrar, High Court, Calcutta, No. 1524, dated 15th May 1885 [Paper No. 7].
 From Chief Secretary to Government, Madras, No. 1251, dated 9th May 1885, and enclosures [Papers No. 8].
 From Under Secretary to Government, Bombay, No. 4381, dated 30th May 1885, and enclosures [Papers No. 9].
 From Secretary to Government, Bengal, No. 481 T.—R., dated 28th May 1885, and enclosures [Papers No. 10]
 From Officiating Junior Secretary to Government, Punjab, No. 544, dated 4th June, 1885, and enclosures [Papers No. 11]
 From Babu Gurdhar Das, Honorary Magistrate, Etawah, dated 8th May, 1885 [Paper No. 12]
 From Chief Secretary to Government, North-Western Provinces and Oudh, No. 1150—I 776, dated 30th June 1885, and enclosures [Papers No. 13]
 From Assistant Secretary to Chief Commissioner, Central Provinces, No. 2655—77, dated 11th July 1885 [Paper No. 14]

the administration of the Governor of Madras in Council and the Lieutenant Governor of Bengal, but have empowered the remaining Local Governments to extend it to the whole or any part of the territories administered by them if they think fit.

3. An apprehension has been expressed in some of the opinions received that the Bill might by implication affect the rights which the Crown has to all minerals throughout a very large portion of this country. Such an apprehension is, we believe, unfounded, but by way of greater precaution, and to prevent misapprehension we have inserted a section (2) saving the rights of the Crown.

4. Section 2 of the Bill as introduced required the Government to determine, before it issued its declaration under section 6 of the Land Acquisition Act, whether the land should be acquired simply under that Act, that is to say, including the minerals, or whether the special provisions of this Bill should be put in force with a view to excluding the minerals from the acquisition.

It has been represented that it is not for the interest of any of those concerned that an irrevocable determination should necessarily be come to on so important a point at a stage of the proceedings when the circumstances of the case would in all probability be imperfectly known. The Government, it will be observed on reference to the Land Acquisition Act, has a discretion to withdraw from a proposed acquisition of land up to a considerably later stage, and it seems but reasonable that it should have a discretion to exclude the minerals from the acquisition at any time up to the same stage if it turns out that their acquisition is not essential to the undertaking, and that either the owners are unwilling to part with them or the Government or the local authority or Company concerned is unwilling to pay their full value. We have accordingly (in section 3) empowered the Collector, who in such a matter would, of course, act under the control of the Government, to exclude the minerals from the acquisition at any time up to the stage of the proceedings at which the land vests, and it is no longer in the discretion of the Government to recede from the transaction.

5. It has been urged that the notice of thirty days to be given to the Government, under section 3 of the Bill as introduced, by a mine-owner desiring to work his mines, is too short having regard to the delays in communication in this country. We think the objection is reasonable, and we have accordingly (in section 4 of the amended Bill) extended the period to sixty days.

6. It has been held by the House of Lords in an important case (*Dixon v. The Caledonian Railway Co.*, 5 App. Ca. 820) that when a mine-owner gives notice under section 78 of the Railways Clauses Act, 1845, of his intention to work minerals, the Railway Company is not, for the purpose of giving its counter-notice to stop or control the working limited to the thirty days for which the mine-owner's notice runs, that the period of thirty days is merely prescribed as a period until the expiration of which the mine-owner is debarred from working, and that the Company can at any time give its counter-notice, though of course if given at any time after the thirty days had expired and the workings had been commenced it would have no effect except as regards the further progress of the workings. The opposite view, as was pointed out by their Lordships, would involve somewhat serious consequences, and it is obviously necessary that there should be no mistake as to the effect of the Bill in this respect. It would doubtless have been sufficient, so far as regards the ultimate result, if we followed the exact

wording of the English Act, on the main lines of which we are proceeding throughout. The highest Courts in this country would, as a matter of course, follow the decision of the House of Lords, but it is to be apprehended that inferior authorities might in many cases be ignorant of that decision, and might mistake the effect of the wording of the English Act, which, it must be admitted, is by no means clear. We have therefore thought it safer to amend the sections concerned in such a manner that they will, in a clear and unmistakable way, express the effect of the English Act as construed by the House of Lords.

7. Another important English decision which points to an amendment of the Bill is that in *Smith v. Great Western Railway Co.* (2 Ch. D. 2351, and in appeal before the House of Lords, 3 App. Ca. 165) We may have, under a Bill of this sort, a state of things to deal with, of which that case affords an illustration, where one person holding under a terminable lease has an immediate right to work the minerals, and another person is entitled to the reversion on the expiration of the lease and, perhaps, to a rent or royalty during its continuance. The lease may or may not be of such a length as to admit of all the minerals being worked out during its continuance, and it may or may not be liable to be put an end to by forfeiture, or otherwise, before the expiration of its term. The provisions of the English Act, which deal specially with the subject now before us, and which have been incorporated in this Bill, were found inadequate to provide for the exigencies of such a state of things as that referred to. They probably contemplate a settlement only with the person immediately entitled to work the mines, and, in order to provide for the case of a reversioner or other person interested, it was found necessary to call in the aid of a general provision of the law which would be out of place in a Bill like this.

It appears to us that the simplest mode of dealing with the various interests that may co-exist in the mines is to require, in accordance with the scheme of the Land Acquisition Act, that they should all, whether present or future, be considered and compensated for simultaneously whenever the owner of the surface has occasion to exercise his power of stopping or controlling the working.

We have accordingly provided in effect, that where the person immediately entitled to work the mines intimates to the owner of the surface his intention to work them, and the latter after that determines to stop or control the working, the settlement of compensation must extend to all persons interested in the mines, and the stoppage or control will be binding in perpetuity on all alike.

8. We have introduced three new sections (8, 9 and 10), corresponding to sections 80, 81 and 82 of the Railways Clauses Act, 1845. We question whether the object of these sections would not have been otherwise attained through the medium of the Land Acquisition Act, the provisions of which were made applicable by section 6 of the Bill as introduced; but as importance appeared to be attached to them in the memorial of the Coal Companies, we have thought it better to remove all doubt by including them. They will doubtless overlap section 6 of the Bill, but no practical harm will result from this.

9. An objection has been taken in some quarters to section 11 of the Bill as introduced (now section 14), which in effect gives to certain Companies the powers conferred on the Local Government by some of the foregoing provisions of the Bill. It appears to be overlooked that the section in question can apply only to Companies established for such purposes and occupying such a position, from a public point of view, as would warrant the Government in acquiring land on their behalf. In particular it is provided, by sections 48 and 49 of the Land Acquisition Act, that land shall not be acquired for a Company under that Act unless it is needed for a work likely to prove useful to the public, and the Company enters into an agreement with the Government settling, among other matters, the time within which and the conditions on which the work shall be executed and maintained and the terms on which the public shall be entitled to use it.

10. We may further observe that there appears from some of the papers considered by us to be a certain amount of misapprehension as to the nature of the powers referred to.

If the Local Government or the Company exercising the powers of the Local Government neglects to come to terms with the mine-owner on his giving notice of his intention to work, it does so at the risk of its property. If, considering that the mine-owner is working improperly, it takes steps under section 7 (new numbering) to remedy the mischief with a view to charging the mine-owner with the cost, it does so at the risk of losing its money and of incurring serious legal consequences if the Court before which the case may ultimately come takes a different view of the matter. Similarly, if it considers that the mines are being worked contrary to the provisions of the Act and proceeds to take steps under section 13 (new numbering), it still acts at its own risk, for it is by no means certain that it will appear to the Court that the mines were being so worked.

Thus the powers in question are very far from being so formidable as has been supposed, and we may add that they are framed as closely as possible on the lines of those conferred by Parliament on Railway Companies in England, the substance of which seems generally to have met with approval.

11. We have placed "local authorities" on a footing similar to that of Companies, as in many recent Acts the provisions of the Land Acquisition Act have been made applicable for the purpose of acquiring land for such authorities.

12. We are informed that there are certain land acquisition cases pending at this moment in Bengal which have already proceeded beyond the stage at which the provisions of this measure would in its ordinary course be applicable to them, but in which it may nevertheless be thought desirable to have the benefit of it. To meet this, we have inserted a clause (15 (2)) which will admit of the Bill being applied in such cases if those concerned unanimously desire that it should.

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

		<i>In English.</i>		
	<i>Gazette.</i>			<i>Date</i>
<i>Gazette of India</i>	28th February and 7th and 14th March 1885.
<i>Fort Saint George Gazette</i>	17th March 1885.
<i>Bombay Government Gazette</i>	12th March 1885.
<i>Calcutta Gazette</i>	11th March 1885.
<i>North-Western Provinces and Oudh Government Gazette</i>	14th, 21st and 28th March 1885.
<i>Punjab Government Gazette</i>	26th March and 2nd and 9th April 1885.
<i>Central Provinces Gazette</i>	14th and 21st March and 4th April 1885.
<i>British Burma Gazette</i>	28th March and 4th and 11th April 1885.
<i>Assam Gazette</i>	4th, 11th and 18th April 1885.
<i>Coorg District Gazette</i>	1st May 1885.

In the Vernaculars.

<i>Province.</i>		<i>Language.</i>	<i>Date.</i>
Bombay	...	Maráthí	} 30th April 18 85.
	...	Gujaráthí	
	...	Kanarese	11th May 1885.
	...	Síndhí	23rd April 1885
Bengal	...	Bengalí	17th March 1885.
	...	Hindí	31st March 1885.
	...	Uriya	26th March 1885
North-Western Provinces and Oudh...	...	Urdu	11th, 18th and 25th April 1885
Punjab	...	Urdu	27th April and 4th and 11th May 1885.
Central Provinces	...	Maráthí	9th, 16th and 23rd May 1885.
	...	Hindí	25th April and 2nd and 9th May 1885.
British Burma	...	Burmese	2nd, 9th and 16th May 1885.
Assam	...	Bengalí	4th April 1885.

14. 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) T. C. HOPE.

(") C. P. ILBERT.

(") S. C. BAYLEY.

The 23rd September 1885.

D. FITZPATRICK,
Secretary to the Government of India.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General, on the 16th October 1885, and was promulgated for general information in the *Gazette of India* on the 17th October 1885.

Act No XIX. of 1885.

An Act to amend the law relating to Government Securities.

WHEREAS it is expedient to amend the law relating to Government securities in manner herein-after appearing; It is hereby enacted as follows:—

Short title and commencement. 1. (1) This Act may be called the Indian Securities Act, 1885; and

(2) It shall come into force at once.

Definitions.

2. In this Act—

The expression "Government security" includes promissory notes, debentures, stock certificates, and all other securities issued by the Government of India or by any Local Government in respect of any loan issued under notification in the official Gazette, whether before or after the passing of this Act, but does not include a stock note or a currency note; and

"prescribed" means prescribed by rules made from time to time by the Governor General in Council in this behalf.

[X of 1872

3. (1) Notwithstanding anything contained in the Indian Contract Act, section 45, when a Government security issued before the first day of April 1886, is payable to two or more persons jointly and any of them dies, the security shall be payable to the survivor or survivors of those persons.

(2) Nothing herein contained shall affect any claim which the representative of the deceased person may have against the survivor or survivors in respect of the security jointly payable to them and the deceased.

(3) This section shall apply whether the death of the person to whom the security was jointly payable occurred or occurs before or after this Act comes into force.

4. A person claiming to be entitled to a Government security as payable to him under an endorsement may, on satisfying the prescribed officer of the justice of his claim and paying the prescribed fee and delivering the security duly receipted to the prescribed officer, obtain from the officer a renewed security issued payable to himself.

5. (1) When a Government security alleged to have been wholly or partly lost or destroyed, and a person claims to be the person to whom but for such loss or destruction it would be payable, he may on application to the prescribed officer, and on producing

proof to his satisfaction of the loss or destruction and of the justice of the claim, obtain from him an order for—

(a) the payment of interest in respect of the security said to be lost or destroyed pending the issue of a duplicate security, and

(b) the issue of a duplicate security payable to the applicant.

(2) An order shall not be passed under sub-section (1) until after the issue of the prescribed notification of the loss or destruction and after the expiration of the prescribed period, nor until the applicant has given the prescribed indemnity against the claims of all persons deriving title under the security lost or destroyed.

(3) A list of the securities in respect of which an order is passed under sub-section (1) shall be published in the *Gazette of India* at such times as the Governor General in Council may, from time to time, direct.

6. When a renewed security has been issued under section 4, or a duplicate security has been issued under section 5, the Government shall be discharged of all liability in respect of the original security of which such renewed or duplicate security has been issued—

Period after which Government is released from liability in respect of original security.

(a) in the case of a renewed security, after the lapse of six years from the date of the issue of the renewed security;

(b) in the case of a duplicate security, after the lapse of six years from the date of the publication under section 5, sub-section (3), of the list in which the security is first mentioned, or from the date of the last payment of interest on the original security, whichever date is latest

7 The Governor General in Council may, from time to time, make rules to prescribe—

(a) the fees to be paid for applications under sections 4 and 5;

(b) the form in which securities delivered for renewal are to be receipted;

(c) the officer who is to exercise all or any of the powers and perform all or any of the duties prescribed by sections 4 and 5;

(d) the proof which is to be produced by persons applying for duplicate securities;

(e) the form and mode of publication of the notification mentioned in section 5, and the period after which interest may be paid or a duplicate security may be issued under that section;

(f) the nature and amount of the indemnity to be given by a person applying under section 5 for the payment of interest or the issue of a duplicate security; and

(g) generally all matters connected with the grant of renewed and duplicate securities.

8 (1) The Governor General in Council shall, before making rules under the last foregoing section, publish a draft of the proposed rules in such manner as may, in his opinion, be sufficient for the information of the public.

(2) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(3) The Governor General in Council shall receive and consider any objection or suggestion

which may be made by any person with respect to the draft before the date so specified.

(4) Every rule made under the last foregoing section shall be published in the *Gazette of India*, and the publication in the *Gazette of India* of a rule purporting to be made under that section shall be conclusive evidence that it has been duly made.

D. FITZPATRICK,

Secretary to the Government of India.

LEGISLATIVE DEPARTMENT.

The following report of the Select Committee on the Bill to amend the law relating to Government Securities was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 8th October 1885 —

We, the undersigned, Members of the Select Committee to which the Bill to amend the law relating to Government Securities 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 only substantive alteration we have made in the Bill is in section 3, which, in cases in which one of a number of joint-holders of a Government security dies, applies what we may term the rule of survivorship as opposed to the rule of representation laid down by section 45 of the Indian Contract Act. The reasons which led to the insertion of this provision are fully set forth in the Statement of Objects and Reasons: but

From Officiating Secretary to Chief Commissioner, British Burma, No 92-17L, dated 7th May 1885, and enclosure [Papers No. 1].

From Officiating Secretary to Chief Commissioner, Assam, No 746, dated 11th May 1885, and enclosure [Papers No. 2].

From Secretary for Berar to Resident, Hyderabad, No. 178G, dated 18th May 1885 [Paper No. 3].

From Babu Gurdhar Das, Honorary Magistrate, Etawah, dated 18th May 1885 [Paper No. 4].

From Chief Commissioner, Ajmer-Merwara, No. 645, dated 17th June 1885 [Paper No. 5].

From Officiating Secretary to Government, Madras, No. 1455, dated 3rd June 1885, and enclosures [Papers No. 6].

From Secretary to Government, North-Western Provinces and Oudh, No 2793-X.395, dated 26th June 1885 [Paper No. 7].

From Registrar, High Court, Calcutta, No 1898, dated 24th June 1885 [Paper No. 8].

From Secretary to Chief Commissioner, Coorg, No. 522-58, dated 23rd June 1885 [Paper No. 9].

From Officiating Secretary to Government, Bengal, No. 1304T.F., dated 26th June 1885, and enclosures [Papers No. 10].

From Officiating Secretary to Government, Punjab, No. 5208, dated 1st July 1885, and enclosures [Papers No. 11].

Telegram from Chief Commissioner, Central Provinces, dated 1st July 1885 [Paper No. 12].

From Under Secretary to Government, Bombay, No 1869, dated 27th June 1885, and enclosure [Papers No. 13].

From Secretary to Government of India, Legislative Department, to Solicitor to Government of India, No. 1379, dated 28th August 1885, from Solicitor to Government of India, No 1163, dated 17th September 1885, and enclosure [Papers No. 14.]

we find that a considerable difference of opinion exists regarding it.

3. On the one hand, it is urged, among others, by so high an authority as the Advocate General of Bengal, that this provision should be generalized and extended to other classes of obligations besides those arising on Government securities.

On the other hand, it is argued in several of the papers that the rule of survivorship as applied to instruments of the description in question is one that does not fit in with the habits and ideas of certain classes of the Native population, and might, if extended to those classes as an absolutely binding rule, open a door to the perpetration of frauds.

The question thus raised is of considerable importance and difficulty. We do not think that we should be justified in entering fully upon it here in the absence of those members of the Council most competent to advise on legal and commercial matters, and we accordingly propose, with a view to avoiding it as far as possible, to confine the section to Government securities already issued, or which may be issued before the 1st of April next.

4. As regards securities already issued, the law must be settled without any further delay, the delay which has taken place in obtaining opinions on the Bill having already led to considerable public inconvenience. Moreover, as it is impracticable to make any distinctions among those securities, one and the same rule must be laid down for all, and it is clear that that rule must be the rule of survivorship. The rule of survivorship has hitherto been applied to them, as well after the passing of the Contract Act as before, subject at most to rare exceptions or qualifications. It is the rule that is most suitable to the great majority of those who hold those securities, and if in exceptional cases it should be found to be less suitable it must be remembered that those securities have been issued under a system which contemplated its application.

5. On the other hand, there is no necessity to settle the question at this moment as regards securities to be issued for all time to come, especially as a simple mode of providing, without the aid of the legislature, for securities to be hereafter issued has been proposed.

It has been suggested that it could be so arranged in the Loan Department of the Government that it should be in the option of persons, in whose favour securities are first issued or to whom they are subsequently transferred by endorsement, either to take them simply in their several names, that is to say, in favour *e.g.*, of "A, B and C," without qualification, in which case the rule of the Contract

Act would apply, or to take them under words giving a right of survivorship, as, e.g., in favour of "A, B and C, and the survivor or survivors of them," in which case we are advised the rule of the Contract Act would be excluded and the rule of survivorship would apply. This, it has been argued, would be likely to afford a more satisfactory solution of the difficulty as regards securities to be hereafter issued than any enactment establishing either the rule of survivorship or that of representation in a hard-and-fast manner, as it would leave it open to all concerned to adopt for themselves the rule best adapted to their requirements.

It is urged, on the other hand, that the requirements of the new system would be likely for some time to be overlooked, and that considerable hardship and inconvenience would thus result, but this danger might perhaps be averted by some device, such as that of a warning enfacé on the security in such a way as to attract attention.

We do not, however, recommend that any determination should be arrived at on this matter until it has undergone the fullest discussion. It will doubtless be settled during the course of the Calcutta Session; and we think that we are acting most in accord with the balance of convenience, and so as to occasion the least amount of disturbance in existing relations, by recommending that, as regards securities issued meantime, i.e., say up to the 1st of April next, the law should be placed on the same footing as for securities already issued, that is to say, that the rule of survivorship should apply.

6. The remaining changes which we have made in the Bill, being confined to matters of form or drafting, do not call for special notice. We may, however, mention that we have introduced words in the definition of "Government security" to make it clear that the Bill does not apply to stock notes or currency notes—classes of securities to which, as they are otherwise provided for, it was never intended to apply.

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

		<i>In English.</i>	
<i>Gazette</i>			<i>Date</i>
<i>Gazette of India</i>		14th, 21st and 28th March 1885.
<i>Fort St George Gazette</i>		8th April 1885
<i>Bombay Government Gazette</i>		26th March and 2nd and 9th April 1885
<i>Calcutta Gazette...</i>		25th March and 1st and 8th April 1885
<i>North-Western Provinces and Oudh Government Gazette</i>		28th March and 4th and 11th April 1885
<i>Punjab Government Gazette</i>		9th, 16th and 23rd April 1885.
<i>Central Provinces Gazette</i>		28th March and 4th and 11th April 1885.
<i>British Burma Gazette</i>		11th, 18th and 25th April 1885
<i>Assam Gazette</i>		11th, 18th and 25th April 1885.
<i>Coorg District Gazette</i>		1st May 1885

		<i>In the Vernaculars.</i>	
<i>Province</i>		<i>Language.</i>	<i>Date.</i>
Madras	... ..	Telugu	... 12th May 1885.
		Kanarese	.. 26th June 1885
		Tamil	. 9th June 1885.
		Malayalam	!.. 16th June 1885
		Hindustani	.. 16th June 1885
Bombay	... ..	Gujarathi	.. 23rd April 1885.
		Marathi	... 30th June 1885.
		Kanarese	. 7th May 1885
Bengal	... ..	Sindhi	30th April-1885
		Bengali	... 21st April 1885
		Hindi	... 21st and 28th April and 5th May 1885.
North-Western Provinces and Oudh	... ..	Urdu	... 7th May 1885
		Urdu	... 2nd, 9th and 16th May 1885
Punjab	... ..	Urdu	.. 18th and 25th May and 1st June 1885.
Central Provinces	... ..	Marathi	... 9th, 16th and 23rd May 1885
		Hindi	.. 6th, 13th and 20th June 1885
Assam	... ..	Bengali	... 2nd May 1885.

8. 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) A. COLVIN.
(") C. P. LLBERT.

The 8th October 1885.

D. FITZPATRICK,
Secretary to the Government of India.

[Published with the "Bombay Government Gazette" on the 29th October 1885.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 3rd August 1885, and the assent of His Excellency the Viceroy and Governor General on the 17th September 1885, and is published for general information:—

Bombay Act No. IV. of 1885.

Bo. I of 1884.
Bo. II of
1884

An Act to amend the Bombay Local Boards Act, 1884, and the Bombay District Municipal Act Amendment Act, 1884.

[Third publication.]

The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 20th October 1885

Bo I of 1884. Whereas it is expedient to amend the Bombay Local Boards Act, 1884, in manner hereinafter appearing; It is enacted as follows:

Amendment of clause (c) section 11 of Bombay Act I, of 1884

1. For clause (c) of section 11 of the said Act the following shall be substituted, namely:

"(c) who has been sentenced by a criminal court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence not having been subsequently reversed or quashed and whose disqualification on account of such sentence has not been removed by an order which the Governor in Council is hereby empowered to make, if he shall think fit, in this behalf."

Repeal of paragraph 1 of section 42

2. The first paragraph of section 42 of the said Act is repealed.

Amendment of section 50.

3. In paragraph two of section 50 of the said Act the words "or of a letter of credit" shall be inserted after the word "cheque".

4. In clause (b) of section 57 of the said Act the words "for which" shall be omitted.

Amendment of section 57, clause (b)

And whereas it is also expedient to amend the Bombay District Municipal Act Bo. II. Amendment Act, 1884, in manner hereinafter appearing; It is further enacted as follows:

5. For clause (c) of section 16 of the said Bombay District Municipal Act Amendment Act, 1884, the following shall be substituted (namely):

Amendment of section 16, clause (c) of Bombay Act II. of 1884.

"(c) who has been sentenced by a criminal court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence not having been subsequently reversed or quashed and whose disqualification on account of such sentence has not been removed by an order which the Governor in Council is hereby empowered to make, if he shall think fit, in this behalf."

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

Poona, 17th October 1885.

C. G. W. MACPHERSON,
Under Secretary to Government.

[Published with the "Bombay Government Gazette" on the 29th October 1885.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 16th October, 1885, and is hereby promulgated for general information:—

Act No. XVIII of 1885.

THE LAND ACQUISITION (MINES) ACT, 1885.

CONTENTS.

SECTION.

1. Short title, commencement and local extent.
2. Saving for mineral rights of the Government.
3. Declaration that mines are not needed
4. Notice to be given before working mines lying under land.
5. Power to prevent or restrict working
6. Mode of determining persons interested and amount of compensation.
7. If local Government does not offer to pay compensation, mines may be worked in a proper manner.
8. Mining communications.
9. Local Government to pay compensation for injury done to mines
10. And also for injury arising from any airway or other work.
11. Power to officer of Local Government to enter and inspect the working of mines.
12. Penalty for refusal to allow inspection.
13. If mines worked contrary to provisions of this Act, Local Government may require means to be adopted for safety of land acquired.
14. Construction of Act when land acquired has been transferred to a local authority or Company
15. Pending cases.
16. Definition of local authority and Company.
17. This Act to be read with Land Acquisition Act, 1870

An Act to provide for cases in which Mines or Minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870.

WHEREAS it is expedient to provide for cases in which mines or minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870; It is hereby enacted as follows:—

IV.—16—2

1. (1) This Act may be called the Land Acquisition (Mines) Act, 1885; and

(2) It shall come into force at once.

(3) It extends in the first instance to the territories administered by the Governor of Madras in Council and the Lieutenant-Governor of Bengal, but any other Local Government may, from time to time, by notification in the official Gazette, extend this Act to the whole or any specified part of the territories under its administration.

2. Except as expressly provided by this Act, Saving for mineral nothing in this Act shall rights of the Government affect the right of the Government to any mines or minerals.

3. (1) When the Local Government makes a Declaration that mines declaration under section 6 of the Land Acquisition Act, 1870, that land is needed for a public purpose or for a Company, it may, if it thinks fit, insert in the declaration a statement that the mines of coal, iron-stone, slate or other minerals lying under the land or any particular portion of the land, except only such parts of the mines or minerals as it may be necessary to dig or carry away or use in the construction of the work for the purpose of which the land is being acquired, are not needed.

(2) When a statement as aforesaid has not been inserted in the declaration made in respect of any land under section 6 of the Land Acquisition Act, 1870, and the Collector is of opinion that the provisions of this Act ought to be applied to the land, he may abstain from tendering compensation under section 11 of the said Land Acquisition Act in respect of the mines, and may—

- (a) when he makes an award under section 14 of that Act, insert such a statement in his award;
- (b) when he makes a reference to the Court under section 15 of that Act, insert such a statement in his reference, or
- (c) when he takes possession of the land under section 17 of that Act, publish such a statement in such manner as the Governor-General in Council may, from time to time, prescribe.

(3) If any such statement is inserted in the declaration, award or reference, or published as aforesaid, the mines of coal, iron-stone, slate or other minerals under the land or portion of the land specified in the statement, except as aforesaid, shall not vest in the Government when the land so vests under the said Act.

X of 1870.

The Land Acquisition (Mines) Act, 1885.—(Sections 4-10.)

4. If the person for the time being immediately entitled to work or get before working mines lying under any land so acquired is desirous of working or getting the same, he shall give the Local Government notice in writing of his intention so to do sixty days before the commencement of working.

5. (1) At any time or times after the receipt of a notice under the last foregoing section, and whether before or after the expiration of the said period of sixty days, the Local Government may cause the mines or minerals to be inspected by a person appointed by it for the purpose; and

(2) If it appears to the Local Government that the working or getting of the mines or minerals, or any part thereof, is likely to cause damage to the surface of the land or any works thereon, the Local Government may publish, in such manner as the Governor General in Council may, from time to time, direct, a declaration of its willingness either—

(a) to pay compensation for the mines or minerals still unworked or ungoten, or that part thereof, to all persons having an interest in the same; or

(b) to pay compensation to all such persons in consideration of those mines or minerals, or that part thereof, being worked or gotten in such manner and subject to such restrictions as the Local Government may in its declaration specify

(3) If the declaration mentioned in case (a) is made, then those mines or minerals, or that part thereof, shall not thereafter be worked or gotten by any person.

(4) If the declaration mentioned in case (b) is made, then those mines or minerals, or that part thereof, shall not thereafter be worked or gotten by any person save in the manner and subject to the restrictions specified by the Local Government.

6. When the working or getting of any mines or minerals has been prevented or restricted under section 5, the persons interested in those mines or minerals and the amounts of compensation payable to them respectively shall, subject to all necessary modifications, be ascertained in the manner provided by the Land Acquisition Act, 1870, for ascertaining the persons interested in the land to be acquired under that Act, and the amounts of compensation payable to them, respectively.

7. (1) If before the expiration of the said sixty days the Local Government does not publish a declaration as provided in section 5, the owner, lessee or occupier of the mines may, unless and until such a declaration is subsequently made, work the mines or any part thereof in a manner proper and necessary for the beneficial working thereof, and according to the usual manner of working such mines in the local area where the same are situate.

(2) If any damage or obstruction is caused to the surface of the land or any works thereon by improper working of the mines, the owner, lessee or occupier of the mines shall at once, at his own expense, repair the damage or remove the obstruction, as the case may require.

(3) If the repair or removal is not at once effected, or, if the Local Government so thinks fit, without waiting for the same to be effected by the owner, lessee or occupier, the Local Government may execute the same and recover from the owner, lessee or occupier the expense occasioned thereby.

8. If the working of any mines is prevented or restricted under section 5, the respective owners, lessees and occupiers of the mines, if their mines extend so as to lie on both sides of the mines the working of which is prevented or restricted, may cut and make such and so many airways, headways, gateways or water-levels through the mines, measures or strata, the working whereof is prevented or restricted, as may be requisite to enable them to ventilate, drain and work their said mines; but no such airway, headway, gateway or water-level shall be of greater dimensions or section than may be prescribed by the Governor General in Council in this behalf, and, where no dimensions are so prescribed, not greater than eight feet wide and eight feet high, nor shall the same be cut or made upon any part of the surface or works, or so as to injure the same, or to interfere with the use thereof.

9. The Local Government shall, from time to time, pay to the owner, lessee or occupier of any such mines extending so as to lie on both sides of the mines, the working of which is prevented or restricted, all such additional expenses and losses as may be incurred by him by reason of the severance of the lands lying over those mines or of the continuous working of those mines being interrupted as aforesaid, or by reason of the same being worked in such manner and under such restrictions as not to prejudice or injure the surface or works, and for any minerals not acquired by the Local Government which cannot be obtained by reason of the action taken under the foregoing sections; and if any dispute or question arises between the Local Government and the owner, lessee or occupier as aforesaid, touching the amount of those losses or expenses, the same shall be settled as nearly as may be in the manner provided for the settlement of questions touching the amount of compensation payable under the Land Acquisition Act, 1870.

10. If any loss or damage is sustained by the owner or occupier of the lands lying over any such mines, the working whereof has been so prevented or restricted as aforesaid (and not being the owner, lessee or occupier of those mines), by reason of the making of any such airway or other works as aforesaid, which or any like work it would not have been necessary to make but for the working of the mines having been so prevented or restricted as aforesaid, the Local Government shall pay full

The Land Acquisition (Mines) Act, 1885.—(Sections 11-17.)

compensation to that owner or occupier of the surface lands for the loss or damage so sustained by him.

11. For better ascertaining whether any mines lying under land acquired in accordance with the provisions of this Act are being worked, or have been worked, or are likely to be worked so as to damage the land or the works thereon, an officer appointed for this purpose by the Local Government may, after giving twenty-four hours' notice in writing enter into and return from any such mines or the works connected therewith; and for that purpose the officer so appointed may make use of any apparatus or machinery belonging to the owner, lessee or occupier of the mines, and use all necessary means for discovering the distance from any part of the land acquired to the parts of the mines which have been, are being, or are about to be worked.

12. If any owner, lessee or occupier of any such mines or works refuses to allow any officer appointed by the Local Government for that purpose to enter into and inspect any such mines or works in manner aforesaid, he shall be punished with fine which may extend to two hundred rupees.

13. If it appears that any such mines have been worked contrary to the provisions of this Act, the Local Government may, if it thinks fit, give notice to the owner, lessee or occupier thereof to construct such works and to adopt such means as may be necessary or proper for making safe the land acquired, and the works thereon, and preventing injury thereto; and, if after such notice, any such owner, lessee or occupier does not forthwith proceed to construct the works, necessary for making safe the land acquired and the works thereon, the Local Government may itself construct the works and recover the expense thereof from the owner, lessee or occupier.

14. When a statement under section 3 has been made regarding any land, and the land has been acquired by the Government, and has been transferred to or has vested by operation of law in a local authority or Company, then sections 4 to 13, both

inclusive, shall be read as if for the words "the Local Government" wherever they occur in those sections the words "the local authority or Company, as the case may be, which has acquired the land" were substituted.

15. (1) This Act shall apply to any land for the acquisition whereof proceedings under the Land Acquisition Act, 1870, are pending at the time when this Act comes into force, unless before that time the Collector has made, in respect of the land, an award under section 14 or a reference to the Court under section 15 of that Act, or has taken possession of the land under section 17 of the same.

(2) When the Collector has before the said time made an award or reference in respect of any such land or taken possession thereof as aforesaid, and all the persons interested in the land, or entitled under the Land Acquisition Act, 1870, to act for persons so interested, who have attended or may attend in the course of the proceedings under sections 11 to 15, both inclusive, of the Land Acquisition Act, 1870, consent in writing to the application of this Act to the land, the Collector may by an order in writing direct that it shall apply, and thereupon it shall be deemed to have applied from the commencement of the proceedings; and the Collector shall be deemed, as the case may be, to have inserted in his award or reference, or to have published in the prescribed manner, when he took possession, the statement mentioned in section 3 of this Act.

Definition of local authority and Company.

16 In this Act—

(a) "local authority" means any municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of any municipal or local fund; and

(b) "Company" means a Company registered under any of the enactments relating to Companies from time to time in force in British India, or formed in pursuance of an Act of Parliament or by Royal Charter or Letters Patent.

17. This Act shall, for the purposes of all enactments for the time being in force, be read with and taken as part of the Land Acquisition Act, 1870.

D. FITZPATRICK,

Secretary to the Government of India.

X of 1870

X of 1870

X of 1870

X of 1870

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to provide for cases in which Mines or Minerals are situate under land which it is desired to acquire under the land Acquisition Act, 1870, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 23rd September 1885 :—

We, the undersigned, Members of the Select Committee to which the Bill to provide for cases in which Mines or Minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

2. Some of the Local Governments have objected to the Bill being applied to the provinces under their administration on the ground that, having regard to the manner in which the right to minerals is regulated in those provinces, it is unnecessary there, and that, if unnecessary, it would only prove an encumbrance and complication in the acquisition of lands. To meet these objections we have made the measure applicable by its own vigour only to the territories under the administration of the Governor of Madras in Council and the Lieutenant Governor of Bengal, but have empowered the remaining Local Governments to extend it to the whole or any part of the territories administered by them if they think fit.

3. An apprehension has been expressed in some of the opinions received that the Bill might by implication affect the rights which the Crown has to all minerals throughout a very large portion of this country. Such an apprehension is, we believe, unfounded, but by way of greater precaution, and to prevent misapprehension we have inserted a section (2) saving the rights of the Crown.

4. Section 2 of the Bill as introduced required the Government to determine, before it issued its declaration under section 6 of the Land Acquisition Act, whether the land should be acquired simply under that Act, that is to say, including the minerals, or whether the special provisions of this Bill should be put in force with a view to excluding the minerals from the acquisition.

It has been represented that it is not for the interest of any of those concerned that an irrevocable determination should necessarily be come to on so important a point at a stage of the proceedings when the circumstances of the case would in all probability be imperfectly known. The Government, it will be observed on reference to the Land Acquisition Act, has a discretion to withdraw from a proposed acquisition of land up to a considerably later stage, and it seems but reasonable that it should have a discretion to exclude the minerals from the acquisition at any time up to the same stage if it turns out that their acquisition is not essential to the undertaking, and that either the owners are unwilling to part with them or the Government or the local authority or Company concerned is unwilling to pay their full value. We have accordingly (in section 3) empowered the Collector, who in such a matter would, of course, act under the control of the Government, to exclude the minerals from the acquisition at any time up to the stage of the proceedings at which the land vests, and it is no longer in the discretion of the Government to recede from the transaction.

5. It has been urged that the notice of thirty days to be given to the Government, under section 3 of the Bill as introduced, by a mine-owner desiring to work his mines, is too short having regard to the delays in communication in this country. We think the objection is reasonable, and we have accordingly (in section 4 of the amended Bill) extended the period to sixty days.

6. It has been held by the House of Lords in an important case (*Dixon v. The Caledonian Railway Co.*, 5 App. Ca. 820) that when a mine-owner gives notice under section 78 of the Railways Clauses Act, 1845, of his intention to work minerals, the Railway Company is not, for the purpose of giving its counter-notice to stop or control the working limited to the thirty days for which the mine-owner's notice runs, that the period of thirty days is merely prescribed as a period until the expiration of which the mine-owner is debarred from working, and that the Company can at any time give its counter-notice, though of course if given at any time after the thirty days had expired and the workings had been commenced it would have no effect except as regards the further progress of the workings. The opposite view, as was pointed out by their Lordships, would involve somewhat serious consequences, and it is obviously necessary that there should be no mistake as to the effect of the Bill in this respect. It would doubtless have been sufficient, so far as regards the ultimate result, if we followed the exact

From Messrs. Macneill & Co., Managing Agents, Equitable Coal Company, Limited, dated 24th April 1885, and enclosure [Papers No. 1]
 From Officiating Secretary to Chief Commissioner, Assam, No. 649, dated 24th April 1885 [Paper No. 2].
 From Secretary to Chief Commissioner, Coorg, No. 206—25, dated 4th May 1885 [Paper No. 3].
 From Chief Commissioner, Ajmer-Merwara, No. 479, dated 7th May 1885, and enclosure [Papers No. 4].
 From Officiating Secretary to Chief Commissioner, British Burmah, No. 708-94R., dated 29th April 1885 [Paper No. 5].
 From Secretary for Berar to Resident, Hyderabad, No. 161G., dated 9th May 1885 [Paper No. 6].
 From Registrar, High Court, Calcutta, No. 1524, dated 15th May 1885 [Paper No. 7].
 From Chief Secretary to Government, Madras, No. 1251, dated 9th May 1885, and enclosures [Papers No. 8].
 From Under Secretary to Government, Bombay, No. 4381, dated 30th May 1885, and enclosures [Papers No. 9].
 From Secretary to Government, Bengal, No. 481 T.—R, dated 28th May 1885, and enclosures [Papers No. 10].
 From Officiating Junior Secretary to Government, Punjab, No. 544, dated 4th June, 1885, and enclosures [Papers No. 11].
 From Babu Gurdhar Das, Honorary Magistrate, Etawah, dated 8th May, 1885 [Paper No. 12].
 From Chief Secretary to Government, North-Western Provinces and Oudh, No. 1150—1 776, dated 30th June 1885, and enclosures [Papers No. 13].
 From Assistant Secretary to Chief Commissioner, Central Provinces, No. 2655—77, dated 11th July 1885 [Paper No. 14].

wording of the English Act, on the main lines of which we are proceeding throughout. The highest Courts in this country would, as a matter of course, follow the decision of the House of Lords, but it is to be apprehended that inferior authorities might in many cases be ignorant of that decision, and might mistake the effect of the wording of the English Act, which, it must be admitted, is by no means clear. We have therefore thought it safer to amend the sections concerned in such a manner that they will, in a clear and unmistakeable way, express the effect of the English Act as construed by the House of Lords.

7. Another important English decision which points to an amendment of the Bill is that in *Smith v. Great Western Railway Co.* (2 Ch. D. 2351, and in appeal before the House of Lords, 3 App. Ca. 165). We may have, under a Bill of this sort, a state of things to deal with, of which that case affords an illustration, where one person holding under a terminable lease has an immediate right to work the minerals, and another person is entitled to the reversion on the expiration of the lease and, perhaps, to a rent or royalty during its continuance. The lease may or may not be of such a length as to admit of all the minerals being worked out during its continuance, and it may or may not be liable to be put an end to by forfeiture, or otherwise, before the expiration of its term. The provisions of the English Act, which deal specially with the subject now before us, and which have been incorporated in this Bill, were found inadequate to provide for the exigencies of such a state of things as that referred to. They probably contemplate a settlement only with the person immediately entitled to work the mines, and, in order to provide for the case of a reversioner or other person interested, it was found necessary to call in the aid of a general provision of the law which would be out of place in a Bill like this.

It appears to us that the simplest mode of dealing with the various interests that may co-exist in the mines is to require, in accordance with the scheme of the Land Acquisition Act, that they should all, whether present or future, be considered and compensated for simultaneously whenever the owner of the surface has occasion to exercise his power of stopping or controlling the working.

We have accordingly provided in effect, that where the person immediately entitled to work the mines intimates to the owner of the surface his intention to work them, and the latter after that determines to stop or control the working, the settlement of compensation must extend to all persons interested in the mines, and the stoppage or control will be binding in perpetuity on all alike.

8. We have introduced three new sections (8, 9 and 10), corresponding to sections 80, 81 and 82 of the Railways Clauses Act, 1845. We question whether the object of these sections would not have been otherwise attained through the medium of the Land Acquisition Act, the provisions of which were made applicable by section 6 of the Bill as introduced; but as importance appeared to be attached to them in the memorial of the Coal Companies, we have thought it better to remove all doubt by including them. They will doubtless overlap section 6 of the Bill, but no practical harm will result from this.

9. An objection has been taken in some quarters to section 11 of the Bill as introduced (now section 14), which in effect gives to certain Companies the powers conferred on the Local Government by some of the foregoing provisions of the Bill. It appears to be overlooked that the section in question can apply only to Companies established for such purposes and occupying such a position, from a public point of view, as would warrant the Government in acquiring land on their behalf. In particular it is provided, by sections 48 and 49 of the Land Acquisition Act, that land shall not be acquired for a Company under that Act unless it is needed for a work likely to prove useful to the public, and the Company enters into an agreement with the Government settling, among other matters, the time within which and the conditions on which the work shall be executed and maintained and the terms on which the public shall be entitled to use it.

10. We may further observe that there appears from some of the papers considered by us to be a certain amount of misapprehension as to the nature of the powers referred to.

If the Local Government or the Company exercising the powers of the Local Government neglects to come to terms with the mine-owner on his giving notice of his intention to work, it does so at the risk of its property. If, considering that the mine-owner is working improperly, it takes steps under section 7 (new numbering) to remedy the mischief with a view to charging the mine-owner with the cost, it does so at the risk of losing its money and of incurring serious legal consequences if the Court before which the case may ultimately come takes a different view of the matter. Similarly, if it considers that the mines are being worked contrary to the provisions of the Act and proceeds to take steps under section 13 (new numbering), it still acts at its own risk, for it is by no means certain that it will appear to the Court that the mines were being so worked.

Thus the powers in question are very far from being so formidable as has been supposed, and we may add that they are framed as closely as possible on the lines of those conferred by Parliament on Railway Companies in England, the substance of which seems generally to have met with approval.

11. We have placed "local authorities" on a footing similar to that of Companies, as in many recent Acts the provisions of the Land Acquisition Act have been made applicable for the purpose of acquiring land for such authorities.

12. We are informed that there are certain land acquisition cases pending at this moment in Bengal, which have already proceeded beyond the stage at which the provisions of this measure would in its ordinary course be applicable to them, but in which it may nevertheless be thought desirable to have the benefit of it. To meet this, we have inserted a clause (15 (2)) which will admit of the Bill being applied in such cases if these concerned unanimously desire that it should.

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

		<i>In English.</i>		
	<i>Gazette</i>			<i>Date.</i>
<i>Gazette of India</i>	28th February and 7th and 14th March 1885.
<i>Fort Saint George Gazette</i>	17th March 1885.
<i>Bombay Government Gazette</i>	12th March 1885
<i>Calcutta Gazette</i>	11th March 1885.
<i>North-Western Provinces and Oudh Government Gazette</i>	14th, 21st and 28th March 1885
<i>Punjab Government Gazette</i>	26th March and 2nd and 9th April 1885.
<i>Central Provinces Gazette</i>	14th and 21st March and 4th April 1885.
<i>British Burma Gazette</i>	28th March and 4th and 11th April 1885.
<i>Assam Gazette</i>	4th, 11th and 18th April 1885.
<i>Coorg District Gazette</i>	1st May 1885

In the Vernaculars.

	<i>Province.</i>		<i>Language.</i>		<i>Date.</i>
Bombay	Maráthi	...	} 30th April 1885.
			Gujaráthi	..	
			Kanarese	...	
			Sindhi	...	23rd April 1885.
Bengal	Bengali	...	17th March 1885.
			Hindi	..	31st March 1885.
			Urdu	...	26th March 1885
North-Western Provinces and Oudh	Urdu	...	11th, 18th and 25th April 1885.
Punjab	Urdu	...	27th April and 4th and 11th May 1885.
Central Provinces	Maráthi	...	9th, 16th and 23rd May 1885.
			Hindi	...	25th April and 2nd and 9th May 1885
British Burma	Burmese	...	2nd, 9th and 16th May 1885.
Assam	Bengali	..	4th April 1885.

14. 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) T. C. HOPE.
 („) C. P. ILBERT.
 („) S. C. BAYLEY.

The 23rd September 1885.

D. FITZPATRICK,
 Secretary to the Government of India.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 16th October 1885, and was promulgated for general information in the *Gazette of India* on the 17th October 1885.

Act No XIX. of 1885.

An Act to amend the law relating to Government Securities.

WHEREAS it is expedient to amend the law relating to Government securities in manner hereinafter appearing; It is hereby enacted as follows:—

Short title and commencement. 1. (1) This Act may be called the Indian Securities Act, 1885; and

(2) It shall come into force at once.

Definitions. 2. In this Act—

The expression "Government security" includes promissory notes, debentures, stock certificates, and all other securities issued by the Government of India or by any Local Government in respect of any loan issued under notification in the official Gazette, whether before or after the passing of this Act, but does not include a stock note or a currency note, and

"prescribed" means prescribed by rules made from time to time by the Governor General in Council in this behalf.

IX of 1872. 3. (1) Notwithstanding anything contained in the Indian Contract Act, section 45, when a Government security issued before the first day of April 1886, is payable to two or more persons jointly and any of them dies, the security shall be payable to the survivor or survivors of those persons

(2) Nothing herein contained shall affect any claim which the representative of the deceased person may have against the survivor or survivors in respect of the security jointly payable to them and the deceased.

(3) This section shall apply whether the death of the person to whom the security was jointly payable occurred or occurs before or after this Act comes into force.

Issue of renewed securities. 4. A person claiming to be entitled to a Government security as payable to him under an endorsement may, on satisfying the prescribed officer of the justice of his claim and paying the prescribed fee and delivering the security duly receipted to the prescribed officer, obtain from the officer a renewed security issued payable to himself.

Issue of duplicate securities. 5. (1) When a Government security is alleged to have been wholly or partly lost or destroyed, and a person claims to be the person to whom but for such loss or destruction it would be payable, he may on application to the prescribed officer, and on producing

proof to his satisfaction of the loss or destruction and of the justice of the claim, obtain from him an order for—

(a) the payment of interest in respect of the security said to be lost or destroyed pending the issue of a duplicate security; and

(b) the issue of a duplicate security payable to the applicant.

(2) An order shall not be passed under sub-section (1) until after the issue of the prescribed notification of the loss or destruction and after the expiration of the prescribed period, nor until the applicant has given the prescribed indemnity against the claims of all persons deriving title under the security lost or destroyed.

(3) A list of the securities in respect of which an order is passed under sub-section (1) shall be published in the *Gazette of India* at such times as the Governor General in Council may, from time to time, direct.

6. When a renewed security has been issued under section 4, or a duplicate security has been issued under section 5, the Government shall be discharged of all liability in respect of the original security of which such renewed or duplicate security has been issued—

Period after which Government is released from liability in respect of original security. 6. When a renewed security has been issued under section 4, or a duplicate security has been issued under section 5, the Government shall be discharged of all liability in respect of the original security of which such renewed or duplicate security has been issued—

(a) in the case of a renewed security, after the lapse of six years from the date of the issue of the renewed security;

(b) in the case of a duplicate security, after the lapse of six years from the date of the publication under section 5, sub-section (3), of the list in which the security is first mentioned, or from the date of the last payment of interest on the original security, whichever date is latest.

Power of Governor General in Council to make rules. 7 The Governor General in Council may, from time to time, make rules to prescribe—

(a) the fees to be paid for applications under sections 4 and 5;

(b) the form in which securities delivered for renewal are to be receipted;

(c) the officer who is to exercise all or any of the powers and perform all or any of the duties prescribed by sections 4 and 5;

(d) the proof which is to be produced by persons applying for duplicate securities;

(e) the form and mode of publication of the notification mentioned in section 5, and the period after which interest may be paid or a duplicate security may be issued under that section;

(f) the nature and amount of the indemnity to be given by a person applying under section 5 for the payment of interest or the issue of a duplicate security; and

(g) generally all matters connected with the grant of renewed and duplicate securities.

8. (1) The Governor General in Council shall, before making rules under the last foregoing section, publish a draft of the proposed rules in such manner as may, in his opinion, be sufficient for the information of the public.

(2) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(3) The Governor General in Council shall receive and consider any objection or suggestion

which may be made by any person with respect to the draft before the date so specified.

(4) Every rule made under the last foregoing section shall be published in the *Gazette of India*, and the publication in the *Gazette of India* of a rule purporting to be made under that section shall be conclusive evidence that it has been duly made.

D. FITZPATRICK,

Secretary to the Government of India.

LEGISLATIVE DEPARTMENT.

The following report of the Select Committee on the Bill to amend the law relating to Government Securities was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 8th October 1885 —

WE, the undersigned, Members of the Select Committee to which the Bill to amend the law relating to Government Securities 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 only substantive alteration we have made in the Bill is in section 3, which, in cases in which one of a number of joint-holders of a Government security dies, applies what we may term the rule of survivorship as opposed to the rule of representation laid down by section 45 of the Indian Contract Act. The reasons which led to the insertion of this provision are fully set forth in the Statement of Objects and Reasons: but

From Officiating Secretary to Chief Commissioner, British Burma, No 92—17L, dated 7th May 1885, and enclosure [Papers No 1].

From Officiating Secretary to Chief Commissioner, Assam, No. 746, dated 11th May 1885, and enclosure [Papers No. 2].

From Secretary for Berar to Resident, Hyderabad, No. 178G, dated 18th May 1885 [Paper No 3].

From Bábú Gurdhar Dás, Honorary Magistrate, Etawah, dated 18th May 1885 [Paper No. 4].

From Chief Commissioner, Ajmer-Merwára, No. 645, dated 17th June 1885 [Paper No 5].

From Chief Secretary to Government, Madras, No. 1455, dated 3rd June 1885, and enclosures [Papers No 6].

From Secretary to Government, North-Western Provinces and Oudh, No 2793—X.395, dated 26th June 1885 [Paper No 7].

From Registrar, High Court, Calcutta, No 1898, dated 24th June 1885 [Paper No 8].

From Secretary to Chief Commissioner, Coorg, No. 522—58, dated 23rd June 1885 [Paper No. 9].

From Officiating Secretary to Government, Bengal, No. 1304T.F, dated 26th June 1885, and enclosures [Papers No. 10].

From Officiating Secretary to Government, Punjab, No. 520S., dated 1st July 1885, and enclosures [Papers No. 11].

Telegram from Chief Commissioner, Central Provinces, dated 1st July 1885 [Paper No 12].

From Under Secretary to Government, Bombay, No. 1869, dated 27th June 1885, and enclosure [Papers No 13].

From Secretary to Government of India Legislative Department, to Solicitor to Government of India, No 1379, dated 28th August 1885; from Solicitor to Government of India, No 1163, dated 17th September 1885, and enclosure [Papers No. 14].

we find that a considerable difference of opinion exists regarding it.

3. On the one hand, it is urged, among others, by so high an authority as the Advocate General of Bengal, that this provision should be generalized and extended to other classes of obligations besides those arising on Government securities.

On the other hand, it is argued in several of the papers that the rule of survivorship as applied to instruments of the description in question is one that does not fit in with the habits and ideas of certain classes of the Native population, and might, if extended to those classes as an absolutely binding rule, open a door to the perpetration of frauds.

The question thus raised is of considerable importance and difficulty. We do not think that we should be justified in entering fully upon it here in the absence of those members of the Council most competent to advise on legal and commercial matters, and we accordingly propose, with a view to avoiding it as far as possible, to confine the section to Government securities already issued, or which may be issued before the 1st of April next.

4. As regards securities already issued, the law must be settled without any further delay, the delay which has taken place in obtaining opinions on the Bill having already led to considerable public inconvenience. Moreover, as it is impracticable to make any distinctions among those securities, one and the same rule must be laid down for all, and it is clear that that rule must be the rule of survivorship. The rule of survivorship has hitherto been applied to them, as well after the passing of the Contract Act as before, subject at most to rare exceptions or qualifications. It is the rule that is most suitable to the great majority of those who hold those securities, and if in exceptional cases it should be found to be less suitable it must be remembered that those securities have been issued under a system which contemplated its application.

5. On the other hand, there is no necessity to settle the question at this moment as regards securities to be issued for all time to come, especially as a simple mode of providing, without the aid of the legislature, for securities to be hereafter issued has been proposed.

It has been suggested that it could be so arranged in the Loan Department of the Government that it should be in the option of persons, in whose favour securities are first issued or to whom they are subsequently transferred by endorsement, either to take them simply in their several names, that is to say, in favour, e.g., of "A, B and C," without qualification, in which case the rule of the Contract

Act would apply, or to take them under words giving a right of survivorship, as, *e.g.*, in favour of "A, B and C, and the survivor or survivors of them," in which case we are advised the rule of the Contract Act would be excluded and the rule of survivorship would apply. This, it has been argued, would be likely to afford a more satisfactory solution of the difficulty as regards securities to be hereafter issued than any enactment establishing either the rule of survivorship or that of representation in a hard-and-fast manner, as it would leave it open to all concerned to adopt for themselves the rule best adapted to their requirements.

It is urged, on the other hand, that the requirements of the new system would be likely for some time to be overlooked, and that considerable hardship and inconvenience would thus result, but this danger might perhaps be averted by some device, such as that of a warning en faced on the security in such a way as to attract attention.

We do not, however, recommend that any determination should be arrived at on this matter until it has undergone the fullest discussion. It will doubtless be settled during the course of the Calcutta Session; and we think that we are acting most in accord with the balance of convenience, and so as to occasion the least amount of disturbance in existing relations, by recommending that, as regards securities issued meantime, *i.e.*, say up to the 1st of April next, the law should be placed on the same footing as for securities already issued, that is to say, that the rule of survivorship should apply.

6 The remaining changes which we have made in the Bill, being confined to matters of form or drafting, do not call for special notice. We may, however, mention that we have introduced words in the definition of "Government security" to make it clear that the Bill does not apply to stock notes or currency notes—classes of securities to which, as they are otherwise provided for, it was never intended to apply.

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

		<i>In English</i>	
<i>Gazette</i>			<i>Date</i>
<i>Gazette of India</i>	...		14th, 21st and 28th March 1885
<i>Fort St George Gazette</i>			8th April 1885
<i>Bombay Government Gazette</i>	..		26th March and 2nd and 9th April 1885.
<i>Calcutta Gazette</i>	..		25th March and 1st and 8th April 1885
<i>North-Western Provinces and Oudh Government Gazette</i>	..		28th March and 4th and 11th April 1885.
<i>Punjab Government Gazette</i>	..		9th, 16th and 23rd April 1885
<i>Central Provinces Gazette</i>	..		28th March and 4th and 11th April 1885
<i>British Burma Gazette</i>	..		11th, 18th and 25th April 1885
<i>Assam Gazette</i>	...		11th, 18th and 25th April 1885.
<i>Coorg District Gazette</i>	..		1st May 1885

		<i>In the Vernaculars.</i>	
<i>Province</i>		<i>Language.</i>	<i>Date</i>
Madras	..	Telugu	12th May 1885.
	..	Kanarese	26th June 1885
	..	Tamil	9th June 1885.
	..	Malayalam	16th June 1885.
	..	Hindustani	16th June 1885
Bombay	..	Gujarathi	23rd April 1885.
	..	Marathi	30th June 1885.
	..	Kanarese	7th May 1885.
	..	Sindhi	30th April 1885.
Bengal	..	Bengali	21st April 1885.
	..	Hindi	21st and 28th April and 5th May 1885
	..	Urdu	7th May 1885
North-Western Provinces and Oudh	..	Urdu	2nd, 9th and 16th May 1885
Punjab	..	Urdu	18th and 25th May and 1st June 1885.
Central Provinces	..	Marathi	9th, 16th and 23rd May 1885
	..	Hindi	6th, 13th and 20th June 1885
Assam	..	Bengali	2nd May 1885

8. 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) A. COLVIN

(") C. P. ILBERT.

The 8th October 1885.

D. FITZPATRICK,
Secretary to the Government of India.

THE



Bombay Government Gazette.

1886.

PART IV.

ACTS

PASSED BY THE

GOVERNMENT OF INDIA

AND BY THE

GOVERNMENT OF BOMBAY.

Bombay:

PRINTED AT THE GOVERNMENT CENTRAL PRESS.

MDCCCLXXXVII.

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The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 29th January 1886, and was promulgated for general information in the *Gazette of India* on the 30th January 1886 —

Act No. IV of 1886.

An Act to amend section 265 of the Indian Contract Act, 1872.

WHEREAS it is expedient to amend section 265 of the Indian Contract Act, 1872, it is hereby enacted as follows:—

New section substituted for section 265, Indian Contract Act.

1. For section 265 of the said Act the following shall be substituted, namely:—

“265 Where a partner is entitled to claim a winding up by Court on dissolution of partnership, dissolution or after termination, or where a partnership has terminated, the Court may, in the absence of any contract to the contrary, wind up the business of the partnership, provide for the payment of its debts and distribute the surplus according to the shares of the partners respectively.”

2. In section 213 of the Code of Civil Procedure of 1882, repeal of part of section 213, Act XIV, 1882. the words and figures from and including the word “applications” to the end of the section are hereby repealed.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend section 265 of the Indian Contract Act, 1872, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 22nd January 1886:—

WE, the undersigned Members of the Select Committee to which the Bill to amend section 265 of the Indian Contract Act, 1872, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

2. We have so framed the new section which it is proposed to substitute for section 265 as to make it a declaration of law consistent with the form of plaint No. 113 scheduled to the Code of Civil Procedure, and to show that a partner may apply to have the partnership wound up not only after its termination but also when he is entitled to claim a dissolution.

3. We have not overlooked the difficulties pointed out by Mr. Justice Field and others as to the valuation and place of trial of suits under this section; but those difficulties, not being limited to suits of this class, should, we think, be considered separately and with care.

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

In English.

Gazette.	Date.
Gazette of India	21st and 28th February, and 7th March 1885.
Fort Saint George Gazette	10th March 1885.
Bombay Government Gazette	26th February, and 5th and 12th March 1885.
Calcutta Gazette	25th February, and 4th and 11th March 1885
North-Western Provinces and Oudh Government Gazette	28th February, and 7th and 14th March 1885
Punjab Government Gazette	12th, 19th and 26th March 1885.
Central Provinces Gazette... ..	28th February, and 7th and 14th March 1885.
British Burma Gazette	14th, 21st and 28th March 1885.
Assam Gazette... ..	14th and 28th March 1885.
Coorg District Gazette	1st May 1885.

In the Vernaculars.

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Madras ...	Kánarese ...	23rd June 1885.
Bombay ...	Maráthí ...	26th March 1885.
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	Kánarese ...	28th May 1885.
Bengal ...	Bengali ...	17th, 24th and 31st March 1885.
	Hindí ...	24th and 31st March, and 7th April 1885.
	Uríya ...	9th, 16th and 23rd April 1885.
North-Western Provinces and Ough ...	Urdu ...	14th, 21st and 28th March 1885.
Punjab ...	Urdu ...	23rd and 30th March, and 6th April 1885.
Central Provinces ...	Hindí ...	4th, 11th and 18th April 1885.
British Burma ...	Burmese ...	18th and 25th April, and 2nd May 1885.
Assam ...	Bengali ...	4th April 1885.

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

(Signed) C. P. ILBERT.
 " S. C. BAYLEY.
 " V. N. MANDLIK.
 " H. ST. A. GOODRICH.
 " G. H. P. EVANS.
 " J. W. QUINTON.

The 20th January 1886.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 29th January 1886, and was promulgated for general information in the Gazette of India on the 30th January 1886.

Act No. II. of 1886.

An Act for imposing a Tax on income derived from sources other than agriculture.

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THE FIRST SCHEDULE.—ENACTMENTS REPEALED.

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THE THIRD SCHEDULE.—FORM OF PETITION.

An Act for imposing a tax on income derived from sources other than agriculture.

WHEREAS it is expedient to impose a tax on income derived from sources other than agriculture; It is hereby enacted as follows.—

CHAPTER I.

PRELIMINARY.

1. (1) This Act extends to the whole of British India, and applies also, within the dominions of Princes and States in India in alliance with Her Majesty, to British subjects in those dominions who are in the service of the Government of India or of a local authority established in the exercise of the powers of the Governor General in Council in that behalf; and

(2) It shall come into force on the first day of April, 1886

(3) Any power conferred by this Act to make rules or to issue orders may be exercised at any time after the passing of this Act, but a rule or order so made or issued shall not take effect until the Act comes into force.

2. On and from the day on which this Act comes into force the enactments specified in the first schedule to this Act shall be repealed, except as to fees payable and other sums due under those enactments and the mode of recovering the same.

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

(1) "local authority" means any municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of any municipal or local fund.

(2) "company" means an association carrying on business in British India, whose stock or funds is or are divided into shares and transferable, whether the company is incorporated or not, and whether its principal place of business is situate in British India or not.

(3) "prescribed" means prescribed by the Governor General in Council by notification in the *Gazette of India*, or by the Governor General in Council or a Local Government by rules made under this Act

(4) "salary" includes allowances, fees, commissions, perquisites or profits received, in lieu of or in addition to a fixed salary, in respect of an office or employment of profit; but subject to any rules

which may be prescribed in this behalf, it does not include travelling, tentage, horse or sumptuary allowance, or any other allowance granted to meet specific expenditure :

(5) "income" means income and profits accruing and arising or received in British India, and includes, in the case of a British subject within the dominions of a Prince or State in India in alliance with Her Majesty, any salary, annuity, pension or gratuity payable to that subject by the Government or by a local authority established in the exercise of the powers of the Governor General in Council in that behalf :

(6) "Magistrate" means a Presidency Magistrate or a Magistrate of the first or second class :

(7) "person" includes a firm and a Hindu undivided family :

(8) "defaulter" includes a company or firm making default under this Act :

(9) "Collector" means the chief officer in charge of the revenue-administration of a district, and in a presidency-town any officer whom the Local Government, by notification in the official Gazette, may, by name or by virtue of his office, appoint to be a Collector for the purposes of this Act ; in the case of a company or firm, it means the Collector, as here defined, of the district or presidency-town in which its principal place of business in British India is situate ; and, in the case of any other person chargeable under this Act, it means the Collector, defined as aforesaid, of the district or presidency-town in which the person has his residence :

(10) "principal officer," used with reference to a local authority or a company or any other public body or association not being a local authority or company, means—

(a) the secretary, treasurer, manager or agent of the authority, company, body or association, or

(b) any person connected with the authority, company, body or association upon whom the Collector has caused a notice to be served of his intention of treating him as the principal officer thereof, and

(11) "Part" means a Part of the second schedule to this Act.

CHAPTER II.

LIABILITY TO TAX

4. Subject to the exceptions mentioned in the next following section, **Incomes liable to the tax.** there shall be paid, in the year beginning with the first day of April 1886, and in each subsequent year, to the credit of the Government of India, or as the Governor General in Council directs, in respect of the sources of income specified in the first column of the second schedule to this Act, a tax at the rate specified in that behalf in the second column of that schedule.

Exceptions.

5. (1) Nothing in section 4 shall render liable to the tax—

(a) any rent or revenue derived from land which is used for agricultural purposes and is either assessed to land-revenue or subject to a local rate assessed and collected by officials of the Government, as such ; or

(b) any income derived from—

(i) agriculture, or

(ii) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or

(iii) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, when he does not keep a shop or stall for the sale of such produce, or

(c) any building owned and occupied by the receiver of the rent or revenue of any such land as is referred to in clause (a), or by the cultivator, or the receiver of rent-in-kind, of any land with respect to which or the produce whereof, any operation mentioned in clause (b) is carried on :

Provided that the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue, or the cultivator or the receiver of the rent-in-kind, by reason of his connection with the land, requires as a dwelling-house, or as a store-house, factory or other out-building, or

(d) any profits of a shipping company incorporated or registered out of British India and having its principal place of business out of India and its ships ordinarily engaged in sea-going traffic out of Indian waters ; or

(e) any income derived from property solely employed for religious or public charitable purposes, or

(f) any income which a person enjoys as a member of a company or of a firm or of a Hindu undivided family when the company or the firm or the family is liable to the tax, or,

(g) subject to any conditions and restrictions which may be prescribed in this behalf, such portion, not exceeding one-sixth, of the income in respect whereof a person would, but for this exception, be chargeable under this Act, as is deducted from the salary of the person under the authority or with the permission of the Government for the purpose of securing a deferred annuity to him or a provision to his wife or children after his death or is paid by the person to an insurance company in respect of an insurance or deferred annuity on his own life or on the life of his wife, or

(h) any interest on stock-notes ; or

(i) the salary of any officer, warrant-officer, non-commissioned officer or private of Her Majesty's

Forces or of Her Majesty's Indian Forces who is not in an employment which, according to the ordinary practice, is held indifferently by military persons and civilians, and whose salary does not exceed five hundred rupees per mensem; or

(1) any person whose income from all sources is less than five hundred rupees per annum;

(2) An officer or servant is not exempt from taxation under this Act by reason only of the income of his employer being exempt therefrom under this section.

6. The Governor General in Council may, by notification in the Gazette of India, exempt from liability to the tax the whole or any part of the income of any class or tribe, or of any persons residing in any specified area, and may, by a like notification, revoke the exemptions.

CHAPTER III.

ASSESSMENT AND COLLECTION.

A.—Salaries and Pensions.

7. In the case of a person receiving any salary, annuity, pension or gratuity from the Government, any sum payable to him by the Government in respect of the salary, annuity, pension or gratuity shall be reduced by the amount of the tax to which he is liable under Part I in respect thereof.

8. (1) In the case of a person receiving any salary, annuity, pension or gratuity from a local authority, the tax to which he is liable under Part I shall, at the time of the payment to him of any of the salary, annuity, pension or gratuity, be deducted therefrom by the officer whose duty it is to make the payment, and be paid by that officer within the prescribed time to the credit of the Government of India or as the Governor General in Council directs.

(2) If that officer does not deduct and pay the tax as required by sub-section (1), he shall, without prejudice to any other consequences which he may incur, be deemed to be personally in default in respect of the tax.

(3) If, when any payment is made, the tax is from any cause not deducted, it may, and on the requisition of the Collector shall, be deducted when any salary, annuity, pension or gratuity is subsequently paid to the person liable to the tax.

(4) The power to deduct under this section shall be without prejudice to any other mode of recovery.

9. (1) The tax to which a person receiving any salary, annuity, pension or gratuity from a company, or from any other public body or association not being a local authority or company, or from a private

employer, is liable under Part I shall be payable by him at the time when any portion of the salary, annuity, pension or gratuity is paid to him.

(2) The Collector may, subject to such conditions as may be prescribed, enter into an arrangement with any company, or any such body or association as aforesaid, or any private employer, with respect to the recovery on behalf of the Government by the company, body, association or employer of the tax to which any person receiving any salary, annuity, pension or gratuity from the company, body, association or employer is liable under Part I.

10. The principal officer of every local authority, and of every company, and of every other public body or association not being a local authority or company, shall prepare, and, on or before the fifteenth day of April in each year, deliver or cause to be delivered to the Collector, in the prescribed form, a return in writing showing—

(a) the name of every person who is receiving at the date of the return any salary, annuity or pension, or has received during the year ending on that date any gratuity from the authority, company, body or association, as the case may be, and the address of every such person so far as it is known; and

(b) the amount of the salary, annuity, pension, or gratuity so received by each such person, and the time at which the same becomes payable or, in the case of a gratuity, was paid.

B.—Profits of Companies.

11. The principal officer in British India of every company shall prepare, and, on or before the fifteenth day of April in each year, deliver or cause to be delivered to the Collector, a statement in writing signed by him of the nett profits made in British India by the company during the year ending on the day on which the company's accounts have been last made up, or, if the company's accounts have not been made up within the year ending on the thirty-first day of March, in the year immediately preceding that for which the assessment is to be made, then of the nett profits so made during the year ending on the said thirty-first day of March.

12. (1) If the Collector has reason to believe that a statement delivered under section 11 is incorrect or incomplete, he may cause to be served on the principal officer of the company a notice requiring him, on or before a date to be therein mentioned, either to attend at the Collector's office and produce, or to cause to be there produced, for the inspection of the Collector such of the accounts of the company as refer to the year to which the statement relates and as are in his possession or power.

(2) On the day specified in the notice, or as soon afterwards as may be, the Collector shall, by an order in writing, determine the amount at

which the company shall be assessed under Part II, and the time when the amount shall be paid, and, subject to the provisions of this Act, that amount shall be payable accordingly.

C—Interest on Securities.

13. (1) The tax payable under Part III in respect of the interest on any of the securities mentioned in that Part shall, at the time when and place where any of the interest is paid, be deducted therefrom by the person empowered to pay the interest, and be paid by that person within the prescribed time to the credit of the Government of India or as the Governor General in Council directs:

(2) If that person does not deduct and pay the tax as required by sub-section (1), he shall, without prejudice to any other consequences which he may incur, be deemed to be personally in default in respect of the tax.

D—Other Sources of Income.

Ordinary Mode of Assessment and Collection.

14. The Collector shall, from time to time, determine what persons are chargeable under Part IV, and the amount at which every person so chargeable shall be assessed.

15. (1) The assessment shall be made upon the income accruing to the person during the year ending on the day on which his accounts have been last made up, or, if his accounts have not been made up within the year ending on the thirty-first day of March in the year immediately preceding that for which the assessment is to be made, then upon the income accruing to him during the year ending on the said thirty-first day of March.

(2) In the case of a person for the first time becoming chargeable under Part IV within the year for which the assessment is to be made or within the year next before that year, the assessment shall be made according to an average of his income for such period as the Collector, having regard to the circumstances, directs.

16. (1) The Collector shall in each year prepare a list of the persons chargeable under Part IV whose annual income does not, in his opinion, amount to two thousand rupees.

(2) The list shall be in the prescribed language or languages, and shall state in respect of every such person the following particulars, namely:—

(a) his name and the source or sources of the income in respect of which he is chargeable;

(b) the year or portion of the year for which the tax is to be paid;

(c) the place or places, district or districts, where the income accrues,

(d) the amount to be paid; and

(e) the place where, and the person to whom, the amount is to be paid.

(3) The list shall be filed in the office of the Collector, with a notification prefixed thereto re-

quiring every person mentioned in the list to pay, within sixty days from a date specified in the notification, the amount stated in the list as payable by him, or to apply to the Collector, within thirty days from that date, to have the assessment reduced or cancelled.

(4) The list so filed shall be open to inspection at all reasonable times without any payment.

(5) The list, or such part or parts thereof as the Collector thinks fit, with the notification prefixed thereto, shall be further published in such manner as the Local Government may consider to be best adapted for giving information to all persons concerned.

(6) The list to be prepared in each year may be the list of the previous year with such amendments as the Collector finds to be necessary.

17. In the case of a person chargeable under Part IV whose annual income is, in the Collector's opinion, two thousand rupees or upwards, the Collector shall cause a notice to be served on him stating the particulars (a) to (e), both inclusive, mentioned in section 16, sub-section (2), and requiring him to pay, within sixty days from a date specified in the notice, the amount stated therein as payable by him, or to apply to the Collector, within thirty days from that date, to have the assessment reduced or cancelled.

18. (1) Notwithstanding anything contained in section 16 or section 17, the Local Government may make rules—

(a) authorising or directing a Collector in specified cases, or classes of cases, to include in a list under section 16 any person who is liable to be served with a notice under section 17 instead of or in addition to serving him with such a notice, and to serve a notice under section 17 on any person liable to be included in a list under section 16 instead of or in addition to including him in such a list.

(b) authorising the Collector in any specified town or place to cause a general notice to be published, inviting every person chargeable under Part IV to deliver or cause to be delivered to the Collector, within a time specified in the notice, a return, in a prescribed form published with the notice, of his income during the year ending on the day on which his accounts have been last made up, or, if his accounts have not been made up within the year ending on the thirty-first day of March in the year immediately preceding that for which the assessment is to be made, then of his income during the year ending on the said thirty-first day of March;

(c) authorising the Collector in any presidency-town to cause a special notice to be served on any person chargeable under Part IV, inviting him to deliver or cause to be delivered to the Collector, within a time specified in the notice, a return, in a prescribed form accompanying the notice,

of his income computed in the manner described in clause (b) of this sub-section.

(2) A return delivered under rules made under clause (b) or clause (c) of sub-section (1) must state the period during which the income has actually accrued; and there must be added at the foot thereof a declaration that the income shown in the return is truly estimated on all the sources therein mentioned, that it has actually accrued within the period therein stated, and that the person making the return has no other source of income.

(3) When a Collector authorized in that behalf by rules made under clause (b) or clause (c) of sub-section (1) has caused a notice to be published or served under those rules, he shall not include any person to whom the notice applies in any list made under section 16 or serve a notice on him under section 17 until the time specified in the notice published or served under those rules has expired.

(4) Rules made under this section shall be published in the official Gazette.

19. Every amount specified as payable in a list or notice prepared or served under section 16 or section 17 shall be paid within the time, at the place, and to the person, mentioned in the list or notice.

Trustees, Agents, Managers and Incapacitated Persons.

20. A person being the trustee, guardian, curator or committee of any infant, married woman subject to the law of England, lunatic or idiot, and having the control of the property of the infant, married woman, lunatic or idiot, whether the infant, married woman, lunatic or idiot resides in British India or not, shall, if the infant, married woman, lunatic or idiot, is chargeable under Part IV, be chargeable under that Part in like manner and to the same amount as the infant would be chargeable if he were of full age, or the married woman if she were sole, or the lunatic or idiot if he were capable of acting for himself.

21. Any person not resident in British India, whether a subject of Her Majesty or not, being in receipt, through an agent, of any income chargeable under Part IV, shall be chargeable under that Part in the name of the agent in the like manner and to the like amount as he would be chargeable if he were resident in British India and in direct receipt of that income.

22. Receivers or managers appointed by any Court in India, the Courts of Wards, the Administrators General of Bengal, Madras and Bombay, and the Official Trustees shall be chargeable under Part IV in respect of all income officially in their possession or under their control which is liable to assessment under that Part.

23. When a trustee, guardian, curator, committee or agent is, as such, assessed under Part IV,

or when a receiver or manager appointed as aforesaid, a Court of Wards, an Administrator General or an Official Trustee is assessed under that Part in respect of income officially received,

the person or Court so assessed may, from time to time, out of the money coming to his or its possession as trustee, guardian, curator, committee or agent, or as receiver, manager, Court, of Wards, Administrator General or Official Trustee, retain so much as is sufficient to pay the amount of the assessment.

Occupying Owners.

24. (1) Where a building is occupied by its owner, it shall be deemed a source of income within the meaning of this Act, and, if liable to be assessed under this Act, shall be assessed at five-sixths of the gross annual rent at which it may reasonably be expected to let, and, in the case of a dwelling-house, may be expected to let unfurnished.

(2) "Owner," as used in this section with reference to a building, means the person who would be entitled to receive the rent of the building if the building were let to a tenant.

CHAPTER IV.

REVISION OF ASSESSMENT.

25. (1) Any person objecting to the amount at which he is assessed, or denying his liability to be assessed, under Part IV, may apply by petition to the Collector to have the assessment reduced or cancelled.

(2) The petition shall ordinarily be presented within the period specified in the notification prefixed to the list filed under section 16, or in the notice served under section 17, as the case may be. But the Collector may receive a petition after the expiration of that period if he is satisfied that the objector had sufficient cause for not presenting it within that period.

(3) The petition shall, as nearly as circumstances admit, be in the form contained in the third schedule to this Act, and the statements contained in the petition shall be verified by the petitioner or some other competent person in the manner required by law for the verification of plaints.

26. The Collector shall fix a day and place for the hearing of the petition, and on the day and at the place, if any, to which he has adjourned the hearing, shall hear the petition and pass such order thereon as he thinks fit.

27. Subject to the control of the Local Government, the Commissioner of the Division, on the petition of any person deeming himself aggrieved by an order under section 12, sub-section (2), or section 26; shall if the amount of the assessment to which the petition relates is two hundred and fifty rupees or

upwards, and may in his discretion if the amount of the assessment is less than two hundred and fifty rupees, call for the record of the case, and pass such order thereon as he thinks fit.

28. The Collector or Commissioner may, for the purpose of enabling him to determine how the petitioner or the company which he represents should be assessed, summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents, by the same means, and as far as possible, in the same manner, as is provided in the case of a Civil Court by the Code of Civil Procedure:

IV of 1882.

Provided that the Collector or Commissioner shall not call for any evidence except at the instance of the petitioner or in order to ascertain the correctness of facts alleged by him.

CHAPTER V.

RECOVERY OF ARREARS OF TAX.

29. The tax chargeable under this Act shall be payable at the time appointed in that behalf in or under this Act, or, if a time is not so appointed, then on the first day of June in each year.

30. (1) In any case of default under this Act the Collector, in his discretion, may recover a sum not exceeding double the amount of the tax either as if it were an arrear of land-revenue or by any process enforceable for the recovery of an arrear of any municipal tax or local rate imposed under any enactment for the time being in force in any part of the territories administered by the Local Government to which he is subordinate, or may pass an order that a sum not exceeding double that amount shall be recovered from the defaulter;

Provided that, where a person has presented a petition under section 25, such sum shall not be recoverable from him unless, within thirty days from the passing of the order on the petition, he fails to pay the amount, if any, required by that order.

(2) The Local Government may direct by what authority any powers or duties incident under any such enactment as aforesaid to the enforcement of any process for the recovery of a municipal tax or local rate shall be exercised or performed when that process is employed under sub-section (1) for the recovery of the tax chargeable under this Act.

(3) An order passed by the Collector under sub-section (1) shall have the force of a decree of a Civil Court in a suit in which the Government is the plaintiff and the defaulter is the defendant; and the order may be enforced in manner provided by the Code of Civil Procedure for the enforcement of decrees for money; and the procedure under the said Code in respect of the following matters, namely—

XIV of 1882

- (a) sales in execution of decrees,
- (b) arrest in execution of decrees for money,

- (c) execution of decrees by imprisonment,
- (d) claims to attached property, and
- (e) execution of decrees out of the jurisdiction of the Courts by which they were passed,

shall apply to every execution issued for levying the sum mentioned in the order; save that all the powers and duties conferred and imposed by the said Code upon the Court shall be exercised and discharged by the Collector by whom the order has been made or to whom a copy thereof has been sent for execution according to the provisions of the said Code, sections 223 and 224.

(4) The Local Government may direct, with respect to any specified area, that the tax chargeable under this Act shall be recovered therein with, and as an addition to, any municipal tax or local rate by the same person and in the same manner as the municipal tax or local rate is recovered.

(5) No proceedings for the recovery of any sum payable under this Act shall be commenced after the expiration of three months from the last day of the year in respect of which the sum is payable.

CHAPTER VI.

SUPPLEMENTAL PROVISIONS.

Composition.

31. (1) If a company or person desires to compound for the tax assessable under Part II or Part IV, as the case may be, the Collector may, subject to such rules as may be prescribed in this behalf, agree with the company or person for a composition for the tax on such terms and for such period as he thinks fit.

(2) The agreement shall provide for the payment, in each year of the period comprised in the agreement, of the amount of the composition; and that amount shall be recoverable in the same manner and by the same means as any other assessment made under Part II or Part IV, as the case may be.

Receipts.

32. When any money is paid under this Act to the Collector or is recovered thereunder by him, he shall give a receipt for the same, specifying—

- (a) the date of the payment or recovery of the money;
- (b) the amount paid or recovered;
- (c) the person who was liable to the tax, and the source or sources of income in respect of which the tax was payable;
- (d) the year or part of the year for which the tax was payable;
- (e) the place or places, district or districts, where the income accrues; and
- (f) such other particulars, if any, as may be prescribed.

Amendment of Assessment.

33. If a company or person assessed under Part II or Part IV ceases to carry on the trade or business in respect whereof the assessment was made, or if any such person

dies or becomes insolvent before the end of the year for which the assessment was made, or if any such company or person is, from any other specific cause, deprived of or loses the income on which the assessment was made, then the company or person or its or his representative in interest may apply to the Collector during, or within three months after, the end of the year, and the Collector, on proof to his satisfaction of any such cause as aforesaid, shall amend the assessment as the case may require, and refund such sum, if any, as has been overpaid.

Penalties.

Failure to make payments or deliver returns or statements.

34. (1) If a person (a) to deduct and pay any tax as required by section 8, sub-section (1), or section 13, sub-section (1), or

(b) to deliver or cause to be delivered to the Collector in due time the return or statement mentioned in section 10 or section 11, or

(c) to produce, or cause to be produced, on or before the date mentioned in a notice under section 12, such accounts as are referred to in the notice,

he shall, on conviction before a Magistrate, be punishable with fine which may extend to ten rupees for every day during which the default continues

(2) The Commissioner of the Division may remit wholly or in part any fine imposed under this section.

35. If a person makes a statement in a declaration mentioned in section 18, sub-section (2), which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be deemed to have committed the offence described in section 177 of the Indian Penal Code.

36. A person shall not be proceeded against for an offence under section 34 or section 35, except at the instance of the Collector.

37. Any proceeding under section 12 or Chapter IV of this Act shall be deemed to be a "judicial proceeding" within the meaning of sections 193 and 228 of the Indian Penal Code.

Power to make Rules.

38. (1) The Governor General in Council may make rules consistent with this Act for ascertaining and determining income liable to assessment for preventing the disclosure of particulars contained in documents delivered or produced with respect to assessments under Part IV, and, generally, for carrying out the purposes of this Act, and may delegate to a Local Government the power to make such rules so far as regards the territories subject to that Government,

(2) In making a rule for preventing the disclosure of any particulars referred to in sub-section (1), the Governor General in Council may direct that a public servant committing a breach of the rule shall be deemed to have committed an offence under section 166 of the Indian Penal Code of 1860.

(3) But a person committing any such offence shall not be liable to be prosecuted therefor without the previous sanction of the Local Government.

(4) Rules made under this section shall be published in the official Gazette.

Miscellaneous.

39. No suit shall lie in any Civil Court to set aside or modify any assessment made under this Act.

40. All or any of the powers and duties conferred, and imposed by this Act on a Collector or on a Commissioner of Division may be exercised and performed by such other officer or person as the Local Government appoints in this behalf.

41. An officer or person exercising all or any of the powers of a Collector under this Act may, by notice, require any person to furnish a list, in the prescribed form, containing, to the best of his belief,—

(a) the name of every inmate or lodger resident in any house used by him as a dwelling-house or let by him in lodgings;

(b) the name of every other person receiving salary or emoluments amounting to forty-one rupees ten annas and eight pies per mensem, or five hundred rupees per annum, or upwards, employed in his service, whether resident in any such house as aforesaid or not; and

(c) the place of residence of such of those persons as are not resident in any such house, and of any inmate or lodger in any such house who has a place of residence elsewhere at which he is liable under this Act to be assessed, and who desires to be assessed at that place.

42. An officer or person exercising all or any of the powers aforesaid may, by notice, require any person whom he has reason to believe to be a trustee, guardian, curator, committee or agent

to deliver or cause to be delivered a statement of the names of the persons for or of whom he is trustee, guardian, curator, committee or agent.

43. An officer or person exercising all or any of the said powers may, by notice, require a trustee, guardian, curator, committee or agent, or a receiver or manager appointed by any Court in India, or a Court of Wards, Administrator General or Official Trustee, to furnish such returns of income liable to assessment under Part IV as may be prescribed.

44. An officer or person exercising all or any of the said powers may, at the instance of any person respecting whose assessment or the amount thereof any doubt exists, require any person to furnish such information as he deems to be necessary for the purpose of ascertaining facts relevant to the assessment or its amount.

45. A person required to furnish any information under section 41, section 42, section 43, or section 44 shall be legally bound to furnish the same in such manner and within such time as may be specified in the requisition for the information.

46. (1) A notice under this Act may be served on the person therein named either by a pre-paid letter addressed to the person and registered under Part III of the Indian Post Office Act, 1866, or by the delivery or tender to him of a copy of the notice.

(2) If a notice is served by registered letter, it shall be presumed to have been served at the time when the letter would be delivered in the ordinary course of post, and proof that the letter was properly addressed and put into the post shall be sufficient to raise the presumption that the notice was duly served at that time.

(3) If the notice is to be served otherwise than by registered letter, the service shall, whenever it may be practicable, be on the person named in the notice or, in the case of a firm, on some member thereof, or, in the case of a Hindu undivided family, on the manager of the joint estate of the family.

(4) But when the person, member or manager cannot be found, the service may be made on any adult male member of his family residing with him; and if no such adult male member can be found, the serving-officer shall fix the copy of the notice on the outer door of the house in which the person, firm or family therein named ordinarily resides or carries on business.

47. (1) When a company or firm has several places of business in territories subject to different Local Governments, the Governor General in Council may declare which of those places shall, for the purposes of this Act, be deemed to be the principal place of business.

(2) When a company or firm has several places of business in the territories subject to a single Local Government, that Government may declare which of them shall, for the purposes of this Act, be deemed to be the principal place of business.

(3) When a person has several places of residence in territories subject to different Local Governments, the Governor General in Council may declare which of those places shall, for the purposes of this Act, be deemed to be his residence.

(4) When a person has several places of residence in the territories subject to a single Local Government, that Government may declare which

of those places shall, for the purposes of this Act, be deemed to be his residence.

(5) The powers given by this section may be delegated to and exercised by such officers as the Governor General in Council or the Local Government, as the case may be, appoints in this behalf.

48. Where a person is in respect of any period liable to the tax under this Act, he shall not in respect of that period be assessed to the pândhari tax levied in the Central Provinces under Act XIV of 1867, or to the capitation-tax, or the land rate in lieu thereof, levied in British Burma under the Burma Land and Revenue Act, 1876

49. Every person deducting, retaining or paying any tax in pursuance of this Act or of any arrangement under section 9, sub-section (2), in respect of income belonging to another person, is hereby indemnified for the deduction, retention or payment thereof.

50. All powers conferred by or conferrable under this Act may be exercised from time to time as occasion requires.

THE FIRST SCHEDULE,

ENACTMENTS REPEALED.

(See section 2.)

ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

Number and year.	Short Title.	Extent of repeal.
Act No. II of 1878.	The Northern India License Act, 1878.	So much as has not been repealed.
Act No. VI of 1880.	The Indian License Acts Amendment Act, 1880.	The whole.

ACTS OF THE GOVERNOR OF FORT ST GEORGE IN COUNCIL.

Number and year.	Short Title.	Extent of repeal.
Act No. III of 1878.	The Madras License Act, 1878.	So much as has not been repealed.
Act No. III of 1880.	An Act to amend Madras Act III of 1878 as amended by Act VI of 1880.	The whole.

ACT OF THE GOVERNOR OF BOMBAY IN COUNCIL.

Number and year.	Short Title.	Extent of repeal.
Act No. III of 1878.	The Bombay License Act, 1878.	So much as has not been repealed.

ACT OF THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

Number and year.	Short Title.	Extent of repeal.
Act No. II of 1880.	The Bengal License Act, 1880.	The whole.

THE SECOND SCHEDULE		FIRST COLUMN.	SECOND COLUMN.															
SOURCES OF INCOME AND RATES OF TAX.		Source of Income	Rate of Tax.															
FIRST COLUMN.	SECOND COLUMN.	PART IV. OTHER SOURCES OF INCOME.																
Source of Income	Rate of Tax.																	
PART I. SALARIES AND PENSIONS.		(a) If the annual income is assessed at— <table border="1"> <tr> <td>Any source of income not included in Part I, Part II or Part III of this schedule.</td> <td>not less than Rs. 500 but less than Rs. 750</td> <td>the tax shall be Rs. 10</td> </tr> <tr> <td>" " " 750 " " " 1,000</td> <td>" " " 1,000 " " " 1,250</td> <td>" " " 15</td> </tr> <tr> <td>" " " 1,250 " " " 1,500</td> <td>" " " 1,500 " " " 1,750</td> <td>" " " 20</td> </tr> <tr> <td>" " " 1,500 " " " 1,750</td> <td>" " " 1,750 " " " 2,000</td> <td>" " " 25</td> </tr> <tr> <td>" " " 1,750 " " " 2,000</td> <td>" " " 2,000 " " "</td> <td>" " " 35</td> </tr> </table> (b) if the annual income is assessed at Rs. 2,000 or upwards,—five pies in the rupee on the income.		Any source of income not included in Part I, Part II or Part III of this schedule.	not less than Rs. 500 but less than Rs. 750	the tax shall be Rs. 10	" " " 750 " " " 1,000	" " " 1,000 " " " 1,250	" " " 15	" " " 1,250 " " " 1,500	" " " 1,500 " " " 1,750	" " " 20	" " " 1,500 " " " 1,750	" " " 1,750 " " " 2,000	" " " 25	" " " 1,750 " " " 2,000	" " " 2,000 " " "	" " " 35
Any source of income not included in Part I, Part II or Part III of this schedule.	not less than Rs. 500 but less than Rs. 750			the tax shall be Rs. 10														
" " " 750 " " " 1,000	" " " 1,000 " " " 1,250	" " " 15																
" " " 1,250 " " " 1,500	" " " 1,500 " " " 1,750	" " " 20																
" " " 1,500 " " " 1,750	" " " 1,750 " " " 2,000	" " " 25																
" " " 1,750 " " " 2,000	" " " 2,000 " " "	" " " 35																
1. Any salary, annuity, pension or gratuity paid in British India to or on behalf of any person residing in British India or serving on board a ship plying to or from British Indian ports, whether on account of himself or another person.	(a) If the income amounts to Rs. 2,000 per annum, or Rs. 166-10-8 per mensem, or upwards—five pies in the rupee	THE THIRD SCHEDULE. FORM OF PETITION. (See section 25.) TO THE COLLECTOR OF The day of 188 . The petition of A. B. of SHRWEETH as follows— 1.—Under Act No. II of 1886 your petitioner has been assessed in the sum of rupees for the year commencing the first day of April 188 . 2.—Your petitioner's income and profits accruing and arising from [here specify petitioner's trade or other source or sources of income or profits and the place or places at which such income or profits accrue or arise] for the year ending the day of last were rupees of which a list is presented herewith.* 3.—Such income and profits actually accrued and arose during a period of months and days [here state the exact number of months and days in which the income and profits accrued and arose]. 4.—During the said year your petitioner had no other income or profits. Your petitioner therefore prays that he may be assessed accordingly [or that he may be declared not to be chargeable under the said Act]. (Signed) A B. Form of Verification. I, A. B., the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief. (Signed) A B. *These words are to be inserted if the petitioner relies on documents. The list, if the petitioner so wishes, may be presented in a sealed envelope. S. HARVEY JAMES, Offg. Secretary to the Government of India."																
2. Any salary, annuity, pension or gratuity paid by the Government, or by a local authority established in the exercise of the powers of the Governor General in Council in that behalf, to or on behalf of a British subject within the dominions of a Prince or State in India in alliance with Her Majesty.	(b) If the income is less than Rs. 2,000 per annum, or Rs. 166-10-8 per mensem—four pies in the rupee																	
PART II. PROFITS OF COMPANIES.																		
Profits of a company	Five pies in the rupee on the whole of the nett profits made in British India by the company during the year ending on the day on which the company's accounts have been last made up, or, if the company's accounts have not been made up within the year ending on the thirty-first day of March in the year immediately preceding that for which the assessment is to be made, then on the whole of the nett profits so made during the year ending on the said thirty-first day of March.																	
PART III. INTEREST ON SECURITIES.																		
Interest becoming due on or after the first day of April, 1886, and payable in British India, on—	Five pies in the rupee on such interest, unless the owner of the security produces a certificate signed by the Collector that his annual income from all sources is less than Rs. 500, in which case no deduction shall be made from the interest, or unless he produces a like certificate that his income from all sources is less than Rs. 2,000, in which case the rate shall be four pies in the rupee.																	
(a) promissory notes, debentures, stock or other securities of the Government of India, (including securities of the Government of India whereon interest is payable out of British India by draft on any place in British India), or																		
(b) bonds or debentures charged by the Imperial Parliament on the revenues of India, or																		
(c) debentures or other securities for money issued by or on behalf of a local authority or company.																		

LEGISLATIVE DEPARTMENT

The following Report of the Select Committee on the Bill for imposing a tax on income derived from sources other than agriculture was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 22nd January 1886.—

We, the undersigned, Members of the Select Committee to which the Bill for imposing a tax on

From the Officiating Secretary to the Government of Bengal, No 31, dated the 7th January 1886

Telegram from the Financial Secretary to the Government of Bombay, dated the 11th January 1886

Telegram from the Chief Commissioner of Assam, dated the 11th January 1886

Telegram from the Resident, Hyderabad, dated 9th January 1886

Telegram from the Secretary to the Government of the Punjab, dated the 9th January 1886

Telegram from the Chief Secretary to the Government of Madras, dated the 11th January 1886

Note by A. Smith, Esq., Commissioner, Presidency Division, Bengal.

From the Secretary to the Government of the North-Western Provinces and Oudh, No 5—

XIII-101-2, dated the 9th January 1886

Telegram from the Secretary to the Chief Commissioner, Central Provinces, dated the 11th January 1886

Letter from James L. Mackay, Esq., to the Hon'ble R. Steel, No 17, dated the 13th January 1886

Letter from H. B. H. Turner, Esq., to the Hon'ble R. Steel, dated the 13th January 1886

Memorandum by Dosabhai Framji, Esq., C. S. I., Presidency Magistrate, Bombay

Letter from the Secretary, Indian Jute Manufacturers' Association, dated the 13th January 1886

Telegram from the Chief Commissioner, Ajmer-Merwara, dated the 15th January 1886

From the Officiating Secretary, Board of Revenue, Lower Provinces, No. 34 B, dated the 16th January 1886

Letter from the Secretary to the Bengal Chamber of Commerce, dated the 16th January 1886

Memorial from the Managers, Agents and Secretaries of the leading Life Assurance Companies carrying on business in India, dated the 16th January 1886

Telegram from the Bombay Chamber of Commerce, dated 19th January 1886.

income derived from sources other than agriculture was referred, have considered the Bill and the papers noted on the margin, and have now the honour to submit this our Report.

2. We have provided in section 1 that the Act shall come into force on the first day of April next. During the time which elapses between the passing of the Bill and that date, the Government will be able to prepare and issue its rules, and Collectors to make such arrangements for the assessment of the tax as they can make without calling in aid the provisions of the Act.

It is important that Collectors should know as soon as possible what incomes will be assessable, and that the Government should at once be in a position to frame the necessary rules for assessment.

3. In section 5 we have, with adherence to section 24 (section 23 of the Bill as introduced), inserted a clause (clause (c)) excepting from liability to the tax the whole of the annual value of buildings which landholders and agriculturists own and occupy on, or in the immediate neighbourhood of, the land they hold and cultivate, and which are necessary to them in the exercise of their vocation as landholders and agriculturists. Thus, while a landholder will be exempt from the tax in respect of the annual value of the homestead (if any) appurtenant to his land, he will be assessable in respect of any other house he may own and occupy.

4. We have inserted in the same section a further clause (clause (g)), based on the English law, excepting from liability to the tax any portion, not exceeding one-sixth, of his income which a person pays either to the Government or to a company in respect of life-insurance or deferred annuity.

5. Clause (e) of section 5 (clause (c) of that section in the Bill as introduced) is based on a similar clause in Act VIII of 1872. The exemption appears to us to be sufficient to cover educational endowments, and does not, as has been suggested, open a door to the evasion of the Act by colourable gifts to idols or any like device.

6. We have omitted sub-section (2) of the same section in the Bill as introduced. There appears to us not to be sufficient ground for making, between official salaries and other incomes, the distinction which was proposed in that sub-section.

7. By the new sub-section (2) appended to section 5, we have made it clear that a salaried manager of land is not exempt from the tax by reason only of the income of his employer being exempt therefrom.

8. We have ascertained that companies and some other private employers are much opposed to that provision of the Bill as introduced which imposed on them the duty of deducting the tax from the salaries of their employés. To the argument that there was such a provision in force in the years 1869-72, they reply that the provision was then a fruitful cause of misunderstanding and disagreement between them and their subordinates. Under these circumstances it appears to us that companies ought not to be compelled to collect the tax. We have therefore modified section 8 of the Bill, and empowered the Collector, by a new section (section 9), to enter into an arrangement with any private employer, on terms to be mutually agreed on, for the collection by the employer of the tax payable by his employés.

9. Section 10 of the Bill as introduced followed the Acts, of 1869 and 1872 in making special provision for the taxation of shipping companies. It has been stated, and we have satisfied ourselves, that the provision was unworkable and, in practice, inoperative. It has therefore been omitted from section 11, and the second schedule, of the Bill as amended by us and we have added to section 5 a special exception (clause (d)), in favour of shipping companies incorporated or registered out of British India and having their principal places of business out of India and their ships ordinarily engaged in sea-going traffic out of Indian waters.

10. To section 18 (section 17 of the Bill as introduced) we have added clauses empowering the Local Government to authorise the Collector in any specified town or place to publish general notices inviting tax-payers to make returns of their income, and in any presidency-town to serve special notices on individual tax-payers inviting them to make such returns.

11. In section 24 (section 23 of the Bill as introduced) we have provided for houses occupied by their owners being assessed at five-sixths, instead of nine-tenths, of their annual value. We have thus reverted to the principle of section 132 of Act XXXII of 1860.

12. We have so modified section 27 (section 26 of the Bill as introduced) as to require the Commissioner to call for the record in the case of a petition for the revision of any assessment of two hundred and fifty rupees or upwards.

13. In section 30 (section 29 of the Bill as introduced) we have provided for the continuance of the summary process of recovery described in section 24 of the Bengal License Act, 1880.

14. In sub-section (5) of the same section we have provided that no proceedings for the recovery of any sum payable under the Act shall be commenced after the expiration of three months from the last day of the year in respect of which the sum is payable. The section as amended by us is more restrictive on the revenue-authorities than the corresponding section of the Bengal License Act, 1880, and less so than the corresponding section of the Northern India License Act, 1878.

15. In section 31 provision has been made, as in Act XXXII of 1860, for composition of the tax.

16. Seeing that provision is made in Chapter IV for revision of assessment, we think that section 32, sub-section (1), of the Bill as introduced should be omitted, and that section 31 of that Bill may also be omitted, as being likely, by suggesting the disturbance of settled assessments, to create irritation with which the additional revenue raised under the section would be incommensurate.

17. In section 38 of the Bill as amended by us (section 37 of the Bill as introduced) we have provided for rules being made for securing secrecy in regard to information furnished in documents relating to incomes of assesses.

18. We have deemed it desirable to specify more particularly than in section 40 of the Bill as introduced the information which may be required by a Collector for the purposes of the Act. We have, therefore, for that section substituted sections 41 to 45 of the Bill as amended.

19. We have modified section 46 (section 41 of the Bill as introduced) by providing that the delivery of a letter duly posted shall only be presumed, and we have required the letter to be registered.

20. From the first column of Part III of the second schedule to the Bill as introduced we have omitted the clause relating to stock of, or shares in, guaranteed railway companies. The clause is unnecessary, as all railway companies will be assessed on their nett earnings. We have, however, provided in new clause (c) of Part III for the recovery, in the manner prescribed in section 13, of the interest on debentures issued by companies.

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

	<i>In English</i>	<i>Date</i>
<i>Gazette of India</i>	...	5th, 9th and 16th January, 1886.
<i>Fort St George Gazette</i>	..	20th January 1886.
<i>Bombay Government Gazette</i>	..	14th January 1886.
<i>Calcutta Gazette</i>	...	13th and 20th January, 1886.
<i>North-Western Provinces and Oudh Government Gazette</i>	..	16th January 1886.
<i>Central Provinces Gazette</i>	..	16th January 1886.

22. 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.

A. COLVIN.
C. P. ILBERT.
T. C. HOPE.
V. N. MANDLIK.*
PEARI MOHAN MUKERJI. †
J. W. QUINTON.
ROBERT STEEL.
W. W. HUNTER.

The 22nd January 1886.

* I differ from the majority on sections 1, 5, clause (d), and section 24. I think the Bill should terminate in one or two years, I think clause (d), section 5, should be modified or left out, and section 24 should be made applicable only to houses in principal towns and cities.

† I sign this Report with reservation of opinion on the following provisions, namely, (1) "and in each subsequent year" in section 4; (2) clause (j) of section 5, and (3) section 24.

V. N. MANDLIK.

PEARI MOHAN MUKERJI.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 29th January 1886, and was promulgated for general information in the *Gazette of India* on the 30th January 1886:—

Act No. IV of 1886.

An Act to amend section 265 of the Indian Contract Act, 1872.

WHEREAS it is expedient to amend section 265 of the Indian Contract Act, 1872; it is hereby enacted as follows:—

New section substituted for section 265, Indian Contract Act.

1. For section 265 of the said Act the following shall be substituted, namely:—

“ 265. Where a partner is entitled to claim a winding up by Court on dissolution of partnership, or after termination or where a partnership has terminated, the Court may, in the absence of any contract to the contrary, wind up the business of the partnership, provide for the payment of its debts and distribute the surplus according to the shares of the partners respectively.”

2. In section 213 of the Code of Civil Procedure, XIV of 1882,

the words and figures 213, Act XIV, 1882. from and including the word “applications” to the end of the section are hereby repealed.

S HARVEY JAMES,

Offg. Secretary to the Government of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend section 265 of the Indian Contract Act, 1872, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 22nd January 1886:—

We, the undersigned, Members of the Select Committee to which the Bill to amend section 265

- From Officiating Registrar, High Court, Calcutta, No. 930, dated 20th March 1885, and enclosure [Papers No. 1]
- From Officiating Secretary to Chief Commissioner, Assam, No. 577, dated 8th April 1885 [Paper No. 2]
- From Secretary for Berar to Resident, Hyderabad, No. 131G., dated 15th April 1885 [Paper No. 3]
- From Officiating Secretary to Chief Commissioner, British Burma, No. 300-16L, dated 16th April 1885, and enclosures [Papers No. 4]
- From Chief Commissioner, Ajmer-Merwara, No. 458, dated 2nd May 1885, and enclosure [Papers No. 5]
- From Chief Secretary to Government, Madras, No. 1098, dated 27th April 1885, and enclosures [Papers No. 6]
- From Secretary to Chief Commissioner, Coorg, No. 207-26, dated 4th May 1885 [Paper No. 7]
- From Assistant Secretary to Chief Commissioner, Central Provinces, No. 1722-64, dated 8th May 1885 [Paper No. 8]
- From Acting Under Secretary to Government, Bombay, No. 3277, dated 11th May 1885, and enclosures [Papers No. 9]
- From Secretary to Government, North-Western Provinces and Oudh, No. 477-VII-72-20, dated 7th May 1885, and enclosures [Papers No. 10]
- From Officiating Secretary to Government, Punjab, No. 509, dated 15th May, 1885, and enclosures [Papers No. 11]
- From Secretary to Government, Bengal, No. 347 J. D., dated 11th May 1885, and enclosures [Papers No. 12]
- From Registrar, High Court, Calcutta, No. 2611, dated 8th September 1885, and enclosure [Paper No. 13].

of the Indian Contract Act, 1872, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

2. We have so framed the new section which it is proposed to substitute for section 265 as to make it a declaration of law consistent with the form of plaint No. 113 scheduled to the Code of Civil Procedure, and to show that a partner may apply to have the partnership wound up not only after its termination but also when he is entitled to claim a dissolution.

3. We have not overlooked the difficulties pointed out by Mr Justice Field and others as to the valuation and place of trial of suits under this

section, but these difficulties, not being limited to suits of this class, should, we think, be considered separately and with care.

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

In English.

Gazette	Date.
Gazette of India ...	21st and 28th February, and 7th March 1885.
Fort Saint George Gazette ...	10th March 1885
Bombay Government Gazette ...	26th February, and 5th and 12th March 1885.
Calcutta Gazette ...	25th February, and 4th and 11th March 1885
North-Western Provinces and Oudh Government Gazette ...	28th February, and 7th and 14th March 1885
Punjab Government Gazette ...	12th, 19th and 26th March 1885.
Central Provinces Gazette ...	28th February, and 7th and 14th March 1885.
British Burma Gazette ...	14th, 21st and 28th March 1885.
Assam Gazette ...	14th and 28th March 1885.
Coorg District Gazette ...	1st May 1885.

In the Vernaculars

<i>Province</i>	<i>Language</i>	<i>Date</i>
Madras ...	Kánarese	... 23rd June 1885.
Bombay ...	Maráthí } Guzaráthí }	... 26th March 1885.
	Kánarese...	... 28th May 1885.
Bengal ...	Bengalí ...	... 17th, 24th and 31st March 1885.
	Hindí ...	... 24th and 31st March, and 7th April 1885.
	Uííya ...	... 9th, 16th and 23rd April 1885
North-Western Provinces and Oudh ...	Urdu ...	... 14th, 21st and 28th March 1885.
Punjab ..	Urdu ...	... 23rd and 30th March, and 6th April 1885.
Central Provinces ..	Hindí ..	... 4th, 11th and 18th April 1885
British Burma ...	Burmese ..	... 18th and 25th April, and 2nd May 1885.
Assam ..	Bengalí ..	... 4th April 1885.

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

(Signed) C P. ILBERT
 " S. C. BAYLEY.
 " V. N. MANDLIK.
 " H. ST. A. GOODRICH.
 " G. H. P. EVANS.
 " J. W. QUINTON.

The 20th January 1886.

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



Bombay Government Gazette.

Published by Authority.

FRIDAY, 19TH FEBRUARY 1886.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 9th February 1886, and the assent of His Excellency the Viceroy and Governor General on the 18th February 1886, and is published for general information :—

Bombay Act No. I. of 1886.

An Act to remove certain doubts in the construction of Section 9B of the Bombay Municipal Acts of 1872 and 1878.

[First publication.]

WHEREAS doubts are entertained as to the power of Government, in rules framed by it under Section 9B of the Bombay Municipal Acts of 1872 and 1878, to divide the city of Bombay, for the purposes of elections by ratepayers of members of the Municipal Corporation of the said city, into wards and to restrict the right of persons qualified to vote at any such election to voting in one ward and for one candidate only, and it is expedient to remove such doubts; It is enacted as follows :—

1. No rule which purports to have been framed by Government under the said section, either before or after the date when this Act comes into force, shall be deemed to have been, or to be invalid merely by reason :

(a) that it divides the city of Bombay into wards and distributes the thirty-

two members of the said Corporation to be elected at a ratepayers' election amongst the said wards and requires that the number of the said members so allotted to each such ward shall be returned for the prescribed ward only; or

(b) that it contemplates the entry by the Municipal Commissioner of the names of persons qualified to vote at ratepayers' elections in the list to be prepared by him under Section 9D of the said Acts in one or more wards; or

(c) that it prescribes the ward in which each person qualified to vote at ratepayers' elections shall exercise that right and restricts such person's right to voting at elections of members for the one ward so prescribed and for one candidate only at each such election.

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

H. BATTY,

Under Secretary to Government.

Bombay Castle, 19th February 1886.

[Published with the "Bombay Government Gazette" on the 25th February 1886.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 9th February 1886, and the assent of His Excellency the Viceroy and Governor General on the 18th February 1886, and is published for general information :—

Bombay Act No. I. of 1886.

An Act to remove certain doubts in the construction of Section 9B of the Bombay Municipal Acts of 1872 and 1878.

The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 19th February 1886

{Second publication.}

Bo. III of
872 and IV.
of 1878.

WHEREAS doubts are entertained as to the power of Government, in rules framed by it under Section 9B of the Bombay Municipal Acts of 1872 and 1878, to divide the city of Bombay, for the purposes of elections by ratepayers of members of the Municipal Corporation of the said city, into wards and to restrict the right of persons qualified to vote at any such election to voting in one ward and for one candidate only, and it is expedient to remove such doubts; It is enacted as follows :—

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two members of the said Corporation to be elected at a ratepayers' election amongst the said wards and requires that the number of the said members so allotted to each such ward shall be returned for the prescribed ward only ; or

(b) that it contemplates the entry by the Municipal Commissioner of the names of persons qualified to vote at ratepayers' elections in the list to be prepared by him under Section 9D of the said Acts in one or more wards ; or

(c) that it prescribes the ward in which each person qualified to vote at ratepayers' elections shall exercise that right and restricts such person's right to voting at elections of members for the one ward so prescribed and for one candidate only at each such election.

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

H. BATTY,

Under Secretary to Government.

Bombay Castle, 19th February 1886.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor General on the 12th March, 1886, and was promulgated for general information in the *Gazette of India* on 13th March 1886.—

Act No XI. of 1886.

THE INDIAN TRAMWAYS ACT,
1886.

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*The Indian Tramways Act, 1886.**(Preliminary.—Orders authorising the Construction of Tramways.—Sections 1-4)*

An Act to facilitate the construction and to regulate the working of Tramways.

WHEREAS it is expedient to facilitate the construction and to regulate the working of tramways; It is hereby enacted as follows:—

Preliminary.

Short title and commencement. I. (1) This Act may be called the Indian Tramways Act, 1886; and

(2) It shall come into force at once.

Local extent. 2. (1) It extends in the first instance to the whole of British India, except the territories administered by the Governor of Fort Saint George in Council, the Governor of Bombay in Council, and the Lieutenant-Governor of Bengal.

(2) But the Governor of Fort Saint George in Council, the Governor of Bombay in Council or the Lieutenant-Governor of Bengal may, by notification in the official Gazette, extend this Act to the whole or any part of the territories under his administration.

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

(1) "local authority" means a municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund.

(2) "road" means the way of a road, street, thoroughfare, passage or place along or across which a tramway authorised under this Act is, or is intended to be, laid, and includes the surface soil and sub-soil of a road, and the footway, berms, drains and ditches of a road, and any bridge, culvert or causeway forming part of a road.

(3) "road-authority", in relation to a road, means—

(a) if a local authority maintains and repairs the road, then that authority;

(b) if a local authority does not maintain and repair the road, and the road is neither vested in Her Majesty nor maintained and repaired by the Government, then the person in whom the road is vested; and

(c) if a local authority does not maintain and repair the road, and the road is vested in Her Majesty or maintained and repaired by the Government, then the Local Government.

(4) "circle", in relation to a local authority or road-authority, means the area within the control of that authority.

(5) "tramway" means a tramway, or any part of a tramway, or any siding, turnout, connection, line or track belonging to a tramway.

(6) "order" means an order authorising the construction of a tramway under this Act, and

includes a further order substituted for, or amending, extending or varying, that order:—

(7) "promoter" means a local authority or person in whose favour an order has been made, and includes a local authority or person on whom the rights and liabilities conferred and imposed on the promoter by this Act and by the order and any rules made under the Act, as to the construction, maintenance and use of the tramway, have devolved:

(8) "undertaking" includes all moveable and immoveable property of the promoter suitable to and used by him for the purposes of the tramway:

(9) "carriage", in the case of a tramway on which steam-power or any other mechanical power is used, includes an engine worked on the tramway for the purpose of producing that power:

(10) "toll" includes any charge leviable in respect of the use of a tramway:

(11) "lessee" means a person to whom a lease has been granted of the right of user of a tramway and of demanding and taking the authorised tolls:

(12) "District Magistrate" includes an officer empowered by the Local Government by name or by virtue of his office to discharge within any local area all or any of the functions of a District Magistrate under this Act:

(13) "District Court" means a principal Civil Court of original jurisdiction, and includes a High Court having ordinary original civil jurisdiction:

(14) "Collector" means the chief officer in charge of the revenue-administration of a district, and includes an officer empowered by the Local Government by name or by virtue of his office to discharge within any local area the functions of a Collector under this Act; and

(15) "prescribed" means prescribed by rules made by the Local Government under this Act.

Orders authorising the Construction of Tramways.

4. (1) The Local Government may make an order authorising the construction of a tramway in a circle on application made—

(a) by the local authority of the circle, with the consent of the road-authority of any road or part of a road which is to be traversed by the tramway, and of which the local authority is not itself the road-authority; or

(b) by any person with the consent of the local authority of the circle, and of the road-authority of any road or part of a road which is to be traversed by the tramway and of which the local authority is not the road-authority:

Provided that, if any part of the proposed tramway is to traverse land which is not included within the limits of a municipality or of a cantonment, the Local Government shall not make

*The Indian Tramways Act, 1886.**(Orders authorising the Construction of Tramways.—Sections 5-7.)*

the order without the previous sanction of the Governor-General in Council.

(2) A local authority shall not make an application for an order, or be deemed to consent to an application being made by any person for an order, unless the making of the application or the giving of the consent has been approved by the local authority in manner prescribed.

5. When it is proposed to lay a tramway in two or more circles, and a local authority or road-authority having control in either or any of the circles does not consent thereto, or attaches conditions to its consent, the Local Government may, nevertheless, make an order authorising the construction of the tramway in the circle, or by the order impose on the promoter any conditions which it deems fit, if, after considering the reasons of the authority for withholding its consent or attaching the conditions thereto, it is satisfied that the construction of the tramway in the circle is expedient, or, as the case may be, that the conditions attached by the authority to its consent ought not to be imposed.

6. (1) The Local Government on receiving an application shall consider it, and, if satisfied as to the propriety of proceeding thereon, publish in the official Gazette, and in such other manner as it deems sufficient for giving information to persons interested, a draft of a proposed order authorising the construction of the tramway.

(2) A notice shall be published with the draft stating that any objection or suggestion which any person may desire to make with respect to the proposed order will, if submitted to the Local Government on or before a date to be specified in the notice, be received and considered.

(3) If, after considering any objections or suggestions which may have been made with respect to the draft on or before the date so specified, the Local Government is of opinion that the application should be granted, with or without addition or modification, or subject or not to any restriction or condition, it may make an order accordingly.

(4) Every order authorising the construction of a tramway shall be published in the official Gazette in English, and in the other prescribed language or languages, if any, and that publication shall be conclusive proof that the order has been made as required by this section.

7. (1) An order made under section 6 shall empower the promoter therein specified to construct and maintain the tramway therein described in the manner therein provided, and shall specify the time within which the tramway shall be commenced and the time within which it shall be completed and opened for public traffic.

(2) The order may also provide, in manner consistent with this Act, for all or any of the following, among other matters, that is to say—

(a) a period before the expiration of which the tramway shall not be commenced,

and the conditions subject to which the local authority, when it is not itself the promoter, may, within that period, elect to be substituted in the place of the promoter in respect of the undertaking or of so much thereof as is within its circle, and the limits of time within which, and the terms upon which, the local authority may, after the tramway has been constructed, require the promoter to sell to it the undertaking or so much thereof as is within its circle;

(b) the acquisition by the promoter of land for the purposes of the tramway, and the disposal by him of land which has been acquired but is no longer required for those purposes;

(c) the conditions subject to which roads may be opened and broken up for the purposes of the construction or maintenance of the tramway or any part thereof, and the method of, and materials to be used in, the re-laying of the roads, and the approval of the method and materials by the Local Government or the road-authority before the commencement of the work,

(d) the conditions on which the tramway may be constructed over a bridge or across a railway or tramway when the carriage-way over the bridge is to form part of the tramway or when the tramway is to cross a railway or another tramway on the level;

(e) the space which shall ordinarily intervene between the outside of the carriage-way on either side of a road whereon the tramway is to be constructed and the nearest rail of the tramway, and the conditions on which a smaller space may be permitted;

(f) the gauge of the tramway; the rails to be used, and the mode in which and the level at which they shall be laid and maintained; and the adoption and application by the promoter of such improvements in the rails, and in their situation, and in the sub-structure upon which they rest, as the Local Government may from time to time require,

(g) the portion of the road or roads traversed by the tramway to be kept in repair by the promoter, the maintenance by the promoter to the satisfaction of the Local Government or the road-authority, or both, of that portion of the road or roads; and the liability of the promoter, on the requisition of the Local Government, from time to time to adopt and apply such improvements in the tramway as the Local Government may consider necessary or desirable for the safety or convenience of the public, and to alter the position or level of the tramway to suit future alterations in the road or roads,

*The Indian Tramways Act, 1886.**(Orders authorising the Construction of Tramways.—Sections 8-9.)*

- (h) the application of material excavated by the promoter in the construction or maintenance of the tramway ;
- (i) the provision of such crossings, passing-places, sidings, junctions and other works, in addition to those specified in or authorised by the order, as may from time to time be necessary or convenient to the efficient working of the tramway ;
- (j) the powers which may from time to time be exercised by the Local Government, the local authority, the road-authority or any person in respect of sewers, drains, telegraph-lines, gas-pipes, water-pipes or other things in or on land occupied by the tramway ; the notice (if any) to be given of the intended exercise of those powers ; the manner in which the powers shall be exercised ; and the extent to which the tramway and the traffic thereon may be interfered with in the exercise thereof ;
- (k) the conditions subject to which the promoter may from time to time interfere with, or alter or require the alteration of the position of, drains (not being sewers or main drains), telegraph-lines, gas-pipes, water-pipes or other things as aforesaid ;
- (l) the provision of a temporary tramway in place of a part of a tramway which has been removed, or of which the use has been discontinued, by reason of the execution of any work affecting a road along which the part of the tramway was laid, or by reason of the use of the road being interrupted by floods or other cause ;
- (m) the motive power to be used on the tramway, and the conditions on which steam-power or any other mechanical power may be used ;
- (n) the nature, dimensions, fittings, appliances and apparatus of the carriages to be used on the tramway, and the inspection and examination thereof by officers of the Local Government or the local authority, and the liability of the promoter or lessee, on the requisition of the Local Government, from time to time, to adopt and apply such improvements in the carriages and in the fittings, appliances and apparatus, as the Local Government may consider necessary or desirable for the safety or convenience of the public ;
- (o) the traffic which may be carried on the tramway, the traffic which the promoter or lessee shall be bound to carry, and the traffic which he may refuse to carry ; the tolls to be leviable by the promoter or lessee, and the periodical revision thereof by the Local Government ; and the regulation of the traffic and of the levy of the tolls ;
- (p) the use of the tramway free of toll by the local authority, with its own carriages, for specified purposes, during specified hours, with power to the local authority to make such sidings and other works as may be necessary for communication between its premises and the tramway ;
- (q) the conditions subject to which the promoter may transfer the undertaking, or any part thereof, by sale, mortgage, lease, exchange or otherwise ; and the conditions subject to which the local authority may be the transferee ;
- (r) the performance by the Local Government or by the local authority or road-authority of any work required by the Act or the order to be done by the promoter ; and
- (s) the penalty to be incurred by the promoter or lessee for failure to observe any condition or direction contained in the order, and the application of the penalty when recovered.
- (3) The Local Government may, in providing in the order for the acquisition of land for the purposes of a tramway of which the promoter is not a company, direct that land may be acquired for the promoter under the provisions of the Land Acquisition Act, 1870, in the same manner and on the same conditions as it might be acquired for the purposes of the tramway if a company were the promoter. X. of 1870
- (4) The order shall imply the condition—
- (a) in the case of a tramway of which a local authority is the promoter, that a lease thereof shall be granted only in manner by this Act provided, and
- (b) in the case of a tramway of which a local authority is not the promoter, that a lease thereof shall be only of the right of user and of demanding and taking the authorised tolls, and shall not confer or impose on the lessee any of the powers or duties of the promoter, in respect of the construction or maintenance of the tramway.
8. (1) The Local Government may, on the application of the promoter, revoke, amend, extend or vary the order by a further order.
- (2) An application for a further order shall be made in the same manner and subject to the same conditions as an application for an order.
- (3) The Local Government may, in its discretion, either grant or reject the application.
- (4) If it grants the application, it shall make the further order in the same manner as an order, except that no addition to, or modification of, the rights, powers and authorities asked for in the application, or restriction or condition with respect thereto, shall be made or imposed by the further order without the consent in writing of the promoter.
9. (1) Subject to, and in accordance with, the provisions of this Act, the Local Government may, on a joint application, or on two or more separate applications make an order empowering two or more local authorities, respectively, jointly to construct the whole, or separately to construct parts, of a tramway, and

*The Indian Tramways Act, 1886.**(Construction and Maintenance of Tramways.—Traffic on Tramways.—
Sections 10-16).*

jointly or separately to own the whole or parts thereof.

(2) All the provisions of this Act which relate to the construction of tramways shall extend and apply to the construction of the whole and the separate parts of the tramway, and the form of the order may be adapted to the circumstances of the case.

10. (1) If a promoter authorised by an order Cessation of powers given to construct a tramway.—
by an order.

- (a) does not within the time specified in the order substantially commence the construction of the tramway, or
- (b) having commenced the construction; suspends it without a reason sufficient in the opinion of the local Government to warrant the suspension, or
- (c) does not within the time specified in the order complete the tramway and open it for public traffic,

the following consequences shall ensue.—

- (i) the powers given by the order to the promoter for constructing the tramway and otherwise in relation thereto shall, unless the Local Government, by special direction in writing, prolongs the time or condones the suspension, cease to be exercised except as to so much of the tramway as is then completed:
- (ii) as to so much of the tramway as is then completed, the Local Government may either permit, or refuse to permit, the powers given by the order to continue;
- (iii) if the Local Government refuses to permit the powers to continue, then so much of the tramway as is then completed may be dealt with, under the provisions of this Act relating to the discontinuance of tramways, as a tramway of the working whereof the discontinuance has been proved to the satisfaction of the Local Government.

(2) A notification published by the Local Government in the official Gazette to the effect that on a date specified in the notification the construction of a tramway had not been substantially commenced or a tramway had not been completed and opened for public traffic, or that the construction of a tramway had been suspended without sufficient reason, shall, for the purposes of this section, be conclusive proof of the matter stated therein.

Construction and Maintenance of Tramways

11. A tramway shall be constructed and Mode of formation of maintained in the manner tramway provided by the order.

12. A tramway, or portion or extension of, or Inspection of tramway before opening. addition to, a tramway, shall not be opened for public traffic until an engineer appointed in this behalf by the Local Government has inspected it and certified it to be fit for such traffic.

IV.—11

13. Subject to the provisions of any order for Agreement between road- the time being in force authority and promoter as with respect to the mat- to repair of roadway. ters mentioned in section 7, sub-section (2), clause (g), the road-authority and the promoter may from time to time enter into agreements as to the keeping in repair of the whole or a part of a road traversed by a tramway, and as to the proportion to be paid by either of them of the expense of keeping the road or part in repair.

Traffic on Tramways.

14. (1) The promoter of a tramway shall, sub- Rights of promoters and ject to the provisions of the public over tramways. sub-section (2) and to the other provisions of

this Act and of the order, have the exclusive use of the tramway for carriages with flange-wheels or other wheels suitable to run on the rail described in the order as the rail to be used on the tramway

Provided that nothing in this Act or in the order or any rule made under this Act shall affect the right of any person authorised to use a tramway or railway to pass across a tramway constructed under this Act with carriages having wheels suitable to run on the rail thereof.

(2) The public shall have a right to pass along or across any part of a road along or across which a tramway is constructed, whether on or off the tramway, with carriages not having flange-wheels or other wheels suitable to run on the rail of the tramway provided.—

- (a) that this sub-section shall not apply where the tramway is constructed on land the right to the exclusive possession of which has been acquired by the promoter; and
- (b) that the Local Government may by an order authorise the construction of a tramway on any part of a road with rails raised above the surface of the road, if it is satisfied that the convenience of the public will not be injuriously affected thereby

15. (1) The promoter or lessee may demand and take, in respect of Tolls leviable by pro- the tramway, tolls not moter or lessee. exceeding the limits specified in or determinable under the order, or, if the order contains no provision in this behalf, then such sums as may from time to time be fixed by the promoter or lessee with the previous sanction of the Local Government.

(2) A list of all the tolls authorised to be levied shall be exhibited, in such languages as the District Magistrate may direct, in a conspicuous place inside and outside each of the carriages used upon the tramway.

16. (1) A person shall not be entitled to carry, Carriage of dangerous or or to require to be carried, offensive goods on a tramway constructed under this Act, any goods of a dangerous or offensive nature.

(2) A person taking such goods with him on the tramway shall, before entering the carriage, give notice of their nature to the servant of the promoter or lessee in charge of the carriage

The Indian Tramways Act, 1886.

Licenses to use Tramways.—Discontinuance of Tramways.—Sections 17-20).

(3) A person sending such goods by the tramway shall distinctly mark their nature on the outside of the package containing them, or otherwise give notice thereof in writing to the servant of the promoter or lessee with whom he leaves them for the purpose of their being sent by the tramway.

(4) Any servant of the promoter or lessee may refuse to carry upon the tramway a parcel which he suspects to contain goods of a dangerous or offensive nature, and, if any such parcel has been received for the purpose of being carried upon the tramway, may stop the transit thereof until he is satisfied as to the nature of its contents.

(5) Where a servant of the promoter or lessee refuses under sub-section (4) to carry a parcel which has been received for the purpose of being carried upon the tramway, he shall, as soon as may be, give notice of his refusal to the consignor or consignee if he refuses at a time when neither of them is present.

Licenses to use Tramways.

17. If, at any time after a tramway or part of a tramway has been for three years opened for public traffic in a circle, the local authority of the circle represents in writing to the local Government that the public is deprived of the full benefit of the tramway or of the part thereof, the Local Government may, after considering any statement which the promoter or lessee or both may desire to make, and after such further enquiry as it deems necessary it is satisfied as to the truth of the representation, grant a license to any person to use the tramway conformably to this Act and to the order and the rules made under this Act, subject to the following provisions, namely:—

- (a) the license shall be for a period not less than one year or more than three years from the date of the license, but the Local Government may in its discretion renew it;
- (b) the license shall be to use the whole of the tramway for the time being opened for public traffic, or such part or parts of the tramway as the Local Government, having regard to the cause for granting the license, thinks fit;
- (c) the license shall specify the number of carriages which the licensee shall run upon the tramway, the mode in which, and times at which, the carriages shall be run, the tolls to be paid to the promoter or lessee by the licensee for the use of the tramway, and the tolls, being those for the time being leviable by the promoter or lessee, which the licensee may demand and take for the use of his carriages;
- (d) the licensee and his officers and servants shall permit one person, duly authorised for that purpose by the promoter or lessee, to travel free of toll in or upon each carriage of the licensee run upon the tramway for the whole or any part of a journey;
- (e) any provision of this Act, or of the order or rules made under this Act, relating to the

functions of a servant of a promoter or lessee shall be construed, so far as may be, as referring to a servant of the licensee; and

- (f) the Local Government may revoke, alter or modify the license for any cause sufficient in its opinion to warrant the revocation, alteration or modification thereof.

18. A licensee shall, on demand, give to an officer or servant authorised in that behalf by the promoter or lessee an exact account in writing, signed by the licensee, of the number of passengers, or number or quantity of goods, conveyed by any and every carriage used by him on the tramway.

Discontinuance of Tramways.

19. If it is proved to the satisfaction of the Local Government, at any time after the opening of a tramway for public traffic, that the working of the tramway, or any part thereof, has been practically discontinued, for the space of three months, without a reason sufficient, in the opinion of the Local Government, to warrant the discontinuance, the Local Government, if it thinks fit, may, by notification in the official Gazette, declare that the powers of the promoter and of the lessee, if any, in respect of the tramway or the part thereof of which the working has been so discontinued, shall, from the date of the notification, be at an end; and thereupon the said powers shall cease and determine, except in so far as they may be purchased by a local authority in manner by this Act provided.

20. (1) Where a notification has been published under section 19, the road-authority may, at any time after the expiration of two months from the date of the notification, remove the tramway or part of the tramway of which the working has been so discontinued, and use the materials thereof in re-instating the road.

(2) The promoter shall pay to the road-authority the cost incurred by that authority in removing the tramway or the part thereof and in re-instating the road.

(3) The cost shall be certified by an officer of the road-authority, and his certificate, countersigned by the District Magistrate, shall be conclusive proof as to the cost incurred.

(4) If the promoter does not pay the amount so certified within one month after the delivery to him of the certificate or of a copy thereof, the road-authority may, without any previous notice to the promoter and without prejudice to any other remedy which it may have for the recovery of the amount, sell and dispose of such materials of the tramway or part thereof removed as it has not used in re-instating the road, either by public auction or by private sale, and for such sum or sums, and to such person or persons, as it thinks fit, and may, out of the

*The Indian Tramways Act, 1886.**Insolvency of Promoter.—Purchase of Tramways.—Working of Tramways owned by Local Authorities.—Rules.—Section 21-24.*

proceeds of the sale, pay and reimburse itself the amount of the cost aforesaid and of the expenses of the sale, and shall pay over the residue (if any) of the proceeds of the sale to the promoter.

Insolvency of Promoter.

21. (1) If, at any time after the opening of a tramway in a circle for public traffic, it appears to the road-authority or local authority of the circle that the promoter of the tramway is insolvent, so that he is unable to maintain the tramway, or to work it with advantage to the public, and either of those authorities makes a representation to that effect to the Local Government, the Local Government may, if after considering any statement which the promoter may desire to make, and after such further enquiry as it deems necessary, it is satisfied as to the truth of the representation, declare, by notification in the official Gazette, that the powers of the promoter shall, at the expiration of six months from the publication of the notification, be at an end; and the powers of the promoter shall cease and determine at the expiration of that period, except in so far as they may be purchased by a local authority in manner by this Act provided.

(2) Where a notification has been published under sub-section (1), the road-authority may, at any time after the expiration of six months from the date thereof, remove the tramway in the same manner, and subject to the same provisions as to the payment of the cost of the removal, and to the same remedy for recovery of the cost, in every respect as in cases of removal under section 20.

Purchase of Tramways.

22. (1) Where the promoter of a tramway in a circle is not the local authority, the local authority, with the previous sanction of the Local Government, may—

- (a) within such limits of time as may be specified in this behalf in the order, or
- (b) if a time was not specified in the order, then within six months after the expiration of a period of twenty-one years from the date of the order, and within six months after the expiration of every subsequent period of seven years, or
- (c) within two months after the publication of a notification under section 19 or within six months after the publication of a notification under section 21,

by notice in writing, require the promoter to sell to the local authority his undertaking or the part thereof which is within the circle of the local authority and thereupon the promoter shall sell the same upon the terms specified in the order, or, if the terms were not specified in the order, then upon the terms of paying the then value of the undertaking or of the part thereof, exclusive of any allowance for past or future profits of the

undertaking or any compensation for compulsory sale or other consideration whatsoever.

(2) A requisition shall not be made under sub-section (1) unless the making thereof has been approved by the local authority in manner prescribed.

(3) When a sale has been made under this section, all the rights, powers and authorities of the promoter in respect of the undertaking or part thereof sold, or, where a notification has been published under section 19 or section 21, all the rights, powers and authorities of the promoter previous to the publication of the notification in respect of the undertaking or part thereof sold, shall be transferred to the authority to whom the undertaking or part has been sold, and shall vest in, and may be exercised by, that authority in the same manner as if the tramway had been constructed by it under an order made under this Act.

(4) Subject to, and in accordance with, the preceding provisions of this section, two or more local authorities may jointly purchase an undertaking or so much thereof as is within their circles.

Working of Tramways owned by Local Authorities.

23. (1) When a local authority has under the authority of an order completed a tramway, or has under the provisions of this Act or of an order acquired possession of a tramway, it may, by a lease to be approved by the Local Government, let to any person the right of user of the tramway and of demanding and taking the authorised tolls.

(2) On the determination of a lease, the local authority may from time to time let the right for such further term and on such conditions as the Local Government may approve.

(3) Every lease made under this section shall imply a condition of re-entry if at any time after the making thereof it is proved to the satisfaction of the Local Government that the lessee has practically discontinued the working of the tramway leased, or of any part thereof, for the space of one month without a reason sufficient, in the opinion of the Local Government, to warrant the discontinuance.

(4) Notice of the intention of the local authority to make a lease shall be given in manner prescribed.

(5) If the local authority cannot by means of a lease obtain what it deems to be a fair rent for the tramway, it may itself, with the previous sanction of the Local Government and for such term as the Local Government directs, place and run carriages upon the tramway, and demand and take the authorised tolls in respect of the use of the carriages.

Rules.

24. (1) In addition to any other power to make rules expressly or by implication conferred by this Act, the Local Government may make rules consistent with this Act—

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(Rules.—Sections 25-26).

- (a) as to the form in which an application for an order shall be made;
- (b) as to the costs to be paid by an applicant in respect of an order, and the time when, and the place where, those costs shall be paid;
- (c) as to the payment of money or lodgment of securities, by way of deposit, by the applicant for an order before the order is published under section 6, sub-section (4), or a further order is made under section 8; the investment of money so paid; the disposal of interest or dividends from time to time accruing due on money or securities so paid, lodged or invested, the application of the money or securities, or the produce thereof to the discharge of any liability incurred by the promoter; and the forfeiture, repayment or return of the money or securities;
- (d) as to the plans and sections of any works to be deposited by applicants for orders or by promoters;
- (e) for regulating the use of steam-power or any other mechanical power on a tramway;
- (f) as to any matter specified in section 7, sub-section (2), clauses (c), (d), (e), (j) and (k), as a matter which may be provided for in an order, when that matter has not been so provided for, or has not, in the opinion of the Local Government, been effectually so provided for;
- (g) as to the periodical submission, by promoters, lessees and licensees, of accounts of traffic and receipts to the Local Government or as that Government directs, and as to the forms in which those accounts are to be submitted;
- (h) as to the accidents of which report is to be made to the Local Government or as that Government directs;
- (i) as to any matter respecting which rules may be made under this section by a local authority or a promoter or lessee; and,
- (j) generally, as to any other matter or thing in respect of which it may seem to the Local Government to be expedient to make rules for carrying out the purposes of this Act.
- (2) A local authority may, from time to time, with the previous sanction of the Local Government, make rules consistent with this Act and with the order and any rules made by the Local Government under this Act, for regulating—
- (a) the rate of speed to be observed in travelling upon a tramway within the circle of the local authority;
- (b) the use of animal power on the tramway;
- (c) the distances at which carriages using the tramway are to be allowed to follow one after the other;
- (d) the stopping of carriages using the tramway, and the notice to be given to the public of their approach;
- (e) the manner in which carriages using the tramway after sunset and before sunrise are to be lighted;
- (f) the traffic on roads along or across which the tramway is laid;
- (g) the number of passengers which may be carried in any carriage;
- (h) the licensing and control of drivers, conductors and other persons having charge of the carriages of the promoter or lessee or a licensee; and,
- (i) generally, the mode of use of the tramway.
- (3) The promoter or lessee of a tramway may, from time to time, with the previous sanction of the Local Government, make rules consistent with this Act and with the order and any rules made under this Act—
- (a) for preventing the commission of any nuisance in or upon any carriage, or in or against any premises belonging to him, and
- (b) for regulating the travelling in any carriage belonging to him.
- (4) The Local Government may cancel any rule made by a local authority or by a promoter or lessee under this section.
25. The authority making any rule under section 24 may direct that a breach of it shall be punishable with fine which may extend—
- Power to impose penalty by rule.
- (a) if the authority making the rule is the Local Government, to two hundred rupees, and
- (b) if that authority is a local authority or a promoter or lessee, to twenty rupees; and when the breach is a continuing breach, with a further fine which may extend—
- (c) if the authority making the rule is the Local Government, to fifty rupees, and
- (d) if that authority is a local authority or a promoter or lessee, to five rupees, for every day after the first during which the breach continues.
26. (1) Every authority having power to make rules under any section of this Act shall, before publication of, rules, making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.
- (2) The publication shall be made, in the case of rules made by the Local Government, in such manner as may in its opinion be sufficient for giving information to persons interested, and, in the case of rules made by a local authority or by a promoter or lessee, in manner prescribed.
- (3) There shall be published with the draft a notice specifying a date, not earlier than the expiration of one month after the date of publication, at or after which the draft will be taken into consideration.
- (4) The authority shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.
- (5) The publication in the official Gazette of a rule purporting to be made under this Act shall be conclusive proof that it has been duly made.

*The Indian Tramways Act, 1886.**(Offences.—Sections 27-34.)**Offences.*

Penalty for failure of promoter, lessee or licensee to comply with Act or order.

27. If a promoter—

- (a) constructs or maintains a tramway otherwise than in accordance with the order, or
 - (b) opens the tramway for traffic, or permits it to be so opened, before it has been inspected and certified in manner required by section 12, or
 - (c) fails to observe any requirement or condition of the order for neglect or breach whereof no penalty has been expressly provided in the order,
- or if a promoter, lessee or licensee runs a carriage on a tramway otherwise than in accordance with the order,

he shall (without prejudice to the enforcement of specific performance of the requirements of this Act or of the order, or to any other remedy which may be obtained against him in a Court of Civil Judicature), on complaint made by the Local Government or by the local authority or road-authority or by the District Magistrate or, with the previous sanction of the District Magistrate, by any person injuriously affected by the act or omission, be punished with fine which may extend to two hundred rupees, and in the case of a continuing offence to a further fine which may extend to fifty rupees for every day after the first during which the offence continues to be committed

28. If any person without lawful excuse, the burden of proving which shall lie upon him, wilfully obstructs any person acting under the authority of the promoter in the lawful exercise of his powers in constructing or maintaining a tramway, or injures or destroys any mark made for the purpose of setting out the line of the tramway, he shall be punished with fine which may extend to fifty rupees

29. If any person without lawful excuse, the burden of proving which shall lie upon him, wilfully does any of the following things, namely:—

- (a) interferes with, removes or alters any part of a tramway constructed under this Act, or of the works connected therewith, or
- (b) places or throws upon or across any such tramway any wood, stone, refuse or other thing, or
- (c) does anything in such a manner as to obstruct any carriage using any such tramway, or
- (d) abets within the meaning of the Indian Penal Code the doing of, or attempts to do, anything mentioned in clause (a), clause (b) or clause (c),

he shall (without prejudice to any other remedy which may be obtained against him in a Court of Civil Judicature) be punished with fine which may extend to one hundred rupees

30. If any person, except under a lease from, or by agreement with, the promoter, or under license from the Local

Government granted under this Act, uses on a tramway, otherwise than as permitted by section 14, a carriage having flange-wheels or other wheels suitable to run on the rail of the tramway, he shall be punished with fine which may extend to two hundred rupees

31. (1) If any person travelling or having travelled in a carriage of the promoter or lessee or of a licensee evades or attempts to evade payment of toll, or if any person having paid toll for a certain distance wilfully proceeds in any such carriage beyond that distance and does not pay the additional toll for the additional distance or attempts to evade payment thereof, or if any person wilfully refuses or neglects on arriving at the point to which he has paid toll to quit the carriage, he shall be punished with fine which may extend to ten rupees

(2) When a person commits an offence under this section and refuses on demand of a servant of the promoter, lessee or licensee to give his name and residence, or gives a name or residence which the servant has reason to believe to be false, he may be arrested and taken to the nearest police-station by the servant or any person whom the servant may call to his aid.

(3) When the person is taken to the police-station, he shall with the least possible delay be forwarded to the nearest Magistrate, unless his true name and residence are ascertained, in which case he shall be released on his executing a bond for his appearance before a Magistrate if so required.

32. If any person takes or sends by a tramway any goods of a dangerous or offensive nature without giving the notice required by section 16, he shall be punished with fine which may extend to fifty rupees.

33 (1) If a licensee fails on demand to give the account mentioned in section 18, or, with intent to evade the payment of tolls, gives a false account when he is called upon to give an account under that section, he shall be punished with fine which may extend to fifty rupees.

(2) The fine shall be in addition to any tolls payable by the licensee to the promoter or lessee in respect of the passengers or goods conveyed by the carriage or carriages used by the licensee on the tramway.

34. Nothing in this Act shall prevent a person from being prosecuted under any other law for an act or omission which constitutes an offence against this Act or the rules made under it, or from being liable under that other law to any other or higher punishment or penalty than that provided by this Act or the rules made under it: Provided that a person shall not be punished twice for the same offence.

The Indian Tramways Act, 1886.

(Settlement of Differences.—Recovery of Tolls.—Savings—Section 35-39.)

Settlement of Differences

35. (1) If any difference arises between the promoter or lessee on the one hand and the Local Government, or the local authority, or the road-authority, or a person having the charge of any sewers, drains, telegraph-lines, gas-pipes, water-pipes, or other things in or on land occupied by the Tramway, on the other hand, with respect to any interference or control exercised or claimed to be exercised by, or on behalf of, either party by virtue of this or any other Act, or of the order or the rules made under this Act, or with respect to the propriety of, or the mode of, the execution of any work, or with respect to any compensation to be made by or to the promoter or lessee, or to the question whether any work is such as ought reasonably to satisfy the Local Government or the road-authority or both, or with respect to any other subject or thing regulated by, or comprised in, this Act or the order or the rules made under the Act, and not otherwise expressly provided for therein, the matter in difference shall, except where the parties elect to proceed under section 523 of the Code of Civil Procedure, be settled, on the application of either party, by a referee.

(2) Where the difference is—

- (a) between the promoter or lessee on the one hand and the Local Government, either as such or as the road-authority, on the other; or
- (b) between the promoter on the one hand and the local authority on the other, with respect to the sum to be paid by the local authority for an undertaking or part of an undertaking which that authority has required the promoter to sell under section 22,

the referee shall be the District Court within the jurisdiction of which the tramway is situate, or, where the tramway is within the jurisdiction of more than one District Court, the District Court within the jurisdiction of which the greater part of the tramway is situate.

(3) In other cases, the referee shall be appointed by the Local Government.

(4) Except where the referee is the District Court, the powers and procedure of the referee may be prescribed.

(5) In the case of a difference between a promoter on the one hand and a local authority on the other, with respect to the sum to be paid by the local authority for an undertaking or part of an undertaking which that authority has required the promoter to sell under section 22, an appeal shall lie to the High Court from the award of the referee as from an original decree of the District Court.

(6) In the case of every other difference the award of the referee shall be final.

Recovery of Tolls.

36. Any of the following moneys, namely, any rent due to a local authority from a lessee, any penalty recoverable from a promoter or lessee under an order, any sum payable by a promoter

Recovery of moneys due from promoters and, in certain cases, from lessees

or lessee under an award of a referee, the cost of the performance under this Act, by the Local Government or by a local authority or road-authority of any work required by this Act or by an order to be done by a promoter, and the cost incurred by a road-authority in removing a tramway and re-instating a road under this Act, may, without prejudice to any other remedy that the authority to which the money is due may have by suit or otherwise, be recovered by that authority, on application made in this behalf to the Collector, as if the sum due were an arrear of land revenue due by the promoter or lessee or his surety (if any):

Provided that nothing in this section shall authorise the arrest of the promoter or lessee or his surety in execution of any process issued by the Collector.

37. (1) If a licensee fails to pay on demand the tolls due for the use of a tramway, the promoter or lessee to whom

the tolls are due may, without prejudice to the remedy which he may have by suit, apply to a Magistrate to recover the amount of the tolls, and the Magistrate may, after giving notice to the licensee if possible and allowing him an opportunity of being heard, proceed to recover the amount by distress and sale of any carriages or other moveable property of the licensee which may be found on the tramway or on premises connected therewith.

(2) When a licensee has failed to pay on demand the tolls due from him, the promoter or lessee to whom the tolls are due may seize any carriage or other moveable property of the licensee on the tramway or on premises connected therewith, and detain the same for forty-eight hours unless the tolls are sooner paid.

(3) When application is made to a Magistrate under sub-section (1), he may make an interim order of distraint pending his final decision.

38. Any toll due to a promoter, lessee or licensee from a passenger may be recovered either by suit or, on application

to a Magistrate having jurisdiction within any local area in which any part of the tramway is laid, by distress and sale of any moveable property belonging to the passenger within the local limits of the jurisdiction of the Magistrate.

Savings

39. (1) Notwithstanding anything contained in this Act or in an order or any rule made under this Act, a promoter shall

not acquire any right other than that of user only over a road along or across which he lays a tramway, nor shall anything contained in this Act or in an order or any rule made under this Act, exempt the promoter of a tramway, or any other person using the tramway, from the payment of such charges as may lawfully be levied in respect of the use of a road or bridge along or across which the tramway is laid.

(2) The Local Government may, if it thinks fit, fix rates at which a promoter, lessee or licensee may compound for the charges payable in respect of the use of a road or bridge.

*The Indian Tramways Act, 1886.**Savings.—Supplemental Provisions—Sections 40-50.)*

40. (1) Nothing in this Act or in an order or any rule made under this Act, shall take away or abridge any power which a road-authority, local authority or other person has by law to break up, widen, alter, divert or improve a road, railroad or tramway along or across which a tramway is laid.

(2) The road-authority, local authority or other person executing any work referred to in sub-section (1) shall not be liable to pay to a promoter, lessee or licensee any compensation for injury done to a tramway by the execution of the work or for loss of traffic occasioned by the reasonable use of any power lawfully exercised for the execution thereof.

41. Nothing in this Act or in an order or any rule made under this Act, shall affect the powers of a local authority or of a Magistrate or police-officer to regulate the passage of traffic along or across a road along or across which a tramway is laid; and the authority, Magistrate or officer aforesaid may exercise its or his powers as well on as off the tramway and with respect as well to the traffic of a promoter, lessee or licensee as to the traffic of other persons.

Supplemental Provisions.

42. A promoter, lessee or licensee shall be answerable for all injuries happening through his act or default, or through the act or default of any person in his employment, by reason or in consequence of any of his carriages or works, and shall save harmless all authorities and persons collectively and individually, and their officers and servants, from all damages and costs in respect of injuries so happening.

43. For the purposes of this Act, want of funds shall not be deemed to be a sufficient reason for the suspension of the construction, or the discontinuance of the working, of a tramway by a promoter or lessee.

44. When a tramway is constructed under this Act within the limits of a municipality, the Local Government may exempt the animals, plant, rolling-stock, yards, workshops, engine-sheds and depôts of the promoter, lessee or licensee, for such period as it thinks fit, from all or any municipal taxes leviable within those limits.

45. (1) The fund to or with the control or management of which the local authority of a municipality, cantonment or district is entitled or entrusted shall, notwithstanding anything in any enactment respecting the purposes to which that fund may be applied, be applicable, subject to the control of the Local Government, to the payment of expenses incidental to the exercise of the powers and functions which may be vested in or exercised by a local authority under this Act.

(2) The fund shall also be applicable, with the previous sanction of the Local Government, to a guarantee of the payment of interest on money to be applied, with the concurrence in writing of the local authority, within the limits of the local area under its control, to any of the purposes to which the fund might be applied by the local authority under sub-section (1).

46. The Local Government may, with the consent of the local authority and road-authority and of the promoter and his lessee (if any) extend any part of this Act, or any rules made under this Act, either with or without modification, to the whole or any part of a tramway constructed, or authorised by the Local Government to be constructed, before the passing of this Act, and may withdraw any part of the Act or any rules so extended.

47. (1) A tramway of which the construction has not been authorised by the Local Government before the passing of this Act shall not after the passing of this Act, be constructed for public traffic in any place to which this Act extends, except in pursuance of an order made under this Act.

(2) A person constructing a tramway in contravention of sub-section (1) of this section, or after the passing of this Act maintaining or using for public traffic, otherwise than in pursuance of an order made under this Act, a tramway which was not constructed, or authorised by the Local Government, to be constructed, before the passing of this Act, shall be liable, on the complaint of the Local Government or local authority, to double the penalty to which a promoter acting otherwise than in accordance with an order is liable under section 27.

48. If at any time a local area comprising a tramway to which this Act or any part thereof or any rule thereunder applies ceases to be included in the circle of a local authority, the functions of that authority under this Act or the part thereof or the rule thereunder, and under the order (if any), shall, in respect of that local area, devolve on the Local Government or, if that Government so directs, on the local authority of the circle in which the tramway has been included.

49. In section 54 of the Indian Railway Act, IV, of 1879, the word "tramway" shall have the meaning assigned to it by section 3 of this Act.

(2) In the same section of that Act, after the words "by steam" the words "or other mechanical-power" shall be added.

50. All powers conferred by this Act on a Local Government may be exercised from time to time as occasion requires.

S. HARVEY JAME,
Offg. Secy. to the Govt. of India.

The following Report of the Select Committee on the Bill to facilitate the construction and to regulate the working of Tramways was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 5th March, 1886 :—

LEGISLATIVE DEPARTMENT.

- WE, the undersigned, Members of the Select Committee to which the Bill to facilitate the construction and to regulate the working of Tramways 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 object of the proviso to section 4, sub-section (1), of the Bill does not appear to have been understood. In the case of lines extending beyond municipal limits, it is often difficult to say whether the line ought to be treated as a tramway or as a light railway, and the object of the proviso is to give the Government of India an opportunity of determining, with reference to particular cases or classes of cases, to which of the two categories such lines ought to be treated as belonging.
3. By section 5 we have empowered the Local Government to modify conditions sought to be imposed by a local authority with respect to the construction within its circle of part of a tramway which is to be laid in two or more circles.
4. In sections 17 and 21 we have provided for an opportunity being given to the promoter to state his case before the Local Government either grants licenses under the former section or determines the powers of the promoter under the latter section.
5. By clauses (g) and (h) of sub-section (1) of section 24 we have enabled the Local Government to make rules as to the periodical submission of statistics relating to tramways, and as to the accidents of which report is to be made.
6. By clause (e) of sub-section (2) of the same section we have empowered local authorities to make rules as to the manner in which carriages using the tramway after sunset and before sunrise are to be lighted.
7. By section 27 we have made the previous sanction of the District Magistrate a condition precedent to the institution by a private person of criminal proceedings against a promoter, lessee or licensee for breach of any provision of the Act or of any direction of an order authorizing the construction of a tramway.
8. By section 35 we have provided that, except where the parties to a difference elect to proceed under section 523 of the Code of Civil Procedure, the matter in difference between them shall be settled, on the application of either party, by a referee, and that, where the difference is between the promoter on the one hand and the local authority on the other with respect to the sum to be paid by the local authority for an undertaking which that authority has required the promoter to sell under section 22, the referee shall be the District Court. We have also provided that, in that case, an appeal shall lie to the High Court from the award of the District Court.
9. To section 45 we have added a sub-section supplementary to Act XV of 1885 (*an Act to amend the Local Authorities Loan Act, 1879*).
10. By section 47 of the Bill we have proposed that, in places to which the Act extends, tramways of which the construction has not been authorised before the passing of the Act shall not be constructed, after the passing of the Act, otherwise than in pursuance of an order made under the Act.
11. By section 48 we have made provision for cases in which a local area comprising a tramway is excluded from the circle of one local authority and included in that of another.
12. By section 49 we have proposed so to amend section 54 of the Indian Railway Act, 1879, as to enable the Governor General in Council to apply that Act or any portion thereof to a tramway worked by any mechanical power.

[Published with the "Bombay Government Gazette" on the 25th March 1886.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 8th March 1886, and was promulgated for general information in the *Gazette of India* on the 13th March 1886.—

Act No. VI. of 1886.

THE BIRTHS, DEATHS AND MARRIAGES REGISTRATION ACT, 1886.

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An Act to provide for the voluntary Registration of certain Births and Deaths, for the establishment of General Registry Offices for keeping Registers of certain Births, Deaths and Marriages, and for certain other purposes.

WHEREAS it is expedient to provide for the voluntary registration of births and deaths among certain classes of persons, for the more effectual registration of those births and deaths and of the marriages registered under Act III of 1872 or the Indian Christian Marriage Act, 1872, and of certain marriages registered under the Parsi Marriage and Divorce Act, 1865, and for the establishment of general registry offices for keeping registers of those births, deaths and marriages;

And whereas it is also expedient to provide for the authentication and custody of certain existing registers made otherwise than in the perform-

ance of a duty specially enjoined by the law of the country in which the registers were kept, and to declare that copies of the entries in those registers shall be admissible in evidence;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Births, Deaths and Marriages Registration Act, 1886; and

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

(3) Any power conferred by this Act to make rules, or to issue orders may be exercised at any time after the passing of this Act; but a rule or order so made or issued shall not take effect until the Act comes into force.

2. This Act extends to the whole of British India, and applies also, within the dominions of Princes and States in alliance with Her Majesty, to British subjects in those dominions.

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

“sign” includes mark, when the person making the mark is unable to write his name;

“prescribed” means prescribed by a rule made by the Governor General in Council under this Act; and

“Registrar of Births and Deaths” means a Registrar of Births and Deaths appointed under this Act.

4. Nothing in this Act, or in any rule made under this Act, shall affect any law heretofore or hereafter passed providing for the registration of births and deaths within particular local areas.

5. All powers conferred by this Act may be exercised from time to time as occasion requires.

CHAPTER II.

GENERAL REGISTRY OFFICES OF BIRTHS, DEATHS AND MARRIAGES.

6. (1) Each Local Government—

(a) shall establish a general registry office, for keeping such certified copies of registers of births and deaths registered under this Act, or marriages registered under Act III of 1872 (to provide a form of marriage in certain cases), or the Indian Christian Marriage Act, 1872, or, beyond the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at

XV of 1872.

XV of 1865.

XV of 1872

*The Births, Deaths and Marriages Registration Act, 1886.**(Chapters II & III.—General Registry Offices of Births, Deaths, and Marriages.—Registration of Births and Deaths.—Sections 7-16.)*

V of 1865. Bombay, under the Parsi Marriage and Divorce Act, 1865, as may be sent to it under this Act, or under any of the three last-mentioned Acts as amended by this Act; and

(b) may appoint to the charge of that office an officer, to be called the Registrar General of Births, Deaths and Marriages, for the territories under its administration:

(2) Provided that the Governor of Bombay in Council may, with the previous sanction of the Governor General in Council, establish two general registry offices and appoint two Registrars General of Births, Deaths and Marriages for the territories under his administration, one of such general registry offices and of such Registrars General, being established and appointed, for Sindh and the other for the other territories under the administration of the Governor of Bombay in Council.

7. Each Registrar General of Births, Deaths and Marriages shall cause indexes to be kept at general registry office. indexes of all the certified copies of registers sent to his office under this Act, or under Act III of 1872, the Indian Christian Marriage Act, 1872, or the Parsi Marriage and Divorce Act, 1865, as amended by this Act, to be made and kept in his office in the prescribed form.

V of 1872.
V of 1865.

8. Subject to the payment of the prescribed fees, the indexes so made shall be at all reasonable times open to inspection by any person applying to inspect them, and copies of entries in the certified copies of the registers to which the indexes relate shall be given to all persons applying for them.

9. A copy of an entry given under the last foregoing section shall be certified by the Registrar General of Births, Deaths and Marriages, or by an officer authorised in this behalf by the Local Government, and shall be admissible in evidence for the purpose of proving the birth, death or marriage to which the entry relates.

10. Each Registrar General of Births, Deaths and Marriages shall exercise a general superintendence over the Registrars of Births and Deaths in the territories for which he is appointed.

CHAPTER III.

REGISTRATION OF BIRTHS AND DEATHS.

A.—Application of this Chapter.

11. (1) The persons whose births and deaths shall, in the first instance, be registrable under this chapter are the following, namely:—

(a) in British India, the members of every race, sect or tribe to which the Indian Succession Act, 1865, applies, and in respect of which an order under section 332 of that Act is not for the time

being in force, and all persons professing the Christian religion,

(b) in the dominions of Princes and States in India in alliance with Her Majesty, British subjects being members of a like race, sect or tribe or professing the Christian religion

(2) But the Local Government, by notification in the official Gazette, may, with the previous approval of the Governor General in Council, extend the operation of this chapter to any other class of persons either generally or in any local area.

B.—Registration Establishment.

12. The Local Government may appoint, either by name or by virtue of their office, so many persons as it thinks necessary to be Registrars of Births and Deaths for such local areas within the territories under its administration as it may define and, if it sees fit, for any class of persons within any part of those territories.

13. The Governor General in Council may, by notification in *Gazette of India*, appoint, either by name or by virtue of their office, so many persons as he thinks necessary to be Registrars of Births and Deaths for such local areas within the dominions of any Prince or State in India in alliance with Her Majesty as he may define and, if he sees fit, for any class of persons within any part of those dominions.

14. Every Registrar of Births and Deaths shall be deemed a public servant within the meaning of the Indian Penal Code.

15. (1) The Local Government or the Governor General in Council, as the case may be, may suspend, remove or dismiss any Registrar of Births and Deaths.

(2) A Registrar of Births and Deaths may resign by notifying in writing to the Local Government or to the Governor General in Council, as the case may be, his intention to do so, and, on his resignation being accepted by the Local Government or the Governor General in Council, he shall be deemed to have vacated his office.

16. (1) Every Registrar of Births and Deaths shall have an office in the local area, or within the part of the territories or dominions for which he is appointed.

(2) Every Registrar of Births and Deaths to whom the Local Government may direct this subsection to apply shall attend at his office for the purpose of registering births and deaths on such days and at such hours as the Registrar General of Births, Deaths and Marriages may direct, and shall cause to be placed in some conspicuous place on or near the outer door of his office, his name, with the addition of Registrar of Births and Deaths for the local area or class for which he is appointed, and the days and hours of his attendance.

XLV of 1860

of 1865.

*The Births, Deaths and Marriages Registration Act, 1886.**(Chapter III.—Registration of Births and Deaths.—Sections 17-24.)*

17. (1) When any Registrar of Births and Deaths to whom the Local Government may direct this section to apply, not being a Registrar of Births and Deaths for a local area in the town of Calcutta, Madras or Bombay, is absent, or when his office is temporarily vacant, any person whom the Registrar General of Births, Deaths and Marriages appoints in this behalf, or, in default of such appointment, the Judge of the District Court within the local limits of whose jurisdiction the Registrar's office is situate, or such other officer as the Local Government appoints in this behalf shall be the Registrar of Births and Deaths during such absence or until the Local Government fills the vacancy.

(2) When any such Registrar of Births and Deaths for a local area in the town of Calcutta, Madras or Bombay is absent, or when his office is temporarily vacant, any person whom the Registrar General of Births, Deaths and Marriages appoints in this behalf shall be the Registrar of Births and Deaths during such absence or until the Local Government fills the vacancy.

(3) The Registrar General of Births, Deaths and Marriages shall report to the Local Government all appointments made by him under this section.

18. The Local Government shall supply every Registrar of Births and Deaths with a sufficient number of register books of births and of register books of deaths, and shall make suitable provision for the preservation of the records connected with the registration of births and deaths.

C.—Mode of Registration.

19. Every Registrar of Births and Deaths, on receipt of notice of a birth or death within the local area or among the class for which he is appointed, shall, if the notice is given within the prescribed time and in the prescribed mode by a person authorized by this Act to give the notice, forthwith make an entry of the birth or death in the proper register book.

Provided that—

- (a) if he has reason to believe the notice to be in any respect false, he may refuse to register the birth or death until he receives an order from the Judge of the District Court directing him to make the entry and prescribing the manner in which the entry is to be made; and
- (b) he shall not enter in the register the name of any person as father of an illegitimate child unless at the request of the mother and of the person acknowledging himself to be the father of the child

20. Any of the following persons may give notice of a birth, namely—

- (a) the father or mother of the child;
- (b) any person present at the birth;
- (c) any person occupying, at the time of the birth, any part of the house wherein the child was born and having knowledge of the child having been born in the house;
- (d) any medical practitioner in attendance after the birth and having personal knowledge of the birth having occurred;
- (e) any person having charge of the child.

21. Any of the following persons may give notice of a death, namely:—

- (a) any relative of the deceased having knowledge of any of the particulars required to be registered concerning the death;
- (b) any person present at the death;
- (c) any person occupying, at the time of the death, any part of the house wherein the death occurred and having knowledge of the deceased having died in the house;
- (d) any person in attendance during the last illness of the deceased;
- (e) any person who has seen the body of the deceased after death.

22. (1) When an entry of a birth or death has been made by the Registrar of Births and Deaths under section 19, the person giving notice of the birth or death must sign the entry in the register in the presence of the Registrar.

(2) Until the entry has been so signed, the birth or death shall not be deemed to be registered under this Act.

(3) When the birth of an illegitimate child is registered, and the mother and the person acknowledging himself to be the father of the child jointly request that that person may be registered as the father, the mother and that person must both sign the entry in the register in the presence of the Registrar.

23. The Registrar of Births and Deaths shall, on application made at the time of registering any birth or death by the person giving notice of the birth or death, and on payment by him of the prescribed fee, give to the applicant a certificate in the prescribed form, signed by the Registrar, of having registered the birth or death.

24. (1) Every Registrar of Births and Deaths in British India shall send to the Registrar General of Births, Deaths and Marriages for the territories within which the local area or class for which he is appointed is situate or resides, at the prescribed intervals, a true copy, certified by him

*The Births, Deaths and Marriages Registration Act, 1886.**(Chapters III & IV.—Registration of Births and Deaths.—Amendment of Marriage Acts.—Sections 25-30.)*

in the prescribed form, of all the entries of births and deaths in the register book kept by him since the last of those intervals :

Provided that, in the case of Registrars of Births and Deaths who are clergymen of the Churches of England, Rome and Scotland, the Registrar may, if so directed by his ecclesiastical superior, send the certified copies in the first instance to that superior, who shall send them to the proper Registrar General of Births, Deaths and Marriages.

In this sub-section, "Church of England" and "Church of Scotland" mean the Church of England and the Church of Scotland as by law established respectively ; and "Church of Rome" means the Church which regards the Pope of Rome as its spiritual head.

(2) The provisions of sub-section (1) shall apply to every Registrar of Births and Deaths in the dominions of any Prince or State in India in alliance with Her Majesty, with this modification, that the certified copies referred to in that sub-section shall be sent to such one of the Registrars General of Births, Deaths and Marriages as the Governor General in Council, by notification in the *Gazette of India*, appoints in this behalf.

25. (1) Every Registrar of Births and Deaths shall, on payment of the prescribed fees, at all reasonable times allow searches to be made in the register books kept by him, and give a copy of any entry in the same.

(2) Every copy of an entry in a register book given under this section shall be certified by the Registrar of Births and Deaths, and shall be admissible in evidence for the purpose of proving the birth or death to which the entry relates.

26. Notwithstanding anything in section 19, the Governor General in Council may make rules authorizing Registrars of Births and Deaths, on conditions and in circumstances to be specified in the rules, to register births and deaths occurring outside the local areas or classes for which they are appointed.

D.—Penalty for false information

27. If any person wilfully makes, or causes to be made, for the purpose of being inserted in any register of births or deaths, any false statement in connection with any notice of a birth or death under this Act, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or both.

E.—Correction of Errors.

28. (1) If it is proved to the satisfaction of a Registrar of Births and Deaths that any entry of a birth or death in any register kept by him under this

Act is erroneous in form or substance, he may, subject to such rules as may be made by the Governor General in Council with respect to the conditions and circumstances on and in which errors may be corrected, correct the error by entry in the margin, without any alteration of the original entry, and shall sign the marginal entry and add thereto the date of the correction.

(2) If a certified copy of the entry has already been sent to the Registrar General of Births, Deaths and Marriages, the Registrar of Births and Deaths shall make and send a separate certified copy of the original erroneous entry and of the marginal correction therein made.

CHAPTER IV.

AMENDMENT OF MARRIAGE ACTS.

29. After section 13 of Act III of 1872 (to provide a form of marriage in certain cases), the following section shall be inserted.—

13A. The Registrar shall send to the Registrar General of Births, Deaths and Marriages for the territories within which his district is situate, at such intervals as the Governor General in Council, from time to time, directs, a true copy certified by him, in such form as the Governor General in Council, from time to time, prescribes, of all entries made by him in the said marriage-certificate book since the last of such intervals."

30. In the Indian Christian Marriage Act, 1872, the following amendments shall be made, namely :—

(a) at the end of section 3 the words, "Registrar General of Births, Deaths and Marriages" means a Registrar General of Births, Deaths and Marriages, appointed under the Births, Deaths and Marriages Registration Act, 1886," shall be added,

(b) for the words "Secretary to the Local Government", wherever they occur, and for the words "Secretary to a Local Government" in section 79, the words "Registrar General of Births, Deaths and Marriages" shall be substituted ;

(c) for the words "at such places as the Local Government directs" in section 62, the words "in the office of the Registrar General of Births, Deaths and Marriages for the territories of the Local Government by which the person who keeps the register-book was licensed" shall be substituted ; and

The Births, Deaths and Marriages Registration Act, 1886.

(Chapters IV, V & VI.—Amendment of Marriage Acts.—Special Provisions as to certain existing Registers.—Rules.—Sections 31-36).

(d), in section 81, after the words "Registrar General of Births, Deaths and Marriages" the words "in England" shall be added.

XV of 1865.

Addition of new section after section 8 of the Parsi Marriage and Divorce Act 1865

31. After section 8 of the Parsi Marriage and Divorce Act, 1865, the following section shall be inserted, namely:—

"8A Every Registrar, except the Registrar appointed by the Chief Justice of the High Court of Judicature at Bombay, shall at such intervals as the Governor General in Council from time to time directs, send to the Registrar General of Births, Deaths and Marriages for the territories administered by the Local Government by which he was appointed a true copy certified by him, in such form as the Governor General, from time to time, prescribes, of all certificates entered by him in the said register of marriages since the last of such intervals."

Transmission of certified copies of certificates in marriage-register to Registrar General of Births, Deaths and Marriages.

CHAPTER V.

SPECIAL PROVISIONS AS TO CERTAIN EXISTING REGISTERS.

32. If any person in British India, or in the dominions of any Prince or State in India in alliance with Her Majesty, has for the time being the custody of any register or record of birth, baptism, naming, dedication, death or burial of any persons of the classes referred to in section 11, sub-section (1), or of any register or record of marriage of any persons of the classes to which Act III of 1872 or the Indian Christian Marriage Act, 1872, or the Parsi Marriage and Divorce Act, 1865, applies, and, if such register or record has been made otherwise than in performance of a duty specially enjoined by the law of the country in which the register or record was kept, he may, within one year from the date on which this Act comes into force, send the register or record to the office of the Registrar General of Births, Deaths and Marriages for the territories within which he resides, or, if he resides within the dominions of any such Prince or State as aforesaid, to such one of the Registrars General as aforesaid as the Governor General in Council, by notification in the *Gazette of India*, directs in this behalf.

XV of 1872

XV of 1865.

33. (1) The Governor General in Council may appoint so many persons as he thinks fit to be Commissioners for examining the registers or records sent to the Registrar General of Births, Deaths and Marriages under the last foregoing section.

(2) The Commissioners so appointed shall hold office for such period as the Governor General in

Council, by the order of appointment, or any subsequent order, directs.

34 (1) The Commissioners appointed under the last foregoing section shall enquire into the state, custody and authenticity of every such register or record as may be sent to the Registrar General of Births, Deaths and Marriages under section 32,

and shall deliver to the Registrar General a descriptive list or descriptive lists of all such registers or records, or portions of registers or records, as they find to be accurate and faithful.

(2) The list or lists shall contain the prescribed particulars and refer to the registers or records, or to the portions of the registers or records, in the prescribed manner

(3) The Commissioners shall also certify in writing, upon some part of every separate book or volume containing any such register or record, or portion of a register or record, as is referred to in any list or lists made by the Commissioners, that it is one of the registers or records, or portions of registers or records, referred to in the said list or lists.

35. (1) Subject to the payment of the prescribed fees the descriptive list or lists of registers or records, or portions of registers or records delivered by the Commissioners to the Registrar General of Births, Deaths and Marriages shall be, at all reasonable times, open to inspection by any person applying to inspect it or them, and copies of entries in those registers or records shall be given to all persons applying for them.

(2) A copy of an entry given under this section shall be certified by the Registrar General of Births, Deaths and Marriages, or by an officer or person authorised in this behalf by the Local Government, and shall be admissible in evidence for the purpose of proving the birth, baptism, naming, dedication, death, burial or marriage to which the entry relates.

CHAPTER VI.

RULES.

36. In addition to any other power to make rules impliedly or expressly conferred by this Act, the Governor General in Council may make rules—

- (a) to fix the fees payable under this Act;
- (b) to prescribe the forms required for the purposes of this Act;
- (c) to prescribe the time within which, and the mode in which, persons authorized under this Act to give notice of a birth or death to a Registrar of Births and Deaths must give the notice.

*The Births, Deaths and Marriages Registration Act, 1886.**(Chapter VI.—Rules.—Section 37.)*

- (d) to prescribe the registers to be kept, and the form and manner in which Registrars of Births and Deaths are to register births and deaths under this Act, and the intervals at which they are to send to the Registrar General of Births, Deaths and Marriages true copies of the entries of births and deaths in the registers kept by them,
- (e) to prescribe the particulars which the descriptive list or lists to be prepared by the Commissioners appointed under Chapter V are to contain, and the manner in which they are to refer to the registers or records, or portions of registers or records to which they relate;
- (f) to prescribe the custody in which those registers or records are to be kept, and
- (g) generally to carry out the purposes of this Act

37. (1) The Governor General in Council shall, before making Procedure for making and publication of rules. rules under this Act, publish a draft of the proposed rules in such manner as may, in his opinion, be sufficient for the information of persons likely to be affected thereby.

(2) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(3) The Governor General in Council shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(4) Every rule made under this Act shall be published in the *Gazette of India*, and the publication in the *Gazette of India* of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

The following Report of the Select Committee on the Bill to provide for the voluntary Registration of certain Births and Deaths, for the establishment of General Registry Offices for keeping Registers of certain Births, Deaths and Marriages, and for certain other purposes, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 5th February, 1886:—

LEGISLATIVE DEPARTMENT.

We, the undersigned, Members of the Select Committee to which the Bill to provide for the voluntary

Registration of certain Births and Deaths, for the establishment of General Registry Offices for keeping Registers of certain Births, Deaths and Marriages, and for certain other purposes, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 5th February, 1886:—

From Bábú Behary Lal Chandra, Krishnagur, dated 23th January, 1885 [Paper No 1]

From Officiating Registrar, High Court, Calcutta, No 919, dated 19th March, 1885, and enclosure [Papers No 2].

From Officiating Secretary to Chief Commissioner, Assam, No 557, dated 6th April 1885, and enclosure [Papers No 3]

From Chief Secretary to Government, Madras, No. 944, dated 9th April, 1885, and enclosures [Papers No. 4].

From Under-Secretary to Government, Bombay, No. 1406, dated 18th April, 1885, and enclosures [Papers No. 5].

From Officiating Secretary to Government, Punjab, No. 409, dated 20th April, 1885, and enclosures [Papers No 6]

Extract, paragraph XIV, from the Proceedings of the Meerut Association, No 20, dated 8th March, 1885 [Paper No 7]

From Officiating Secretary to Chief Commissioner, British Burma, No 334—11S.S., dated 17th April, 1885, and enclosures [Papers No 8]

From Under-Secretary to Government, Bombay, No 1452, dated 23rd April, 1885, and enclosures [Papers No 9]

From Secretary to Chief Commissioner, Coorg, No 112—13I, dated 21st April, 1885 [Paper No 10]

From Under-Secretary to Government, Bombay, No. 1575, dated 29th April, 1885 and enclosures [Papers No 11]

From Chief Commissioner, Ajmer-Merwára, No 442, dated 29th April, 1885, and enclosure [Papers No 12]

From Officiating Secretary to Government, Punjab, No. 500, dated 13th May, 1885, and enclosure [Papers No 13]

From Secretary for Berar to Resident, Hyderabad, No. 171 G., dated 16th May, 1885 [Paper No, 14]

From Under-Secretary to Government, Bombay, No 1829, dated 18th May, 1885, and enclosure [Papers No 15]

From Secretary to Government, Bengal, No. 514, dated 16th May, 1885, and enclosures [Papers No. 16]

From Secretary to Government, North Western Provinces and Oudh, No. 629—VII 28-18, dated 10th June, 1885, and enclosures [Papers No 17]

From Assistant Secretary to Chief Commissioner Central Provinces, No. 2445—118, dated 30th June, 1885 [Paper No, 18].

tual registration of marriages as were proposed by the Bill to be conferred on the classes to whom Act III of 1872 and the Indian Christian Marriage Act, 1872, apply

3. By section 11, sub-section (2), we propose to enable Local Governments, with the previous sanction of the Governor General in Council, to extend the operation of the chapter respecting the registration of births and deaths to any classes of the community which may be desirous of taking advantage of the provisions of that chapter.

4. By sections 12 and 13 we have proposed to enable Local Governments in British India, and the Governor General in Council in States in India in alliance with Her Majesty, to appoint Registrars of Births and Deaths for classes of persons as well as for local areas. It will thus be practicable to appoint ministers of religion to be Registrars of Births and Deaths for their own congregations only, without imposing on them duties for which they might have neither leisure nor inclination.

5. In section 14 we have provided that every Registrar of Births and Deaths shall be deemed to be a public servant. This provision appears to us to render it unnecessary to retain section 24 of the Bill as introduced.

6. We have, on the advice of a leading member of the Parsi community at Bombay, proposed to extend to the scattered Parsi communities resident beyond the local limits of the ordinary original civil jurisdiction of the High Court at Bombay the same provisions for the more effective

2. We have, on the advice of a leading member of the Parsi community at Bombay, proposed to extend to the scattered Parsi communities resident beyond the local limits of the ordinary original civil jurisdiction of the High Court at Bombay the same provisions for the more effective

3. We have, on the advice of a leading member of the Parsi community at Bombay, proposed to extend to the scattered Parsi communities resident beyond the local limits of the ordinary original civil jurisdiction of the High Court at Bombay the same provisions for the more effective

4. We have, on the advice of a leading member of the Parsi community at Bombay, proposed to extend to the scattered Parsi communities resident beyond the local limits of the ordinary original civil jurisdiction of the High Court at Bombay the same provisions for the more effective

5. We have, on the advice of a leading member of the Parsi community at Bombay, proposed to extend to the scattered Parsi communities resident beyond the local limits of the ordinary original civil jurisdiction of the High Court at Bombay the same provisions for the more effective

6. We have, on the advice of a leading member of the Parsi community at Bombay, proposed to extend to the scattered Parsi communities resident beyond the local limits of the ordinary original civil jurisdiction of the High Court at Bombay the same provisions for the more effective

7. We have, on the advice of a leading member of the Parsi community at Bombay, proposed to extend to the scattered Parsi communities resident beyond the local limits of the ordinary original civil jurisdiction of the High Court at Bombay the same provisions for the more effective

8. We have, on the advice of a leading member of the Parsi community at Bombay, proposed to extend to the scattered Parsi communities resident beyond the local limits of the ordinary original civil jurisdiction of the High Court at Bombay the same provisions for the more effective

9. We have, on the advice of a leading member of the Parsi community at Bombay, proposed to extend to the scattered Parsi communities resident beyond the local limits of the ordinary original civil jurisdiction of the High Court at Bombay the same provisions for the more effective

10. We have, on the advice of a leading member of the Parsi community at Bombay, proposed to extend to the scattered Parsi communities resident beyond the local limits of the ordinary original civil jurisdiction of the High Court at Bombay the same provisions for the more effective

11. We have, on the advice of a leading member of the Parsi community at Bombay, proposed to extend to the scattered Parsi communities resident beyond the local limits of the ordinary original civil jurisdiction of the High Court at Bombay the same provisions for the more effective

12. We have, on the advice of a leading member of the Parsi community at Bombay, proposed to extend to the scattered Parsi communities resident beyond the local limits of the ordinary original civil jurisdiction of the High Court at Bombay the same provisions for the more effective

13. We have, on the advice of a leading member of the Parsi community at Bombay, proposed to extend to the scattered Parsi communities resident beyond the local limits of the ordinary original civil jurisdiction of the High Court at Bombay the same provisions for the more effective

14. We have, on the advice of a leading member of the Parsi community at Bombay, proposed to extend to the scattered Parsi communities resident beyond the local limits of the ordinary original civil jurisdiction of the High Court at Bombay the same provisions for the more effective

15. We have, on the advice of a leading member of the Parsi community at Bombay, proposed to extend to the scattered Parsi communities resident beyond the local limits of the ordinary original civil jurisdiction of the High Court at Bombay the same provisions for the more effective

16. We have, on the advice of a leading member of the Parsi community at Bombay, proposed to extend to the scattered Parsi communities resident beyond the local limits of the ordinary original civil jurisdiction of the High Court at Bombay the same provisions for the more effective

17. We have, on the advice of a leading member of the Parsi community at Bombay, proposed to extend to the scattered Parsi communities resident beyond the local limits of the ordinary original civil jurisdiction of the High Court at Bombay the same provisions for the more effective

18. We have, on the advice of a leading member of the Parsi community at Bombay, proposed to extend to the scattered Parsi communities resident beyond the local limits of the ordinary original civil jurisdiction of the High Court at Bombay the same provisions for the more effective

19. We have, on the advice of a leading member of the Parsi community at Bombay, proposed to extend to the scattered Parsi communities resident beyond the local limits of the ordinary original civil jurisdiction of the High Court at Bombay the same provisions for the more effective

20. We have, on the advice of a leading member of the Parsi community at Bombay, proposed to extend to the scattered Parsi communities resident beyond the local limits of the ordinary original civil jurisdiction of the High Court at Bombay the same provisions for the more effective

6. By section 19 we have provided that if a Registrar of Births and Deaths has reason to believe any notice given to him to be in any respect false he may refuse to register the birth or death until he receives an order from the District Court directing him to make the entry and prescribing the manner in which the entry is to be made.

In the same section and in section 22, sub-section (3), we have reproduced the provisions of section 7 of the Statute 37 and 38 Vic., cap. 88.

7. In sections 20 and 21 we have classified, in a modified form, the persons authorized to give notices of births and deaths.

8. We have provided in section 24 that clergymen who may become Registrars of Births and Deaths shall send certified copies of the entries in their registers direct to the Registrar General unless they are required by their ecclesiastical superiors to transmit the copies through them.

9. By section 26 we have proposed to empower the Governor General in Council to make rules authorising Registrars of Births and Deaths, on conditions and in circumstances to be specified in the rules, to register births and deaths occurring outside the local areas or classes for which they have been appointed. Events occurring in the course of journeys, or in places for which Registrars of Births and Deaths have not been appointed, may by those rules be made registrable.

10. We have made fine an alternative punishment for the offence made punishable under section 27.

11. To section 36 we have added a clause enabling the Governor General in Council to make rules as to the custody of registers and records sent to the Registrar General under section 32.

12. The other amendments of the Bill are unimportant and do not call for special remark.

13. In regard to the argument which has been urged in some of the papers before us that the existing registers of certain religious bodies are admissible in evidence, we are informed that the legal value of those registers has been questioned by high authority, on the ground that they are not maintained under any special injunction of law, or in the ordinary course of business, within the meaning of the Indian Evidence Act, 1872.

14. As regards the working of the proposed Act we understand that existing machinery will, so far as possible, be utilised, and that expenses will be defrayed from fees payable under the Act.

15. Other objections taken to the Bill are (a) that some Registrars may object to the provisions of section 16, sub-section (2) and (b) that difficulties may result from the requirement of section 16, sub-section (1), that the person giving notice of a birth or death must sign the entry in the register in the presence of the Registrar. As regards the first of these objections we observe that section 16, sub-section (2), will not apply to all Registrars, but only to those to whom the Local Government applies the sub-section. As regards the second objection the risk of difficulties arising may be diminished, if not removed, by provision being made, in the rules under clause (c) of section 36, for an enlargement under certain circumstances of the time within which notices may be given of births and deaths.

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

		<i>In English.</i>	
<i>Gazette.</i>		<i>Date.</i>	
Gazette of India	17th, 24th and 31st January 1885.
Fort Saint George Gazette	10th February, 1885
Bombay Government Gazette	22nd and 29th January, and 5th February, 1885.
Calcutta Gazette	21st and 28th January, and 4th February, 1885.
North-Western Provinces and Oudh Government Gazette	20th and 31st January, and 7th February, 1885.
Punjab Government Gazette	29th January, and 5th and 12th February, 1885
Central Provinces Gazette	24th and 31st January, and 7th February, 1885.
British Burma Gazette	7th, 14th and 21st February, 1885.
Assam Gazette	7th, 14th and 21st February, 1885.
Coorg District Gazette	2nd March, 1885.

		<i>In the Vernaculars.</i>	
<i>Province.</i>		<i>Language.</i>	<i>Date.</i>
Madras...	...	Telugu	31st March, 1885.
	...	Kanarese	8th April, 1885
	...	Tamil	5th May, 1885.
	...	Hindustani	12th May, 1885.
Bombay	...	Malayalam	2nd June, 1885.
	...	Maráthi	23rd April, 1885
	...	Gujaráthi	
Bengal ...	...	Kanarese	30th May, 1885.
	...	Bengali	3rd, 10th and 17th February, 1885.
	...	Hindi	17th and 24th February, and 3rd March, 1885.
Punjab...	...	Urdu	12th, 19th and 26th February, 1885.
	...	Urdu	2nd, 9th and 16th March, 1885
Central Provinces	...	Maráthi	2nd, 9th and 16th May, 1885.
British Burma	...	Burmese	21st and 28th March, and 4th April, 1885.
Assam	...	Bengali	21st February, 1885.

17. 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) C. P. ILBERT.
 (") S. C. BAYLEY.
 (") PRÁRI MOHAN MUKERJI.
 (") H. ST. A. GOODRICH
 (") ROBERT STREET.
 (") W. W. HUNTER.

The 5th February, 1886.

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

LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor General on the 8th March 1886, and was promulgated for general information in the *Gazette of India* on the 13th March 1886.—

Act No VII of 1886.

An Act to amend the Indian Registration Act, 1877.

WHEREAS it is expedient to amend the Indian Registration Act, 1877, in manner hereinafter appearing; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Registration Act, 1886, and
- (2) It shall come into force at once.
2. After clause (f) of section 17 of the Indian Registration Act, 1877, the following clause shall be inserted, that is to say:—
- “(ff) any debenture issued by any such company and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immoveable property except in so far as it entitles the holder to the security afforded by a registered instrument whereby the Company has mortgaged, conveyed or otherwise transferred the whole or part of its immoveable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures, or”.
- 3 (1) After clause (l) of section 17 of the same Act the following clause shall be added, that is to say:—
- “(m) orders granting loans under the Agriculturists' Loans Act, 1884, and instruments for securing the repayment of loans made under that Act.”
- (2) In section 58 of the same Act, for the words “or a copy of a certificate under the Land Improvement Act, 1871, sent by the Collector to be registered,” or, where the Land Improvement Loans Act, 1883, is in force, for the words “or a copy of an order under the Land Improvement Loans Act, 1883, sent by the Collector to be re-

gistered,” there shall be substituted the following words, namely:—

“or a copy sent to a registering officer under section 89”.

(3) After the second paragraph of section 89 of the same Act the following paragraph shall be added, that is to say:—

“Every officer granting a loan under the Agriculturists' Loans Act, 1884, shall send a copy of any instrument whereby immoveable property is mortgaged for the purpose of securing the repayment of the loan, and, if any such property is mortgaged for the same purpose in the order granting the loan, a copy also of that order, to the registering officer within the local limits of whose jurisdiction the whole or any part of the property so mortgaged is situate, and such registering officer shall file the copy or copies, as the case may be, in his Book No 1”

4. After clause (m) of section 17 of the same Act as amended by this Act the following clause shall be added, that is to say:—

“(n) any endorsement on a mortgage-deed acknowledging the payment of the whole or any part of the mortgage-money, and any other receipt for payment of money due under a mortgage when the receipt does not purport to extinguish the mortgage.”

5. In the second paragraph of section 50 of the same Act, “(ff)” shall be inserted between “(f)” and “(g)”, and for the word and letter “and (l)” the letters and word “(l), (m) and (n)” shall be substituted.

6 (1) After clause (d) of section 90 of the same Act the following clause shall be inserted, that is to say:—

“(e) notices given under section 74, or section 76, of the Bombay Land-revenue Code, 1879, of relinquishment of occupancy by occupants, or of alienated land by holders of such land”.

(2) In section 91, for the word and letter “and (c)” the letters and word “(c) and (e)” shall be substituted.

(3) The said Act shall be construed as if the amendments made in it by this section had been made at the time the Act came into force.

S. HARVEY JAMES,

Offg Secretary to the Government of India,

The following Report of the Select Committee on the Bill to amend the Indian Registration Act, 1877, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 5th February, 1886.—

LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which the Bill to amend the Indian Registration Act, 1877, was referred, have considered the Bill and the papers noted on the margin, and have now the honour to submit this our Report,

From Officiating Secretary to Chief Commissioner, Assam, No. 1223, dated 22nd July, 1885 [Paper No 1].
 From Officiating Secretary to Chief Commissioner, Central Provinces, No. 3004-140, dated 8th August, 1885, and enclosure [Papers No 2].
 From Registrar, High Court, Calcutta, No. 2344, dated 13th August, 1885 [Paper No 3].
 From Secretary to Chief Commissioner, Coorg, No. 896-123, dated 13th August, 1885, [Paper No 4].
 From Chief Secretary to Government, Madras, No. 2049, dated 7th August, 1885, and enclosure [Papers No 5].

From Secretary for Berár to Resident, Hyderabad, No 6—B.-C, dated 19th August, 1885 [Paper No 6]

From Secretary to Government, North-Western Provinces and Oudh, No. 848—VII-144-13, dated 1st September 1885 [Paper No. 7]

From Chief Secretary to Government, Bengal, No. 966 P. D., dated 29th August, 1885, and enclosures [Papers No 8]

Endorsement by Chief Secretary to Government, Madras, No. 2184, dated 21st August 1885, and enclosure [Papers No. 9].

From Under Secretary to Government, Bombay, No. 7268, dated 8th September, 1885 [Paper No. 10]

From Registrar, High Court, Calcutta, No 2705, dated 18th September, 1885, and enclosure [Papers No 11]

From Officiating Secretary to Government, Punjab, No. 1430 S., dated 21st September, 1885, and enclosures [Papers No 12]

From Officiating Secretary to Chief Commissioner, British Burma, No. 131—25 L., dated 8th October, 1885, and enclosure [Papers No 13]

From Mr P V Krishnaswami Ayer, First Grade Pleader, Trichinopoly, No. 389, dated 29th November, 1885 [Paper No 14].

Circular from Secretary to Government of India, Legislative Department, Nos. 1581—86, dated 13th October, 1885, with replies [Papers No 15].

From Chief Secretary to Government, Bengal, No. 273 P., dated 23rd January, 1886, and enclosures [Papers No. 16].

2. The Bill as introduced has been approved by the authorities to whose criticism it was submitted. Some suggestions for the further amendment of the Act have been made, but, as the revision of the law relating to registration is understood to be under the consideration of the Government of India, we have deemed it advisable not to deal with them generally in this Bill. On one suggestion, however, we have deemed it necessary to act at once. It was that the law should declare receipts for payments of mortgage-money to be optionally, and not compulsorily, registrable. In connection with this suggestion we have considered the case reported at I. L. R. 6 All. 335, and the cases there cited, and the replies of Local Governments and High Courts to a letter addressed to them by the Government of India on the subject of those cases. The authorities to whom the letter was addressed are almost unanimously of opinion that on grounds of convenience, receipts for payment of mortgage-money ought not to be compulsorily registrable. We concur in that opinion, and have added to the Bill a clause (section 4) excepting from the operation of clauses (b) and (c) of section 17 of the Act (i) any endorsement on a mortgage-deed acknowledging the payment of the whole or any part of the mortgage-money, whether the endorsement does or does not purport to extinguish the mortgage, and (ii) any other receipt for payment of money due under a mortgage when the receipt does not purport to extinguish the mortgage. In so framing the clause we have, as regards endorsements, followed the course recommended by the High Court at Bombay, and, as regards other receipts, the general tenor of the opinions expressed by the authorities whom the Government of India has consulted.

3. The amendments which the Bill renders it necessary to make in section 50 of the Act have been made in a separate clause (section 5).

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

In English.

	<i>Gazette</i>	<i>Date.</i>
Gazette of India	..	13th, 20th and 27th June 1885.
Fort Saint George Gazette	..	30th June 1885
Bombay Government Gazette	..	18th and 25th June, and 2nd July 1885.
Calcutta Gazette	..	24th June, and 1st and 8th July 1885.
North-Western Provinces and Oudh Government Gazette	..	20th and 27th June, and 4th July 1885
Punjab Government Gazette	..	18th and 25th June, and 2nd July 1885.
Central Provinces Gazette	..	20th and 27th June, and 4th July 1885.
British Burma Gazette	..	4th, 11th and 18th July 1885.
Assam Gazette	..	4th, 11th and 18th July 1885.
Coorg District Gazette	..	1st August 1885.
Sindh Official Gazette	..	2nd July 1885

In the Vernaculars

<i>Province.</i>	<i>Language</i>	<i>Date.</i>
Madras	Tamil	31st July 1885
	Telugu	Ditto.
	Hindustáni	Ditto.
	Kánarese	7th August 1885
Bombay	Malayalam	Ditto
	Maráthi	16th July 1885.
	Gujaráthi	Ditto
	Kánarese	Ditto
Bengal	Sindhi	16th July 1885.
	Bengali	14th, 21st and 28th July 1885
	Hindi	11th, 18th and 25th August 1885
Punjab	Urdu	27th July, and 3rd and 10th August 1885.
Central Provinces	Maráthi	8th, 15th and 22nd August 1885
British Burma	Burmese	18th and 25th July, and 1st August 1885
Coorg	Kánarese	1st September 1885

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

(Signed) C. P. ILBERT.
 (") S. C. BAYLEY.
 (") V. N. MANDLIK.
 (") G. H. P. EVANS.
 (") ROBERT STEEL.
 (") W. W. HUNTER.

The 5th February 1886.

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

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 12th March 1886, and was promulgated for general information in the *Gazette of India* on the 13th March 1886:—

Act No. X of 1886.

An Act to amend the Code of Criminal Procedure, 1882, and certain other Acts.

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882, and certain other Acts, It is hereby enacted as follows:—

Code of Criminal Procedure, 1882

1. In the last paragraph of section 31 of the Code of Criminal Procedure, 1882, for the words "any sentence of imprisonment for a term exceeding three years" the words "any sentence of imprisonment for a term exceeding four years, and any sentence of transportation," shall be substituted.

2. For section 34 of the same Code the following shall be substituted, namely:—

"34 The Court of a District Magistrate, specially empowered under section 30, may pass any sentence authorized by law, except a sentence of death or of transportation for a term exceeding seven years or of imprisonment for a term exceeding seven years, but any sentence of imprisonment for a term exceeding four years, and any sentence of transportation, shall be subject to confirmation by the Sessions Judge"

3. After section 55 of the same Code, and after section 56 thereof, the following shall be added, namely:—

"This section applies to the police in the towns of Calcutta and Bombay."

4. In sections 88 and 514 of the same Code, after the words "District Magistrate" the words "or Chief Presidency Magistrate" shall be inserted

5. In section 110 of the same Code, for the words "Sub-divisional Magistrate or Magistrate of the first class specially empowered in this behalf by the Local Government" the words "or Sub-divisional Magistrate, or a Magistrate of the first class specially empowered in this behalf by the Local Government" shall be substituted.

6. In section 162 of the same Code the word "shall" shall be inserted before the words "be used".

7. In section 173 of the same Code, the following shall be substituted for the second paragraph, namely:—

"Where a superior officer of police has been appointed under section 158, the report shall, in any cases in which the Local Government by general or special order so directs, be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer in charge of the police-station to make further investigation."

8. In section 266 of the same Code, for the word and figures "section 307" the words and figures "sections 276 and 307" shall be substituted.

9. For the second paragraph of section 269 of the same Code the following shall be substituted, namely:—

"When the accused is charged at the same trial with several offences of which some are and some are not triable by jury, he shall be tried by jury for such of those offences as are triable by jury, and by the Court of Session, with the aid of the jurors as assessors, for such of them as are not triable by jury."

10. For section 398 of the same Code the following shall be substituted, namely:—

"398. (1) Nothing in section 396 or section 397 shall be held to excuse any person from any part of the punishment to which he is liable upon his former or subsequent conviction.

(2) When an award of imprisonment in default of payment of a fine is annexed to a substantive sentence of imprisonment, or to a sentence of transportation or penal servitude for an offence punishable with imprisonment, and the person undergoing the sentence is after its execution to undergo a further substantive sentence, or further substantive sentences, of imprisonment, transportation or penal servitude, effect shall not be given to the award of imprisonment in default of payment of the fine until the person has undergone the further sentence or sentences"

11. (1) For the third paragraph of section 401 of the same Code the following shall be substituted, namely:—

"If any condition on which a sentence has been suspended or remitted is, in the opinion of the Governor General in Council or of the Local Government, as the case may be, not fulfilled, the Governor General in Council or the Local Government may cancel the suspension, or remission, and thereupon the person in whose favour the sentence has been suspended or remitted may, if at large, be arrested by any police-officer without warrant and remanded to undergo the unexpired portion of the sentence."

(2) After the third paragraph of the same section the following shall be inserted, namely:—

“The condition on which a sentence is suspended or remitted under this section may be one to be fulfilled by the person in whose favour the sentence is suspended or remitted, or one independent of his will”

12 After section 475 of the same Code the following sections shall be inserted, namely:—

“475A. The Governor General in Council may direct that any person whom the Local Government has ordered under this chapter to be confined in a lunatic asylum, jail or other place of safe custody, shall be removed from the place where he is confined to any lunatic asylum, jail or other place of safe custody in British India.

“475B. The Local Government may empower the officer in charge of the jail in which a person is confined under the provisions of section 466

or section 471 to discharge all or any of the functions of the Inspector General of Prisons under section 472, section 473 or section 474.”

13. (1) For the first sentence of section 495 of the same Code the following shall be substituted, namely:—

“Any Magistrate inquiring into or trying any case may permit the prosecution to be conducted by any person other than an officer of police below a rank to be prescribed by the Local Government in this behalf with the previous sanction of the Governor General in Council.”

(2) After the last sentence of the same section the following shall be added, namely:—

“An officer of police shall not be permitted to conduct the prosecution if he has taken any part in the investigation into the offence with respect to which the accused is being prosecuted”

14. In section 510 of the same Code, for the word “the” before the words “Chemical Examiner” where those words first occur, the word “any” shall be substituted.

15. After section 541 of the same Code the following shall be inserted, namely:—

“541A. (1) If any person liable to be imprisoned or committed to custody under this Code is in confinement in a civil jail, the Court or Magistrate ordering the imprisonment or committal may direct that the person be removed to a criminal jail.

(2) When a person is removed to a criminal jail under sub-section (1), he shall, on being released therefrom, be sent back to the civil jail, unless either—

“(a) three years have elapsed since he was removed to the criminal jail, in which

case he shall be deemed to have been discharged from the civil jail under section 342 of the Code of Civil Procedure, or

“(b) the Court which ordered his imprisonment in the civil jail has certified to the officer in charge of the criminal jail that he is entitled to be discharged under section 341 of the Code of Civil Procedure.”

16 After section 558 of the same Code the following section shall be added, namely:—

“559. A public servant having any duty to perform in connection with the sale of any property under this Code shall not purchase or bid for the property.”

17. In Schedule II of the same Code, between the two lines of entries against section 211 of the Indian Penal Code, the following shall be inserted, namely:—

Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8
	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for seven years and fine	Court of Session, Presidency Magistrate or Magistrate of the first class

18. In the same Schedule, for section 225A and the line of entries against that section the following shall be substituted, namely:—

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8
“225A	Omission to apprehend, or sufferance of escape, on part of public servant in cases not otherwise provided for—	Should not arrest with warrant	Ditto	Bailable	Ditto	Imprisonment of either description for three years, or fine or both	Court of Session, Presidency Magistrate or Magistrate of the first class.
	(a) in case of intentional omission or sufferance	Should not arrest with warrant	Ditto	Bailable	Ditto	Imprisonment of either description for three years, or fine or both	Court of Session, Presidency Magistrate or Magistrate of the first class.
	(b) in case of negligent omission or sufferance.	Summons.	Ditto	Ditto	Ditto	Simple imprisonment for two years, or fine, or both	Presidency Magistrate or Magistrate of the first or second class
“225B	Resistance or obstruction to lawful apprehension, or escape or rescue, in cases not otherwise provided for	May arrest without warrant.	Warrant	Ditto.	Ditto	Imprisonment of either description for six months, or fine, or both	Ditto.”

XIV of 1882

XIV of 188

XLV of 1880

19. In the part of Schedule III of the same Code entitled "*IV.—Ordinary Powers of a Sub-divisional Magistrate,*" the following shall be inserted after the second article, namely:—

"(2A) Power to require security for good behaviour, section 110."

Bombay District Police Act, 1867.

Bom. VII of 1867.

20. The last nine words of section 23 of the Bombay District Police Act, 1867, are hereby repealed.

Indian Penal Code.

XIV of 1860.

21. (1) In the second clause of section 40 of the Indian Penal Code, between the figures "66" and "71" the figures "67" shall be inserted.

(2) In the second clause of section 64 of the same Code, after the word "punishable" the words "with imprisonment or fine, or" shall be inserted.

22. In section 75 of the same Code, for the words "or to double the amount of punishment" to the end of the section the following shall be substituted, namely:—

"or to imprisonment of either description for a term which may extend to ten years"

23. After the first paragraph of section 216 of the same Code the following shall be inserted, namely:—

"'Offence' in this section includes also any act or omission of which a person is alleged to have been guilty out of British India which, if he had been guilty of it in British India, would have been punishable as an offence, and for which he is, under any law relating to extradition, or under the Fugitive Offenders Act, 1881, or otherwise, liable to be apprehended or detained in custody in British India, and every such act or omission shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in British India."

Substitution of new sections for section 225A of the Indian Penal Code, and repeal of section 651 of the Code of Civil Procedure

24. (1) For section 225A of the same Code the following sections shall be substituted, namely:—

"225A. Whoever, being a public servant legally bound as such public servant to apprehend, or to keep in confinement any person in any case not provided for in section 221, section 222 or section 223, or in any other law for the time being in force, omits to apprehend that person or suffers him to escape from confinement, shall be punished—

"(a) if he does so intentionally, with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and

"(b) if he does so negligently, with simple imprisonment for a term which may extend to two years, or with fine, or with both.

"225B. Whoever, in any case not provided

Resistance or obstruction to lawful apprehension, or escape or rescue, in cases not otherwise provided for

for in section 224 or section 225 or in any other law for the time being in force, intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself or of any other person, or escapes or attempts to escape from any custody in which he is lawfully detained, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained, shall be punished, with imprisonment of either description for a term which may extend to six months, or with fine, or with both."

(2) Section 651 of the Code of Civil Procedure XIV of 1882 is hereby repealed.

Prisoners' Act, 1871.

25. For sections 30, 31 and 32 of the Prisoners' Act, 1871, the following shall be substituted, namely:—

Substitution of new sections for sections 30, 31 and 32 of the Prisoners' Act.

"30. When any person is, or has been, sentenced to imprisonment by any Court, or, in default of giving security for keeping the peace or maintaining good behaviour, has been committed to, or is detained in, prison under section 123 of the Code of Criminal Procedure, 1882, the

Local Government, or (subject to its orders and under its control) the Inspector General of Prisons, may order his removal during the period for which he has been sentenced to imprisonment or the security has been ordered to be given, as the case may be, from the jail or place in which he is confined to any other jail or place of imprisonment within the territories subject to the same Local Government.

"31. (1) Whenever it appears to the Local Government that any person detained or imprisoned under any order or sentence of any Magistrate or Court is of unsound mind, that

Government by a warrant setting forth the grounds of belief that the person is of unsound mind, may order his removal to a lunatic asylum or other place of safe custody within the territories subject to the same Local Government, there to be kept and treated as the Local Government directs during the remainder of the term for which he has been ordered or sentenced to be detained or imprisoned, or, if on the expiration of that term it is certified by a medical officer that it is necessary for the safety of the prisoner or others that he should be further detained under medical care or treatment, then until he is discharged according to law.

"(2) When it appears to the Local Government that the prisoner has become of sound mind, that Government, by a warrant directed to the person having charge of the prisoner, shall, if the prisoner is still liable to be kept in custody, remand him to the prison from which

44 & 45 Vic., cap 69.

he was removed or to another prison within the territories subject to the same Local Government or, if the prisoner is no longer liable to be kept in custody, order him to be discharged

“(3) The provisions of section 9 of Act XXXVI of 1858 (*relating to Lunatic Asylums*) shall apply to every person confined in a lunatic asylum under sub-section (1) after the expiration of the term for which he was ordered or sentenced to be detained or imprisoned; and the time during which a prisoner is confined in a lunatic asylum under that sub-section shall be reckoned as part of the term of detention or imprisonment which he may have been ordered or sentenced by the Magistrate or Court to undergo.

“(4) In any case in which a Local Government is competent under sub-section (1) to order the removal of a prisoner to a lunatic asylum or other place of safe custody within the territories subject to the same Local Government, the Governor General in Council may order his removal to any lunatic asylum or other place

of safe custody in any part of British India; and the provisions of this section respecting the custody, detention, remand and discharge of a prisoner removed by order of a Local Government shall, so far as they can be made applicable, apply to a prisoner removed by order of the Governor General in Council.

“32. When any person is, or has been sentenced to imprisonment by any Court, or in default of giving security for maintaining good behaviour, has been committed to, or is detained in, prison under section 123 of the Code of Criminal Procedure, 1882, the Governor General in Council may order his

Removal of prisoners from territories under one Local Government to territories under another.

removal during the period for which he has been sentenced to imprisonment or the security has been ordered to be given, as the case may be, from the jail or place in which he is confined to any other jail or place of imprisonment in British India.”

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

The following Report of the Select Committee on the Bill to amend the Code of Criminal Procedure, 1882, the Bombay District Police Act, 1867, the Indian Penal Code and the Prisoners' Act, 1871, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 5th March, 1886:—

LEGISLATIVE DEPARTMENT.

We, the undersigned, Members of the Select Committee to which the

- Bill to amend the Code of Criminal Procedure, 1882, the Bombay District Police Act, 1867, the Indian Penal Code and the Prisoners' Act, 1871, 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 object of the Bill was, as remarked in the Statement of Objects and Reasons, to correct certain minor defects of the criminal law which had been brought to the notice of the Government of India since the passing of the Code of Criminal Procedure, 1882. The papers laid before us contain numerous suggestions for other amendments in the Code. We have given our careful attention to these suggestions, but have come to the conclusion that, subject to a very few exceptions, it would not be expedient to act upon them without giving further notice to the public, and, for this reason, we have abstained from dealing with them in the present
- From Mr. P. R. Desai, Pleader, District Court, Sátára, dated 27th August, 1885 [Paper No. 1].
 From Mr. Nowrojee Ardesar, Pleader, District Court, Broach, dated 31st August, 1885 [Paper No. 2].
 From Mr. Sorábhá Dádábhái Munsiffú, No 383, dated 5th September, 1885 [Paper No. 3].
 From Secretary for Berar to Resident, Hyderabad, No 357G., dated 16th September, 1885 [Paper No. 4].
 From Secretary to Chief Commissioner, Coorg, No 1103-142, dated 19th September, 1885 [Paper No. 5].
 From Chief Commissioner, Ajmer-Merwára, No. 1033, dated 22nd September, 1885 [Paper No. 6].
 From Officiating Secretary to Chief Commissioner, Assam, No. 1717, dated 21st September, 1885 [Paper No. 7].
 From Officiating Secretary to Chief Commissioner, Central Provinces, No 3684-179, dated 22nd September, 1885 [Paper No. 8].
 From Chief Secretary to Government, Madras, No., 2429, dated 14th September, 1885, and enclosures [Papers No. 9].
 From Secretary to Government, North-Western Provinces and Oudh, No. 1861-VI-395-21, dated 10th October, 1885, and enclosures [Papers No 10].
 From Chief Secretary to Government, Madras, No. 2647, dated 30th September, 1885, and enclosures [Papers No. 11].
 Supplementary Memorandum of suggestions, by Mr. P. R. Desai, Pleader, District Court, Sátára, dated 24th October, 1885 [Paper No 12].
 From Mr P. V. Krishnaswami Ayer, First Grade Pleader, Trichinopoly, No. 388, dated 29th November, 1885 [Paper No. 13].
 From Officiating Secretary to Chief Commissioner, British Burma, No. 137-30L, dated 8th October, 1885, and enclosure [Papers No 14].
 From Under-Secretary to Government, Bombay, No. 8050, dated 20th November, 1885, and enclosures [Papers No. 15].
 Suggestions by Mr. M. Subba Rao, First Grade Pleader, Mangalore, dated 5th December, 1885 [Paper No. 16].
 From Officiating Secretary to Government, Punjab, No 1061, dated 18th December, 1885, and enclosures [Papers No 17].
 From Registrar, High Court, Calcutta, No. 2414, dated 29th December, 1885, and enclosure [Papers No. 18].
 From Chief Secretary to Government, Bengal, No. 142J., dated 8th January, 1886, and enclosures [Papers No. 19].
 From Registrar, High Court, Calcutta, No. 274, dated 6th February, 1886 [Paper No. 20].

Bill to amend the Code of Criminal Procedure, 1882, the Bombay District Police Act, 1867, the Indian Penal Code and the Prisoners' Act, 1871, was referred, have considered the Bill and the papers noted in the margin and have now the honour to submit this our Report.

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to which our attention has been thus directed, and the propriety of amending which should, we think, be considered by the legislature on the next suitable opportunity, are section 107 (with advertence to the cases reported at I. L. R. 6 All. 26 and 11 Cal. 737), section 110 (with respect to habitual protectors or harbourers of thieves and habitual aiders in the concealment or disposal of stolen property), section 145 (with advertence to the case reported at I. L. R. 11 Cal. 413), section 9 or section 193 (with respect to the powers of Additional or Joint Sessions Judges), section 239 (with respect to the meaning of the words "in the same transaction"), section 348 (for applying the procedure of section 349 to habitual offenders forwarded to the Court of Session), and section 437 (for the purpose of reconciling the conflicting rulings as to the meaning of the words "further inquiry").

3. We will now notice in consecutive order such sections of the Bill as appear to us to call for remark.

4. *Sections 1 and 2.*—There are sections of the Indian Penal Code under which transportation for shorter terms than seven years may be awarded, but we are of opinion that any sentence of transportation passed by an Assistant Sessions Judge or District Magistrate should be subject to confirmation by the Sessions Judge.

5. *Section 3.*—We have added this section at the instance of the Government of Bengal. It appears to us that sections 55 and 56 of the Code should apply to the police in the towns of Calcutta and Bombay as they do to the police in the town of Madras and in the rest of British India.

6. *Section 4.*—The Chief Presidency Magistrate of Madras has pointed out that there is the same defect in section 514 as in section 88.

7. *Section 7.*—The practice of submitting final police reports through a superior officer of police depends on circumstances varying from season to season and from province to province and even from district to district, and should, in our opinion, be left to be regulated by the Local Government.

8. *Section 9.*—We have, on the recommendation of the Madras Government and High Court, amended section 269 of the Code so that, where an accused person is charged at the same trial with several offences of which some are and some are not triable by jury, he shall be tried by jury for such of those offences as are triable by jury, and by the Court of Session, with the aid of jurors as assessors, for such of them as are not triable by jury.

9. *Section 10.*—The object of the amendment made by this section is to secure uniformity of practice with respect to the time when imprisonment in default of payment of fine is to be undergone where there are other substantive sentences of imprisonment to be undergone after the execution of the sentence to which the award of imprisonment in default of payment of fine was annexed.

10. *Section 11.*—There has been some misunderstanding in regard to the proposed amendment of section 401. It was originally proposed to meet a technical difficulty arising out of the case of a prisoner who had become insane after his discharge, and it appears to us that in the case of political offenders it may be useful as enabling the Government to set them at large on the understanding that, if any movement with which they were connected revives, they will, in the interests of the public safety, be re-arrested and detained until either the movement again subsides or they complete their sentences whichever event may first occur.

11. *Section 12.*—We have, on the recommendation of the Bombay Government, authorised Local Governments to empower officers in charge of jails to discharge certain functions of the Inspector General of Prisons. It is often impossible for the Inspector General punctually to discharge the functions personally.

12. *Section 13.*—Difficulty has been caused by the specification in the Code of the rank of the police-officer who may be permitted to conduct a prosecution. Inspectors are officers of different rank in different parts of the country. We have, therefore, left it to Local Governments to prescribe the rank with the previous sanction of the Governor General in Council, but we have provided that an officer of police shall not be permitted to conduct the prosecution if he has taken any part in the investigation into the offence with respect to which the accused is being prosecuted.

13. *Section 16.*—A case which has recently occurred in the Bombay Presidency has suggested the introduction into the Code of Criminal Procedure of a section on the lines of section 292 of the Code of Civil Procedure.

14. *Section 17.*—This section in the Bill has been misunderstood. In Schedule II to the Code of Criminal Procedure, as it now stands, the punishment for making a false charge of an offence punishable with imprisonment for a term of seven years appears as imprisonment for two years only, whereas the punishment may under the Indian Penal Code be imprisonment extending to seven years.

15. *Section 21.*—The object of this section is to make the provisions of section 67 of the Indian Penal Code applicable to all fines imposed under any law, and to make it clear that section 64 applies to offences punishable with imprisonment or fine as well as to offences punishable with both imprisonment and fine.

16. *Section 22.*—We agree with the Government of the North-Western Provinces and Oudh, the High Court at Madras and the other authorities who have directed attention to section 75 of the Indian Penal Code, in considering that the alternative penalties prescribed by the section must often be either inadequate or excessive, and that a wider discretion should be given to the Courts. We have provided therefore that on repeated conviction of an offence punishable under Chapter XII or Chapter XVII of

the Indian Penal Code the offender shall be subject to transportation for life or, in the discretion of the Court, to imprisonment for any term not exceeding ten years

17. *Section 23.*—At present there is no provision of law for the punishment of a person who, knowing that a warrant has been issued by a Magistrate for the apprehension of a foreign subject under the Foreign Jurisdiction and Extradition Act, 1879, harbours that subject. The inconvenience resulting from the absence of such a provision has been pointed out by the Government of the North-Western Provinces and Oudh, and ought in our opinion to be removed.

18. *Section 24.*—We have added a section suggested by the case reported at I. L. R. 12 Cal. 190.

19. *Section 25.*—We have proposed to re-enact in an amended form the whole of the three sections of the Prisoners' Act, 1871, relating to the removal of prisoners, instead of merely patching the existing sections.

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

In English.

<i>Gazette</i>				<i>Date.</i>
Gazette of India	...	...	...	25th July, and 1st and 8th August 1885.
Fort Saint George Gazette	...	...	...	14th August 1885.
Bombay Government Gazette	...	...	...	30th July and 6th and 13th August 1885.
Calcutta Gazette	...	...	...	5th, 12th and 19th August 1885.
North-Western Provinces and Oudh Government Gazette	...	...	...	1st, 8th and 15th August 1885
Punjab Government Gazette	...	...	...	30th July, and 6th and 13th August 1885.
Central Provinces Gazette	...	...	...	1st, 8th and 15th August 1885.
British Burma Gazette	...	...	...	15th, 22nd and 29th August 1885.
Assam Gazette	...	...	...	15th, 22nd and 29th August 1885
Coorg District Gazette...	...	...	...	1st September 1885.

In the Vernaculars.

<i>Province</i>	<i>Language.</i>			<i>Date</i>
Madras	...	Tamil	...	23rd October 1885.
	...	Telegu	...	25th September 1885.
	...	Hindustani	...	3rd October 1885.
Bombay	...	Marathi	...	} 27th August 1885.
	...	Gujarathi	...	
	...	Kanarese	...	
Bengal	...	Bengali	...	} 22nd and 29th September, and 6th October 1885
	...	Hindi	...	
North-Western Provinces and Oudh...	...	Uriya	...	13th, 20th and 27th October 1885.
	...	Urdu	...	15th, 22nd and 29th October 1885.
	...	Urdu	...	29th August, and 5th and 12th September 1885.
Punjab	...	Urdu	...	27th August 1885
Central Provinces	...	Hindi	...	5th, 12th and 19th September 1885.
	...	Marathi	...	12th, 19th and 26th September 1885.
British Burma	...	Burmese	...	12th, 19th and 26th September 1885.

21. 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) C. P. ILBERT.
 (") S. C. BAYLEY.
 (") W. W. HUNTER.
 (") G. H. P. EVANS *
 (") PEARI MOHAN MUKERJI.
 (") H. ST A. GOODRICH.
 (") J. W. QUINTON.
 (") V. N. MANDLIK.

The 5th March, 1886.

* I much doubt the advisability of amending section 107 in the direction suggested.

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

LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor General on the 12th March, 1886, and was promulgated for general information in the *Gazette of India* on 13th March 1886.—

• Act No. XI. of 1886.

THE INDIAN TRAMWAYS ACT,
1886.

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: *The Indian Tramways Act, 1886.*

(*Preliminary.—Orders authorising the Construction of Tramways.—Sections 1-4.*)

An Act to facilitate the construction and to regulate the working of Tramways.

WHEREAS it is expedient to facilitate the construction and to regulate the working of tramways; It is hereby enacted as follows:—

Preliminary.

Short title and commencement. 1. (1) This Act may be called the Indian Tramways Act, 1886; and
(2) It shall come into force at once.

Local extent. 2. (1) It extends in the first instance to the whole of British India, except the territories administered by the Governor of Fort Saint George in Council, the Governor of Bombay in Council, and the Lieutenant-Governor of Bengal.

(2) But the Governor of Fort Saint George in Council, the Governor of Bombay in Council or the Lieutenant-Governor of Bengal may, by notification in the official Gazette, extend this Act to the whole or any part of the territories under his administration.

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

(1) "local authority" means a municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund:

(2) "road" means the way of a road, street, thoroughfare, passage or place along or across which a tramway authorised under this Act is, or is intended to be, laid, and includes the surface soil and sub-soil of a road, and the footway, berms, drains and ditches of a road, and any bridge, culvert or causeway forming part of a road

(3) "road-authority", in relation to a road, means—

(a) if a local authority maintains and repairs the road, then that authority;

(b) if a local authority does not maintain and repair the road, and the road is neither vested in Her Majesty nor maintained and repaired by the Government, then the person in whom the road is vested; and

(c) if a local authority does not maintain and repair the road, and the road is vested in Her Majesty or maintained and repaired by the Government, then the Local Government;

(4) "circle", in relation to a local authority or road-authority, means the area within the control of that authority.

(5) "tramway" means a tramway, or any part of a tramway, or any siding, turnout, connection, line or track belonging to a tramway:

(6) "order" means an order authorising the construction of a tramway under this Act, and

includes a further order substituted for, or amending, extending or varying, that order:

(7) "promoter" means a local authority or person in whose favour an order has been made, and includes a local authority or person on whom the rights and liabilities conferred and imposed on the promoter by this Act and by the order and any rules made under this Act, as to the construction, maintenance and use of the tramway, have devolved:

(8) "undertaking" includes all moveable and immovable property of the promoter suitable to and used by him for the purposes of the tramway:

(9) "carriage", in the case of a tramway on which steam-power or any other mechanical power is used, includes an engine worked on the tramway for the purpose of producing that power:

(10) "toll" includes any charge leviable in respect of the use of a tramway:

(11) "lessee" means a person to whom a lease has been granted of the right of user of a tramway and of demanding and taking the authorised tolls:

(12) "District Magistrate" includes an officer empowered by the Local Government by name or by virtue of his office to discharge within any local area all or any of the functions of a District Magistrate under this Act:

(13) "District Court" means a principal Civil Court of original jurisdiction, and includes a High Court having ordinary original civil jurisdiction:

(14) "Collector" means the chief officer in charge of the revenue-administration of a district, and includes an officer empowered by the Local Government by name or by virtue of his office to discharge within any local area the functions of a Collector under this Act; and

(15) "prescribed" means prescribed by rules made by the Local Government under this Act.

Orders authorising the Construction of Tramways.

4. (1) The Local Government may make an order authorising the construction of a tramway in a circle on application made—

(a) by the local authority of the circle, with the consent of the road-authority of any road or part of a road which is to be traversed by the tramway, and of which the local authority is not itself the road-authority; or

(b) by any person with the consent of the local authority of the circle, and of the road-authority of any road or part of a road which is to be traversed by the tramway and of which the local authority is not the road-authority.

Provided that, if any part of the proposed tramway is to traverse land which is not included within the limits of a municipality or of a cantonment, the Local Government shall not make

*The Indian Tramways Act, 1886.**(Orders authorising the Construction of Tramways.—Sections 5-7.)*

the order without the previous sanction of the Governor-General in Council.

(2) A local authority shall not make an application for an order, or be deemed to consent to an application being made by any person for an order, unless the making of the application or the giving of the consent has been approved by the local authority in manner prescribed.

5. When it is proposed to lay a tramway in two or more circles, and a local authority or road-authority having control in either or any of the circles does not consent thereto, or attaches conditions to its consent, the Local Government may, nevertheless, make an order authorising the construction of the tramway in the circle, or by the order impose on the promoter any conditions which it deems fit, if, after considering the reasons of the authority for withholding its consent or attaching the conditions thereto, it is satisfied that the construction of the tramway in the circle is expedient, or, as the case may be, that the conditions attached by the authority to its consent ought not to be imposed.

6. (1) The Local Government on receiving an application shall consider it, and, if satisfied as to the propriety of proceeding thereon, publish in the official Gazette, and in such other manner as it deems sufficient for giving information to persons interested, a draft of a proposed order authorising the construction of the tramway.

(2) A notice shall be published with the draft stating that any objection or suggestion which any person may desire to make with respect to the proposed order will, if submitted to the Local Government on or before a date to be specified in the notice, be received and considered.

(3) If, after considering any objections or suggestions which may have been made with respect to the draft on or before the date so specified, the Local Government is of opinion that the application should be granted, with or without addition or modification, or subject or not to any restriction or condition, it may make an order accordingly.

(4) Every order authorising the construction of a tramway shall be published in the official Gazette in English, and in the other prescribed language or languages, if any; and that publication shall be conclusive proof that the order has been made as required by this section.

7. (1) An order made under section 6 shall empower the promoter therein specified to construct and maintain the tramway therein described in the manner therein provided, and shall specify the time within which the tramway shall be commenced and the time within which it shall be completed and opened for public traffic.

(2) The order may also provide, in manner consistent with this Act, for all or any of the following, among other matters, that is to say.—

(a) a period before the expiration of which the tramway shall not be commenced,

and the conditions subject to which the local authority, when it is not itself the promoter, may, within that period, elect to be substituted in the place of the promoter in respect of the undertaking or of so much thereof as is within its circle; and the limits of time within which, and the terms upon which, the local authority may, after the tramway has been constructed, require the promoter to sell to it the undertaking or so much thereof as is within its circle;

(b) the acquisition by the promoter of land for the purposes of the tramway, and the disposal by him of land which has been acquired but is no longer required for those purposes;

(c) the conditions subject to which roads may be opened and broken up for the purposes of the construction or maintenance of the tramway or any part thereof, and the method of, and materials to be used in, the re-instating of the roads, and the approval of the method and materials by the Local Government or the road-authority before the commencement of the work;

(d) the conditions on which the tramway may be constructed over a bridge or across a railway or tramway when the carriageway over the bridge is to form part of the tramway or when the tramway is to cross a railway or another tramway on the level;

(e) the space which shall ordinarily intervene between the outside of the carriageway on either side of a road whereon the tramway is to be constructed and the nearest rail of the tramway, and the conditions on which a smaller space may be permitted;

(f) the gauge of the tramway; the rails to be used, and the mode in which and the level at which they shall be laid and maintained; and the adoption and application by the promoter of such improvements in the rails, and in their situation, and in the sub-structure upon which they rest, as the Local Government may from time to time require,

(g) the portion of the road or roads traversed by the tramway to be kept in repair by the promoter; the maintenance by the promoter to the satisfaction of the Local Government or the road-authority, or both, of that portion of the road or roads; and the liability of the promoter, on the requisition of the Local Government, from time to time to adopt and apply such improvements in the tramway as the Local Government may consider necessary or desirable for the safety or convenience of the public, and to alter the position or level of the tramway to suit future alterations in the road or roads,

*The Indian Tramways Act, 1886.**(Orders authorising the Construction of Tramways.—Sections 8-9.)*

- (h) the application of material excavated by the promoter in the construction or maintenance of the tramway ;
- (i) the provision of such crossings, passing-places, sidings, junctions and other works, in addition to those specified in or authorised by the order, as may from time to time be necessary or convenient to the efficient working of the tramway ;
- (j) the powers which may from time to time be exercised by the Local Government, the local authority, the road-authority or any person in respect of sewers, drains, telegraph-lines, gas-pipes, water-pipes or other things in or on land occupied by the tramway ; the notice (if any) to be given of the intended exercise of those powers ; the manner in which the powers shall be exercised ; and the extent to which the tramway and the traffic thereon may be interfered with in the exercise thereof ;
- (k) the conditions subject to which the promoter may from time to time interfere with, or alter or require the alteration of the position of, drains (not being sewers or main drains), telegraph-lines, gas-pipes, water-pipes or other things as aforesaid ;
- (l) the provision of a temporary tramway in place of a part of a tramway which has been removed, or of which the use has been discontinued, by reason of the execution of any work affecting a road along which the part of the tramway was laid, or by reason of the use of the road being interrupted by floods or other cause ;
- (m) the motive power to be used on the tramway, and the conditions on which steam-power or any other mechanical power may be used ;
- (n) the nature, dimensions, fittings, appliances and apparatus of the carriages to be used on the tramway, and the inspection and examination thereof by officers of the Local Government or the local authority, and the liability of the promoter or lessee, on the requisition of the Local Government, from time to time, to adopt and apply such improvements in the carriages and in the fittings, appliances and apparatus, as the Local Government may consider necessary or desirable for the safety or convenience of the public ;
- (o) the traffic which may be carried on the tramway, the traffic which the promoter or lessee shall be bound to carry, and the traffic which he may refuse to carry ; the tolls to be leviable by the promoter or lessee, and the periodical revision thereof by the Local Government, and the regulation of the traffic and of the levy of the tolls ;
- (p) the use of the tramway free of toll by the local authority, with its own carriages, for specified purposes, during specified hours, with power to the local authority to make such sidings and other works as may be necessary for communication between its premises and the tramway ;
- (q) the conditions subject to which the promoter may transfer the undertaking, or any part thereof, by sale, mortgage, lease, exchange or otherwise ; and the conditions subject to which the local authority may be the transferee ;
- (r) the performance by the Local Government or by the local authority of road-authority of any work required by the Act or the order to be done by the promoter ; and
- (s) the penalty to be incurred by the promoter or lessee for failure to observe any condition or direction contained in the order, and the application of the penalty when recovered.
- (3) The Local Government may, in providing in the order for the acquisition of land for the purposes of a tramway of which the promoter is not a company, direct that land may be acquired for the promoter under the provisions of the Land Acquisition Act, 1870, in the same manner and on the same conditions as it might be acquired for the purposes of the tramway if a company were the promoter. X. of 1870.
- (4) The order shall imply the condition—
- (a) in the case of a tramway of which a local authority is the promoter, that a lease thereof shall be granted only in manner by this Act provided, and
- (b) in the case of a tramway of which a local authority is not the promoter, that a lease thereof shall be only of the right of user and of demanding and taking the authorised tolls, and shall not confer or impose on the lessee any of the powers or duties of the promoter in respect of the construction or maintenance of the tramway.
8. (1) The Local Government may, on the application of the promoter, revoke, amend, extend or vary the order by a further order.
- (2) An application for a further order shall be made in the same manner and subject to the same conditions as an application for an order.
- (3) The Local Government may, in its discretion, either grant or reject the application.
- (4) If it grants the application, it shall make the further order in the same manner as an order, except that no addition to, or modification of, the rights, powers and authorities asked for in the application, or restriction or condition with respect thereto, shall be made or imposed by the further order without the consent in writing of the promoter.
9. (1) Subject to, and in accordance with, the provisions of this Act, the Local Government may, on a joint application, or on two or more separate applications make an order empowering two or more local authorities, respectively, jointly to construct the whole, or separately to construct parts, of a tramway, and

*The Indian Tramways Act, 1886.**(Orders authorising the Construction of Tramways.—Construction and Maintenance of Tramways.—Traffic on Tramways.— Sections 10-16).*

jointly or separately to own the whole or parts thereof.

(2) All the provisions of this Act which relate to the construction of tramways shall extend and apply to the construction of the whole and the separate parts of the tramway, and the form of the order may be adapted to the circumstances of the case.

10. (1) If a promoter authorised by an order to construct a tramway—

- (a) does not within the time specified in the order substantially commence the construction of the tramway, or
- (b) having commenced the construction, suspends it without a reason sufficient in the opinion of the Local Government to warrant the suspension, or
- (c) does not within the time specified in the order complete the tramway and open it for public traffic,

the following consequences shall ensue—

- (i) the powers given by the order to the promoter for constructing the tramway and otherwise in relation thereto shall, unless the Local Government, by special direction in writing, prolongs the time or condones the suspension, cease to be exercised except as to so much of the tramway as is then completed
- (ii) as to so much of the tramway as is then completed the Local Government may either permit, or refuse to permit, the powers given by the order to continue,
- (iii) if the Local Government refuses to permit the powers to continue, then so much of the tramway as is then completed may be dealt with, under the provisions of this Act relating to the discontinuance of tramways, as a tramway of the working whereof the discontinuance has been proved to the satisfaction of the Local Government.

(2) A notification published by the Local Government in the official Gazette to the effect that on a date specified in the notification the construction of a tramway had not been substantially commenced or a tramway had not been completed and opened for public traffic, or that the construction of a tramway had been suspended without sufficient reason, shall, for the purposes of this section, be conclusive proof of the matter stated therein.

Construction and Maintenance of Tramways.

11. A tramway shall be constructed and maintained in the manner provided by the order.

12. A tramway, or portion or extension of, or addition to, a tramway, shall not be opened for public traffic until an engineer appointed in this behalf by the Local Government has inspected it and certified it to be fit for such traffic.

IV.—15-6

13. Subject to the provisions of any order for the time being in force with respect to the repair of roadway matters mentioned in section 7, sub-section (2), clause (g), the road-authority and the promoter may from time to time enter into agreements as to the keeping in repair of the whole or a part of a road traversed by a tramway, and as to the proportion to be paid by either of them of the expense of keeping the road or part in repair.

Traffic on Tramways.

14. (1) The promoter of a tramway shall, subject to the provisions of sub-section (2) and the other provisions of this Act and of the order, have the exclusive use of the tramway for carriages with flange-wheels or other wheels suitable to run on the rail described in the order as the rail to be used on the tramway.

Provided that nothing in this Act or in the order or any rule made under this Act shall affect the right of any person authorised to use a tramway or railway to pass across a tramway constructed under this Act with carriages having wheels suitable to run on the rail thereof

(2) The public shall have a right to pass along or across any part of a road along or across which a tramway is constructed, whether on or off the tramway, with carriages not having flange-wheels or other wheels suitable to run on the rail of the tramway provided—

- (a) that this sub-section shall not apply where the tramway is constructed on land the right to the exclusive possession of which has been acquired by the promoter; and
- (b) that the Local Government may by an order authorise the construction of a tramway on any part of a road with rails raised above the surface of the road, if it is satisfied that the convenience of the public will not be injuriously affected thereby.

15. (1) The promoter or lessee may demand and take, in respect of the tramway, tolls not exceeding the limits specified in or determinable under the order, or, if the order contains no provision in this behalf, then such sums as may from time to time be fixed by the promoter or lessee with the previous sanction of the Local Government

(2) A list of all the tolls authorised to be levied shall be exhibited, in such languages as the District Magistrate may direct, in a conspicuous place inside and outside each of the carriages used upon the tramway.

16. (1) A person shall not be entitled to carry, or to require to be carried, on a tramway constructed under this Act, any carriage of dangerous or offensive goods, or goods of a dangerous or offensive nature.

(2) A person taking such goods with him on the tramway shall, before entering the carriage, give notice of their nature to the servant of the promoter or lessee in charge of the carriage.

*The Indian Tramways Act, 1886.**(Licenses to use Tramways.—Discontinuance of Tramways.—Sections 17-20.)*

(3) A person sending such goods by the tramway shall distinctly mark their nature on the outside of the package containing them, or otherwise give notice thereof in writing to the servant of the promoter or lessee with whom he leaves them for the purpose of their being sent by the tramway.

(4) Any servant of the promoter or lessee may refuse to carry upon the tramway a parcel which he suspects to contain goods of a dangerous or offensive nature, and, if any such parcel has been received for the purpose of being carried upon the tramway, may stop the transit thereof until he is satisfied as to the nature of its contents.

(5) Where a servant of the promoter or lessee refuses under sub-section (4) to carry a parcel which has been received for the purpose of being carried upon the tramway, he shall, as soon as may be, give notice of his refusal to the consignor or consignee if he refuses at a time when neither of them is present.

Licenses to use Tramways.

17. If, at any time after a tramway or part of a tramway has been for three years opened for public traffic in a circle, the local authority of the circle represents in writing to the Local Government that the public is deprived of the full benefit of the tramway or of the part thereof, the Local Government may, after considering any statement which the promoter or lessee or both may desire to make, and after such further enquiry as it deems necessary, it is satisfied as to the truth of the representation, grant a license to any person to use the tramway conformably to this Act and to the order and the rules made under this Act, subject to the following provisions, namely:—

- (a) the license shall be for a period not less than one year or more than three years from the date of the license, but the Local Government may in its discretion renew it;
- (b) the license shall be to use the whole of the tramway for the time being opened for public traffic, or such part or parts of the tramway as the Local Government, having regard to the cause for granting the license, thinks fit,
- (c) the license shall specify the number of carriages which the licensee shall run upon the tramway, the mode in which, and times at which, the carriages shall be run, the tolls to be paid to the promoter or lessee by the licensee for the use of the tramway, and the tolls, being those for the time being leviable by the promoter or lessee, which the licensee may demand and take for the use of his carriages;
- (d) the licensee and his officers and servants shall permit one person, duly authorised for that purpose by the promoter or lessee, to travel free of toll in or upon each carriage of the licensee run upon the tramway for the whole or any part of a journey;
- (e) any provision of this Act, or of the order or rules made under this Act, relating to the

functions of a servant of a promoter or lessee shall be construed, so far as may be, as referring to a servant of the licensee; and

(f) the Local Government may revoke, alter or modify the license for any cause sufficient in its opinion to warrant the revocation, alteration or modification thereof.

18. A licensee shall, on demand, give to an officer or servant authorised in that behalf by the promoter or lessee an exact account in writing, signed by the licensee, of the number of passengers, or number or quantity of goods, conveyed by any and every carriage used by him on the tramway.

Discontinuance of Tramways.

19. If it is proved to the satisfaction of the Local Government, at any time after the opening of a tramway for public traffic, that the working of the tramway, or any part thereof, has been practically discontinued, for the space of three months, without a reason sufficient, in the opinion of the Local Government, to warrant the discontinuance, the Local Government, if it thinks fit, may, by notification in the official Gazette, declare that the powers of the promoter and of the lessee, if any, in respect of the tramway or the part thereof of which the working has been so discontinued, shall, from the date of the notification, be at an end; and thereupon the said powers shall cease and determine, except in so far as they may be purchased by a local authority in manner by this Act provided.

20. (1) Where a notification has been published under section 19, the road-authority may, at any time after the expiration of two months from the date of the notification, remove the tramway or part of the tramway of which the working has been so discontinued, and use the materials thereof in re-instating the road.

(2) The promoter shall pay to the road-authority the cost incurred by that authority in removing the tramway or the part thereof and in re-instating the road.

(3) The cost shall be certified by an officer of the road-authority, and his certificate, countersigned by the District Magistrate, shall be conclusive proof as to the cost incurred.

(4) If the promoter does not pay the amount so certified within one month after the delivery to him of the certificate or of a copy thereof, the road-authority may, without any previous notice to the promoter and without prejudice to any other remedy which it may have for the recovery of the amount, sell and dispose of such materials of the tramway or part thereof removed as it has not used in re-instating the road, either by public auction or by private sale, and for such sum or sums, and to such person or persons, as it thinks fit, and may, out of the

*The Indian Tramways Act, 1886.**(Insolvency of Promoter.—Purchase of Tramways.—Working of Tramways owned by Local Authorities.—Rules.—Sections 21-24.)*

proceeds of the sale, pay and reimburse itself the amount of the cost aforesaid and of the expenses of the sale, and shall pay over the residue (if any) of the proceeds of the sale to the promoter.

Insolvency of Promoter.

21 (1) If, at any time after the opening of a tramway in a circle for public traffic, it appears to the road-authority or local authority of the circle that the promoter of the tramway is insolvent, so that he is unable to maintain the tramway, or to work it with advantage to the public, and either of those authorities makes a representation to that effect to the Local Government, the Local Government may, if after considering any statement which the promoter may desire to make, and after such further enquiry as it deems necessary, it is satisfied as to the truth of the representation, declare, by notification in the official Gazette, that the powers of the promoter shall, at the expiration of six months from the publication of the notification, be at an end; and the powers of the promoter shall cease and determine at the expiration of that period, except in so far as they may be purchased by a local authority in manner by this Act provided.

(2) Where a notification has been published under sub-section (1), the road-authority may, at any time after the expiration of six months from the date thereof, remove the tramway in the same manner, and subject to the same provisions as to the payment of the cost of the removal, and to the same remedy for recovery of the cost, in every respect as in cases of removal under section 20.

Purchase of Tramways.

22. (1) Where the promoter of a tramway in a circle is not the local authority, the local authority, with the previous sanction of the Local Government, may—

- (a) within such limits of time as may be specified in this behalf in the order, or
- (b) if a time was not specified in the order, then within six months after the expiration of a period of twenty-one years from the date of the order, and within six months after the expiration of every subsequent period of seven years, or
- (c) within two months after the publication of a notification under section 19 or within six months after the publication of a notification under section 21,

by notice in writing, require the promoter to sell to the local authority his undertaking or the part thereof which is within the circle of the local authority and thereupon the promoter shall sell the same upon the terms specified in the order, or, if the terms were not specified in the order, then upon the terms of paying the then value of the undertaking or of the part thereof, exclusive of any allowance for past or future profits of the

undertaking or any compensation for compulsory sale or other consideration whatsoever

(2) A requisition shall not be made under sub-section (1) unless the making thereof has been approved by the local authority in manner prescribed

(3) When a sale has been made under this section, all the rights, powers and authorities of the promoter in respect of the undertaking or part thereof sold, or, where a notification has been published under section 19 or section 21, all the rights, powers and authorities of the promoter previous to the publication of the notification in respect of the undertaking or part thereof sold, shall be transferred to the authority to whom the undertaking or part has been sold, and shall vest in, and may be exercised by, that authority in the same manner as if the tramway had been constructed by it under an order made under this Act

(4) Subject to, and in accordance with, the preceding provisions of this section, two or more local authorities may jointly purchase an undertaking or so much thereof as is within their circles

Working of Tramways owned by Local Authorities.

23 (1) When a local authority has under the lease of, or working authority of an order completed a tramway, or has authority under the provisions of this Act or of an order acquired possession of a tramway, it may, by a lease to be approved by the Local Government, let to any person the right of user of the tramway and of demanding and taking the authorised tolls

(2) On the determination of a lease the local authority may from time to time let the right for such further term and on such conditions as the Local Government may approve

(3) Every lease made under this section shall imply a condition of re-entry if at any time after the making thereof it is proved to the satisfaction of the Local Government that the lessee has practically discontinued the working of the tramway leased; or of any part thereof, for the space of one month without a reason sufficient, in the opinion of the Local Government, to warrant the discontinuance

(4) Notice of the intention of the local authority to make a lease shall be given in manner prescribed

(5) If the local authority cannot by means of a lease obtain what it deems to be a fair rent for the tramway, it may itself, with the previous sanction of the Local Government and for such term as the Local Government directs, place and run carriages upon the tramway, and demand and take the authorised tolls in respect of the use of the carriages.

Rules.

24 (1) In addition to any other power to make rules expressed or by implication conferred by this Act, the Local Government may make rules consistent with this Act—

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(Rules.—Sections 25-26.)

- (a) as to the form in which an application for an order shall be made;
- (b) as to the costs to be paid by an applicant in respect of an order, and the time when, and the place where, those costs shall be paid;
- (c) as to the payment of money or lodgment of securities, by way of deposit, by the applicant for an order before the order is published under section 6, sub-section (4), or a further order is made under section 8; the investment of money so paid; the disposal of interest or dividends from time to time accruing due on money or securities so paid, lodged or invested, the application of the money or securities or the produce thereof to the discharge of any liability incurred by the promoter; and the forfeiture, repayment or return of the money or securities;
- (d) as to the plans and sections of any works to be deposited by applicants for orders or by promoters;
- (e) for regulating the use of steam-power or any other mechanical power on a tramway,
- (f) as to any matter specified in section 7, sub-section (2), clauses (c), (d), (e), (j) and (k), as a matter which may be provided for in an order, when that matter has not been so provided for, or has not, in the opinion of the Local Government, been effectually so provided for;
- (g) as to the periodical submission, by promoters, lessees and licensees, of accounts of traffic and receipts to the Local Government or as that Government directs, and as to the forms in which those accounts are to be submitted;
- (h) as to the accidents of which report is to be made to the Local Government or as that Government directs;
- (i) as to any matter respecting which rules may be made under this section by a local authority or a promoter or lessee; and,
- (j) generally, as to any other matter or thing in respect of which it may seem to the Local Government to be expedient to make rules for carrying out the purposes of this Act.
- (2) A local authority may, from time to time, with the previous sanction of the Local Government, make rules consistent with this Act and with the order and any rules made by the Local Government under this Act, for regulating—
- (a) the rate of speed to be observed in travelling upon a tramway within the circle of the local authority;
- (b) the use of animal power on the tramway;
- (c) the distances at which carriages using the tramway are to be allowed to follow one after the other;
- (d) the stopping of carriages using the tramway, and the notice to be given to the public of their approach;
- (e) the manner in which carriages using the tramway after sunset and before sunrise are to be lighted;
- (f) the traffic on roads along or across which the tramway is laid;
- (g) the number of passengers which may be carried in any carriage;
- (h) the licensing and control of drivers, conductors and other persons having charge of the carriages of the promoter or lessee or a licensee; and,
- (i) generally, the mode of use of the tramway.
- (3) The promoter or lessee of a tramway may, from time to time, with the previous sanction of the Local Government, make rules consistent with this Act and with the order and any rules made under this Act—
- (a) for preventing the commission of any nuisance in or upon any carriage, or in or against any premises belonging to him; and
- (b) for regulating the travelling in any carriage belonging to him.
- (4) The Local Government may cancel any rule made by a local authority or by a promoter or lessee under this section.
25. The authority making any rule under section 24 may direct that a breach of it shall be punishable with fine which may extend—
- (a) if the authority making the rule is the Local Government, to two hundred rupees, and
- (b) if that authority is a local authority or a promoter or lessee, to twenty rupees; and when the breach is a continuing breach, with a further fine which may extend—
- (c) if the authority making the rule is the Local Government, to fifty rupees, and
- (d) if that authority is a local authority or a promoter or lessee, to five rupees, for every day after the first during which the breach continues.
26. (1) Every authority having power to make rules under any section of this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.
- (2) The publication shall be made, in the case of rules made by the Local Government, in such manner as may in its opinion be sufficient for giving information to persons interested, and, in the case of rules made by a local authority or by a promoter or lessee, in manner prescribed.
- (3) There shall be published with the draft a notice specifying a date, not earlier than the expiration of one month after the date of publication, at or after which the draft will be taken into consideration.
- (4) The authority shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.
- (5) The publication in the official Gazette of a rule purporting to be made under this Act shall be conclusive proof that it has been duly made.

*The Indian Tramways Act, 1886.**(Offences.—Sections 27-34.)**Offences.*

Penalty for failure of promoter, lessee or licensee to comply with Act or order.

27. If a promoter—

- (a) constructs or maintains a tramway otherwise than in accordance with the order, or
- (b) opens the tramway for traffic, or permits it to be so opened, before it has been inspected and certified in manner required by section 12, or
- (c) fails to observe any requirement or condition of the order for neglect or breach whereof no penalty has been expressly provided in the order,

or if a promoter, lessee or licensee runs a carriage on a tramway otherwise than in accordance with the order,

he shall (without prejudice to the enforcement of specific performance of the requirements of this Act or of the order, or to any other remedy which may be obtained against him in a Court of Civil Judicature), on complaint made by the Local Government or by the local authority or road-authority or by the District Magistrate or, with the previous sanction of the District Magistrate, by any person injuriously affected by the act or omission, be punished with fine which may extend to two hundred rupees, and in the case of a continuing offence to a further fine which may extend to fifty rupees for every day after the first during which the offence continues to be committed

28 If any person without lawful excuse, the burden of proving which shall lie upon him, wilfully obstructs any person acting under the authority of the promoter in the lawful exercise of his powers in constructing or maintaining a tramway, or injures or destroys any mark made for the purpose of setting out the line of the tramway, he shall be punished with fine which may extend to fifty rupees.

29. If any person without lawful excuse, the burden of proving which shall lie upon him, wilfully does any of the following things, namely—

- (a) interferes with, removes or alters any part of a tramway constructed under this Act, or of the works connected therewith, or
- (b) places or throws upon or across any such tramway any wood, stone, refuse or other thing, or
- (c) does anything in such a manner as to obstruct any carriage using any such tramway, or
- (d) abets within the meaning of the Indian Penal Code the doing of, or attempts to do, anything mentioned in clause (a), clause (b) or clause (c),

he shall (without prejudice to any other remedy which may be obtained against him in a Court of Civil Judicature) be punished with fine which may extend to one hundred rupees

30 If any person, except under a lease from, or by agreement with, the promoter, or under license from the Local

Penalty for using tramway with carriage having flange-wheels.

Government granted under this Act, uses on a tramway, otherwise than as permitted by section 14, a carriage having flange-wheels or other wheels suitable to run on the rail of the tramway, he shall be punished with fine which may extend to two hundred rupees.

31. (1) If any person travelling or having travelled in a carriage of the promoter or lessee or of a licensee evades or attempts to evade payment of toll, or if any person having paid toll for a certain distance wilfully proceeds in any such carriage beyond that distance and does not pay the additional toll for the additional distance or attempts to evade payment thereof, or if any person wilfully refuses or neglects on arriving at the point to which he has paid toll to quit the carriage, he shall be punished with fine which may extend to ten rupees

(2) When a person commits an offence under this section and refuses on demand of a servant of the promoter, lessee or licensee to give his name and residence, or gives a name or residence which the servant has reason to believe to be false, he may be arrested and taken to the nearest police-station by the servant or any person whom the servant may call to his aid.

(3) When the person is taken to the police-station, he shall with the least possible delay be forwarded to the nearest Magistrate, unless his true name and residence are ascertained, in which case he shall be released on his executing a bond for his appearance before a Magistrate if so required

32 If any person takes or sends by a tramway any goods of a dangerous or offensive nature without giving the notice required by section 16, he shall be punished with fine which may extend to fifty rupees

33. (1) If a licensee fails on demand to give the account mentioned in section 18, or, with intent to evade the payment of tolls, gives a false account when he is called upon to give an account under that section, he shall be punished with fine which may extend to fifty rupees

(2) The fine shall be in addition to any tolls payable by the licensee to the promoter or lessee in respect of the passengers or goods conveyed by the carriage or carriages used by the licensee on the tramway.

34 Nothing in this Act shall prevent a person from being prosecuted under any other law for an act or omission which constitutes an offence against this Act or the rules made under it, or from being liable under that other law to any other or higher punishment or penalty than that provided by this Act or the rules made under it: Provided that a person shall not be punished twice for the same offence.

Saving of prosecutions under other laws.

*The Indian Tramways Act, 1886.**(Settlement of Differences.—Recovery of Tolls.—Savings.—Sections 35-39.)**Settlement of Differences.*

35. (1) If any difference arises between the promoter or lessee on the one hand and the Local Government, or the local authority, or the road-authority, or a person having the charge of any sewers, drains, telegraph-lines, gas-pipes, water-pipes, or other things in or on land occupied by the tramway, on the other hand, with respect to any interference or control exercised or claimed to be exercised by, or on behalf of, either party by virtue of this or any other Act, or of the order or the rules made under this Act, or with respect to the propriety of, or the mode of, the execution of any work, or with respect to any compensation to be made by or to the promoter or lessee, or on the question whether any work is such as ought reasonably to satisfy the Local Government or the road-authority or both, or with respect to any other subject or thing regulated by, or comprised in, this Act or the order or the rules made under this Act, and not otherwise expressly provided for therein, the matter in difference shall, except where the parties elect to proceed under section 523 of the Code of Civil Procedure, be settled, on the application of either party, by a referee.

(2) Where the difference is—

- (a) between the promoter or lessee on the one hand and the Local Government, either as such or as the road-authority, on the other, or
- (b) between the promoter on the one hand and the local authority on the other, with respect to the sum to be paid by the local authority for an undertaking or part of an undertaking which that authority has required the promoter to sell under section 22,

the referee shall be the District Court within the jurisdiction of which the tramway is situate, or, where the tramway is within the jurisdiction of more than one District Court, the District Court within the jurisdiction of which the greater part of the tramway is situate.

(3) In other cases, the referee shall be appointed by the Local Government.

(4) Except where the referee is the District Court, the powers and procedure of the referee may be prescribed.

(5) In the case of a difference between a promoter on the one hand and a local authority on the other, with respect to the sum to be paid by the local authority for an undertaking or part of an undertaking which that authority has required the promoter to sell under section 22, an appeal shall lie to the High Court from the award of the referee as from an original decree of the District Court.

(6) In the case of every other difference the award of the referee shall be final.

Recovery of Tolls.

36. Any of the following moneys, namely, any rent due to a local authority from a lessee, any penalty recoverable from a promoter or lessee under an order, any sum payable by a promoter

Recovery of moneys due from promoters and, in certain cases, from lessees.

or lessee under an award of a referee, the cost of the performance under this Act by the Local Government or by a local authority or road-authority of any work required by this Act or by an order to be done by a promoter, and the cost incurred by a road-authority in removing a tramway and re-instating a road under this Act, may, without prejudice to any other remedy that the authority to which the money is due may have by suit or otherwise, be recovered by that authority, on application made in this behalf to the Collector, as if the sum due were an arrear of land revenue due by the promoter or lessee or his surety (if any):

Provided that nothing in this section shall authorise the arrest of the promoter or lessee or his surety in execution of any process issued by the Collector.

37. (1) If a licensee fails to pay on demand the tolls due for the use of a tramway, the promoter or lessee to whom the tolls are due may, without prejudice to the remedy which he may have by suit, apply to a Magistrate to recover the amount of the tolls, and the Magistrate may, after giving notice to the licensee if possible and allowing him an opportunity of being heard, proceed to recover the amount by distress and sale of any carriages or other moveable property of the licensee which may be found on the tramway or on premises connected therewith.

(2) When a licensee has failed to pay on demand the tolls due from him, the promoter or lessee to whom the tolls are due may seize any carriage or other moveable property of the licensee on the tramway or on premises connected therewith, and detain the same for forty-eight hours unless the tolls are sooner paid.

(3) When application is made to a Magistrate under sub-section (1), he may make an interim order of distraint pending his final decision.

38. Any toll due to a promoter, lessee or licensee from a passenger may be recovered either by suit or, on application to a Magistrate having jurisdiction within any local area in which any part of the tramway is laid, by distress and sale of any moveable property belonging to the passenger within the local limits of the jurisdiction of the Magistrate.

Savings.

39. (1) Notwithstanding anything contained in this Act or in an order Promoter to have right in this Act or in an order of user only. or any rule made under this Act, a promoter shall not acquire any right other than that of user only over a road along or across which he lays a tramway, nor shall anything contained in this Act or in an order or any rule made under this Act, exempt the promoter of a tramway, or any other person using the tramway, from the payment of such charges as may lawfully be levied in respect of the use of a road or bridge along or across which the tramway is laid.

(2) The Local Government may, if it thinks fit, fix rates at which a promoter, lessee or licensee may compound for the charges payable in respect of the use of a road or bridge.

*The Indian Tramways Act, 1886.**(Savings.—Supplemental Provisions—Sections 40-50.)*

40. (1) Nothing in this Act or in an order or any rule made under this Act, shall take away or abridge any power which a road-authority, local authority or other person has by law to break up, widen, alter, divert or improve a road, railroad or tramway along or across which a tramway is laid.

(2) The road-authority, local authority or other person executing any work referred to in sub-section (1) shall not be liable to pay to a promoter, lessee or licensee any compensation for injury done to a tramway by the execution of the work or for loss of traffic occasioned by the reasonable use of any power lawfully exercised for the execution thereof.

41. Nothing in this Act or in an order or any rule made under this Act, shall affect the powers of a local authority or of a Magistrate or police-officer to regulate the passage of traffic along or across a road along or across which a tramway is laid; and the authority, Magistrate or officer aforesaid may exercise its or his powers as well on as off the tramway and with respect as well to the traffic of a promoter, lessee or licensee as to the traffic of other persons.

Supplemental Provisions.

42. A promoter, lessee or licensee shall be answerable for all injuries happening through his act or default, or through the act or default of any person in his employment, by reason or in consequence of any of his earnings or works, and shall save harmless all authorities and persons collectively and individually, and their officers and servants, from all damages and costs in respect of injuries so happening.

43. For the purposes of this Act, want of funds shall not be deemed to be a sufficient reason for the suspension of the construction, or the discontinuance of the working, of a tramway by a promoter or lessee.

44. When a tramway is constructed under this Act within the limits of a municipality, the Local Government may exempt the animals, plant, rolling-stock, yards, workshops, engine-sheds and depôts of the promoter, lessee or licensee, for such period as it thinks fit, from all or any municipal taxes leviable within those limits.

45. (1) The fund to or with the control or management of which the local authority of a municipality, cantonment or district is entitled or entrusted shall, notwithstanding anything in any enactment respecting the purposes to which that fund may be applied, be applicable, subject to the control of the Local Government, to the payment of expenses incidental to the exercise of the powers and functions which may be vested in or exercised by a local authority under this Act.

(2) The fund shall also be applicable, with the previous sanction of the Local Government, to a guarantee of the payment of interest on money to be applied, with the concurrence in writing of the local authority, within the limits of the local area under its control, to any of the purposes to which the fund might be applied by the local authority under sub-section (1).

46. The Local Government may, with the consent of the local authority and road-authority and of the promoter and his lessee (if any) extend any part of this Act, or any rules made under this Act, either with or without modification, to the whole or any part of a tramway constructed, or authorised by the Local Government to be constructed, before the passing of this Act, and may withdraw any part of the Act or any rules so extended.

47. (1) A tramway of which the construction has not been authorised by the Local Government before the passing of this Act shall not after the passing of this Act be constructed for public traffic in any place to which this Act extends, except in pursuance of an order made under this Act.

(2) A person constructing a tramway in contravention of sub-section (1) of this section, or after the passing of this Act maintaining or using for public traffic, otherwise than in pursuance of an order made under this Act, a tramway which was not constructed, or authorised by the Local Government to be constructed, before the passing of this Act, shall be liable, on the complaint of the Local Government or local authority, to double the penalty to which a promoter acting otherwise than in accordance with an order is liable under section 27.

48. If at any time a local area comprising a tramway to which this Act or any part thereof or any rule thereunder applies ceases to be included in the circle of a local authority, the functions of that authority under this Act or the part thereof or the rule thereunder, and under the order (if any), shall, in respect of that local area, devolve on the Local Government or, if that Government so directs, on the local authority of the circle in which the tramway has been included.

49. In section 54 of the Indian Railway Act, IV. of 1879, the word "tramway" shall have the meaning assigned to it by section 3 of this Act.

(2) In the same section of that Act, after the words "by steam" the words "or other mechanical power" shall be added.

50. All powers conferred by this Act on a Local Government may be exercised from time to time as occasion requires.

S. HARVEY JAMES,
Offg. Secy. to the Govt. of India.

The following Report of the Select Committee on the Bill to facilitate the construction and to regulate the working of Tramways was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 5th March, 1886 :—

LEGISLATIVE DEPARTMENT.

- WE, the undersigned, Members of the Select Committee to which the Bill to facilitate the construction and to regulate the working of Tramways 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 object of the proviso to section 4, sub-section (1), of the Bill does not appear to have been understood. In the case of lines extending beyond municipal limits, it is often difficult to say whether the line ought to be treated as a tramway or as a light railway, and the object of the proviso is, to give the Government of India an opportunity of determining, with reference to particular cases or classes of cases, to which of the two categories such lines ought to be treated as belonging.
3. By section 5 we have empowered the Local Government to modify conditions sought to be imposed by a local authority with respect to the construction within its circle of part of a tramway which is to be laid in two or more circles.
4. In sections 17 and 21 we have provided for an opportunity being given to the promoter to state his case before the Local Government either grants licenses under the former section or determines the powers of the promoter under the latter section.
5. By clauses (g) and (h) of sub-section (1) of section 24 we have enabled the Local Government to make rules as to the periodical submission of statistics relating to tramways, and as to the accidents of which report is to be made.
6. By clause (e) of sub-section (2) of the same section we have empowered local authorities to make rules as to the manner in which carriages using the tramway after sunset and before sunrise are to be lighted.
7. By section 27 we have made the previous sanction of the District Magistrate a condition precedent to the institution by a private person of criminal proceedings against a promoter, lessee or licensee for breach of any provision of the Act or of any direction of an order authorizing the construction of a tramway.
8. By section 35 we have provided that, except where the parties to a difference elect to proceed under section 523 of the Code of Civil Procedure, the matter in difference between them shall be settled, on the application of either party, by a referee, and that, where the difference is between the promoter on the one hand and the local authority on the other with respect to the sum to be paid by the local authority for an undertaking which that authority has required the promoter to sell under section 22, the referee shall be the District Court. We have also provided that, in that case, an appeal shall lie to the High Court from the award of the District Court.
9. To section 45 we have added a sub-section supplementary to Act XV of 1885 (*an Act to amend the Local Authorities Loan Act, 1879*)
10. By section 47 of the Bill we have proposed that, in places to which the Act extends, tramways of which the construction has not been authorised before the passing of the Act shall not be constructed, after the passing of the Act, otherwise than in pursuance of an order made under the Act.
11. By section 48 we have made provision for cases in which a local area comprising a tramway is excluded from the circle of one local authority and included in that of another.
12. By section 49 we have proposed so to amend section 54 of the Indian Railway Act, 1879, as to enable the Governor General in Council to apply that Act or any portion thereof to a tramway worked by any mechanical power.

13. The other amendments of the Bill are few and unimportant, and do not call for special notice.

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

			<i>In English.</i>	
	<i>Gazette.</i>			<i>Date.</i>
Gazette of India	31st October, and 7th and 14th November, 1885.
Fort Saint George Gazette	18th November, 1885
Bombay Government Gazette	5th, 12th and 19th November, 1885
Calcutta Gazette	11th, 18th and 25th November, 1885.
North-Western Provinces and Oudh Government Gazette	7th, 14th and 21st November, 1885
Punjab Government Gazette	5th, 12th and 19th November, 1885
Central Provinces Gazette	7th, 14th and 21st November, 1885
British Burma Gazette	21st and 23rd November, and 5th December, 1885.
Assam Gazette	21st November, 1885.
Coorg District Gazette	1st December, 1885
Sindh Official Gazette	10th December, 1885.

In the Vernaculars.

<i>Province.</i>	<i>Language.</i>		<i>Date.</i>
Bombay	...	Maráthi ...) Gujaráthi ...) Kanarese ...) Sindhi ...)	17th December, 1885
North-Western Provinces and Oudh	..	Urdu	23rd and 30th January, and 6th February, 1886.

15. 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) C. P. LEBERT.
(") S. C. BAYLEY.
(") T. C. HOPE.
(") H. ST. A. GOODRICH.
(") ROBERT STEEL.
(") V. N. MANDLIK.

The 5th March, 1886.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 8th March 1886, and was promulgated for general information in the *Gazette of India* on the 13th March 1886.—

Act No. VI. of 1886.

THE BIRTHS, DEATHS AND MARRIAGES REGISTRATION ACT, 1886.

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*The Births, Deaths and Marriages Registration Act, 1886.**(Chapters I & II.—Preliminary.—General Registry Offices of Births, Deaths, and Marriages.—Sections 1-6.)*

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An Act to provide for the voluntary Registration of certain Births and Deaths, for the establishment of General Registry Offices for keeping Registers of certain Births, Deaths and Marriages, and for certain other purposes.

WHEREAS it is expedient to provide for the voluntary registration of births and deaths among certain classes of persons, for the more effectual registration of those births and deaths and of the marriages registered under Act III of 1872 or the Indian Christian Marriage Act, 1872, and of certain marriages registered under the Parsi Marriage and Divorce Act, 1865, and for the establishment of general registry offices for keeping registers of those births, deaths and marriages;

And whereas it is also expedient to provide for the authentication and custody of certain existing registers made otherwise than in the perform-

ance of a duty specially enjoined by the law of the country in which the registers were kept, and to declare that copies of the entries in those registers shall be admissible in evidence;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Births, Deaths and Marriages Registration Act, 1886; and

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

(3) Any power conferred by this Act to make rules or to issue orders may be exercised at any time after the passing of this Act; but a rule or order so made or issued shall not take effect until the Act comes into force.

2. This Act extends to the whole of British India, and applies also, within the dominions of Princes and States in India in alliance with Her Majesty, to British subjects in those dominions.

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

“sign” includes mark, when the person making the mark is unable to write his name:

“prescribed” means prescribed by a rule made by the Governor General in Council under this Act; and

“Registrar of Births and Deaths” means a Registrar of Births and Deaths appointed under this Act.

4. Nothing in this Act, or in any rule made under this Act, shall affect any law heretofore or hereafter passed providing for the registration of births and deaths within particular local areas.

5. All powers conferred by this Act may be exercised from time to time as occasion requires.

CHAPTER II.

GENERAL REGISTRY OFFICES OF BIRTHS, DEATHS AND MARRIAGES.

6. (1) Each Local Government—

(a) shall establish a general registry office, for keeping such certified copies of registers of births and deaths registered under this Act, or marriages registered under Act III of 1872 (to provide a form of marriage in certain cases); or the Indian Christian Marriage Act, 1872, or, beyond the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at

XV of 1872.

XV of 1865.

XV of 1872.

The Births, Deaths and Marriages Registration Act, 1886.

(Chapters II & III.—General Registry Offices of Births, Deaths, and Marriages.—Registration of Births and Deaths.—Sections 7-16.)

of 1865. Bombay, under the Parsi Marriage and Divorce Act, 1865, as may be sent to it under this Act, or under any of the three last-mentioned Acts as amended by this Act; and

(b) may appoint to the charge of that office an officer, to be called the Registrar General of Births, Deaths and Marriages, for the territories under its administration:

(2) Provided that the Governor of Bombay in Council may, with the previous sanction of the Governor General in Council, establish two general registry offices, and appoint two Registrars General of Births, Deaths and Marriages for the territories under his administration; one of such general registry offices and of such Registrars General being established and appointed for Sindh and the other for the other territories under the administration of the Governor of Bombay in Council.

7. Each Registrar General of Births, Deaths and Marriages shall cause indexes to be kept at general registry office, and indexes of all the certified copies of registers sent to his office under this Act, or under Act III of 1872, the Indian Christian Marriage Act, 1872, or the Parsi Marriage and Divorce Act, 1865, as amended by this Act, to be made and kept in his office in the prescribed form.

IV of 1872.
IV of 1865.

8. Subject to the payment of the prescribed fees, the indexes so made shall be at all reasonable times open to inspection by any person applying to inspect them, and copies of entries in the certified copies of the registers to which the indexes relate shall be given to all persons applying for them.

9. A copy of an entry given under the last foregoing section shall be certified by the Registrar General of Births, Deaths and Marriages, or by an officer authorised in this behalf by the Local Government, and shall be admissible in evidence for the purpose of proving the birth, death or marriage to which the entry relates.

10. Each Registrar General of Births, Deaths and Marriages shall exercise a general superintendence over the Registrars of Births and Deaths in the territories for which he is appointed.

CHAPTER III.

REGISTRATION OF BIRTHS AND DEATHS.

A.—Application of this Chapter.

11. (1) The persons whose births and deaths shall, in the first instance, be registrable under this chapter are the following, namely:—

(a) in British India, the members of every race, sect or tribe to which the Indian Succession Act, 1865, applies, and in respect of which an order under section 332 of that Act is not for the time

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being in force, and all persons professing the Christian religion;

(b) in the dominions of Princes and States in India in alliance with Her Majesty, British subjects being members of a like race, sect or tribe or professing the Christian religion:

(2) But the Local Government, by notification in the official Gazette, may, with the previous approval of the Governor General in Council, extend the operation of this chapter to any other class of persons either generally or in any local area.

B.—Registration Establishment.

12. The Local Government may appoint, either by name or by virtue of their office, so many persons as it thinks necessary to be Registrars of Births and Deaths for such local areas within the territories under its administration as it may define and, if it sees fit, for any class of persons within any part of those territories.

13. The Governor General in Council may, by notification in *Gazette of India*, appoint, either by name or by virtue of their office, so many persons as he thinks necessary to be Registrars of Births and Deaths for such local areas within the dominions of any Prince or State in India in alliance with Her Majesty, as he may define and, if he sees fit, for any class of persons within any part of those dominions.

14. Every Registrar of Births and Deaths shall be deemed to be a public servant within the meaning of the Indian Penal Code.

15. (1) The Local Government or the Governor General in Council, as the case may be, may suspend, remove or dismiss any Registrar of Births and Deaths.

(2) A Registrar of Births and Deaths may resign by notifying in writing to the Local Government or to the Governor General in Council, as the case may be, his intention to do so, and, on his resignation being accepted by the Local Government or the Governor General in Council, he shall be deemed to have vacated his office.

16. (1) Every Registrar of Births and Deaths shall have an office in the local area, or within the part of the territories or dominions for which he is appointed.

(2) Every Registrar of Births and Deaths to whom the Local Government may direct this subsection to apply shall attend at his office for the purpose of registering births and deaths on such days and at such hours as the Registrar General of Births, Deaths and Marriages may direct, and shall cause to be placed in some conspicuous place on or near the outer door of his office, his name, with the addition of Registrar of Births and Deaths for the local area or class for which he is appointed, and the days and hours of his attendance.

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*The Births, Deaths and Marriages Registration Act, 1886.**(Chapter III.—Registration of Births and Deaths.—Sections 17-24.)*

17. (1) When any Registrar of Births and Deaths to whom the Local Government may direct this section to apply, not being a Registrar of Births and Deaths for a local area in the town of Calcutta, Madras or Bombay, is absent, or when his office is temporarily vacant, any person whom the Registrar General of Births, Deaths and Marriages appoints in this behalf, or, in default of such appointment, the Judge of the District Court within the local limits of whose jurisdiction the Registrar's office is situated, or such other officer as the Local Government appoints in this behalf shall be the Registrar of Births and Deaths during such absence or until the Local Government fills the vacancy:

(2) When any such Registrar of Births and Deaths for a local area in the town of Calcutta, Madras or Bombay is absent, or when his office is temporarily vacant, any person whom the Registrar General of Births, Deaths and Marriages appoints in this behalf shall be the Registrar of Births and Deaths during such absence or until the Local Government fills the vacancy.

(3) The Registrar General of Births, Deaths and Marriages shall report to the Local Government all appointments made by him under this section.

18. The Local Government shall supply every Registrar of Births and Deaths with a sufficient number of register books of births and of register books of deaths, and shall make suitable provision for the preservation of the records connected with the registration of births and deaths.

C.—Mode of Registration.

19. Every Registrar of Births and Deaths, on receipt of notice of a birth or death, within the local area or among the class for which he is appointed, shall, if the notice is given within the prescribed time and in the prescribed mode by a person authorized by this Act to give the notice, forthwith make an entry of the birth or death in the proper register book.

Provided that—

- (a) if he has reason to believe the notice to be in any respect false, he may refuse to register the birth or death until he receives an order from the Judge of the District Court directing him to make the entry and prescribing the manner in which the entry is to be made; and
- (b) he shall not enter in the register the name of any person as father of an illegitimate child unless at the request of the mother and of the person acknowledging himself to be the father of the child.

20. Any of the following persons may give notice of a birth, namely:

- (a) the father or mother of the child;
- (b) any person present at the birth;
- (c) any person occupying, at the time of the birth, any part of the house wherein the child was born and having knowledge of the child having been born in the house;
- (d) any medical practitioner in attendance after the birth and having personal knowledge of the birth having occurred;
- (e) any person having charge of the child.

21. Any of the following persons may give notice of a death, namely:—

- (a) any relative of the deceased having knowledge of any of the particulars required to be registered concerning the death;
- (b) any person present at the death;
- (c) any person occupying, at the time of the death, any part of the house wherein the death occurred and having knowledge of the deceased having died in the house;
- (d) any person in attendance during the last illness of the deceased;
- (e) any person who has seen the body of the deceased after death.

22. (1) When an entry of a birth or death has been made by the Registrar of Births and Deaths under section 19, the person giving notice of the birth or death must sign the entry in the register in the presence of the Registrar.

(2) Until the entry has been so signed, the birth or death shall not be deemed to be registered under this Act.

(3) When the birth of an illegitimate child is registered, and the mother and the person acknowledging himself to be the father of the child jointly request that that person may be registered as the father, the mother and that person must both sign the entry in the register in the presence of the Registrar.

23. The Registrar of Births and Deaths shall, on application made at the time of registering any birth or death by the person giving notice of the birth or death, and on payment by him of the prescribed fee, give to the applicant a certificate in the prescribed form, signed by the Registrar, of having registered the birth or death.

24. (1) Every Registrar of Births and Deaths in British India shall send to the Registrar General of Births, Deaths and Marriages for the territories within which the local area or class for which he is appointed is situated or resides, at the prescribed intervals, a true copy, certified by him

*The Births, Deaths and Marriages Registration Act, 1886**(Chapters III & IV.—Registration of Births and Deaths.—Amendment of Marriage Acts.—Sections 25-30.)*

in the prescribed form, of all the entries of births and deaths in the register book kept by him since the last of those intervals.

Provided that, in the case of Registrars of Births and Deaths who are clergymen of the Churches of England, Rome and Scotland, the Registrar may, if so directed by his ecclesiastical superior, send the certified copies in the first instance to that superior, who shall send them to the proper Registrar General of Births, Deaths and Marriages.

In this sub-section, "Church of England" and "Church of Scotland" mean the Church of England and the Church of Scotland as by law established respectively, and "Church of Rome" means the Church which regards the Pope of Rome as its spiritual head.

(2) The provisions of sub-section (1) shall apply to every Registrar of Births and Deaths in the dominions of any Prince or State in India in alliance with Her Majesty, with this modification, that the certified copies referred to in that sub-section shall be sent to such one of the Registrars General of Births, Deaths and Marriages as the Governor General in Council, by notification in the *Gazette of India*, appoints in this behalf.

25. (1) Every Registrar of Births and Deaths shall, on payment of the prescribed fees, at all reasonable times allow searches to be made in the register books kept by him, and give a copy of any entry in the same.

(2) Every copy of an entry in a register book given under this section shall be certified by the Registrar of Births and Deaths, and shall be admissible in evidence for the purpose of proving the birth or death to which the entry relates.

26. Notwithstanding anything in section 19, the Governor General in Council may make rules authorizing Registrars of Births and Deaths, on conditions and in circumstances to be specified in the rules, to register births and deaths occurring outside the local areas or classes for which they are appointed.

D—Penalty for false information.

27. If any person wilfully makes, or causes to be made, for the purpose of being inserted in any register of births or deaths, any false statement in connection with any notice of a birth or death under this Act, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

E.—Correction of Errors.

28. (1) If it is proved to the satisfaction of a Registrar of Births and Deaths that any entry of a birth or death in any register kept by him under this

Act is erroneous in form or substance, he may, subject to such rules as may be made by the Governor General in Council with respect to the conditions and circumstances on and in which errors may be corrected, correct the error by entry in the margin, without any alteration of the original entry, and shall sign the marginal entry and add thereto the date of the correction.

(2) If a certified copy of the entry has already been sent to the Registrar General of Births, Deaths and Marriages, the Registrar of Births and Deaths shall make and send a separate certified copy of the original erroneous entry and of the marginal correction therein made.

CHAPTER IV.

AMENDMENT OF MARRIAGE ACTS

29. After section 13 of Act III of 1872 (to provide a form of marriage in certain cases), the following section shall be inserted—

"13A. The Registrar shall send to the Registrar General of Births, Deaths and Marriages for the territories within which his district is situate, at such intervals as the Governor General in Council, from time to time, directs, a true copy certified by him, in such form as the Governor General in Council, from time to time, prescribes, of all entries made by him in the said marriage-certificate book since the last of such intervals."

30. In the Indian Christian Marriage Act, XV of 1872, the following amendments shall be made, namely—

- at the end of section 3 the words "Registrar General of Births, Deaths and Marriages" means a Registrar General of Births, Deaths and Marriages appointed under the Births, Deaths and Marriages Registration Act, 1886," shall be added;
- for the words "Secretary to the Local Government", wherever they occur, and for the words "Secretary to a Local Government" in section 79, the words "Registrar General of Births, Deaths and Marriages" shall be substituted;
- for the words "at such places as the Local Government directs" in section 62, the words "in the office of the Registrar General of Births, Deaths and Marriages for the territories of the Local Government by which the person who keeps the register-book was licensed" shall be substituted; and

The Births, Deaths and Marriages Registration Act, 1886.

(Chapters IV, V & VI.—Amendment of Marriage Acts.—Special Provisions as to certain existing Registers.—Rules.—Sections 31-36).

(d) in section 81, after the words "Registrar General of Births, Deaths and Marriages" the words "in England" shall be added.

XV of 1865.

Addition of new section after section 8 of the Parsi Marriage and Divorce Act, 1865

31. After section 8 of the Parsi Marriage and Divorce Act, 1865, the following section shall be inserted, namely:—
 "8A Every Registrar, except the Registrar appointed by the Chief Justice of the High Court of Judicature at Bombay, shall at such intervals as the Governor General in Council from time to time directs, send to the Registrar General of Births, Deaths and Marriages for the territories administered by the Local Government by which he was appointed a true copy certified by him, in such form as the Governor General, from time to time, prescribes, of all certificates entered by him in the said register of marriages since the last of such intervals."

Transmission of certified copies of certificates in marriage-register to Registrar General of Births, Deaths and Marriages

CHAPTER V.

SPECIAL PROVISIONS AS TO CERTAIN EXISTING REGISTERS

32. If any person in British India, or in the dominions of any Prince or State in India in alliance with Her Majesty, has for the time being the custody of any register or record of birth, baptism, naming, dedication, death or burial of any persons of the classes referred to in section 11, sub-section (1), or of any register or record of marriage of any persons of the classes to which Act III of 1872 or the Indian Christian Marriage Act, 1872, or the Parsi Marriage and Divorce Act, 1865, applies, and, if such register or record has been made otherwise than in performance of a duty specially enjoined by the law of the country in which the register or record was kept, he may, within one year from the date on which this Act comes into force, send the register or record to the office of the Registrar General of Births, Deaths and Marriages for the territories within which he resides, or, if he resides within the dominions of any such Prince or State as aforesaid, to such one of the Registrars General as aforesaid as the Governor General in Council, by notification in the *Gazette of India*, directs in this behalf

XV of 1872.

XV of 1865.

33. (1) The Governor General in Council may appoint so many persons as he thinks fit to be Commissioners for examining the registers or records sent to the Registrar General of Births, Deaths and Marriages under the last foregoing section.

(2) The Commissioners so appointed shall hold office for such period as the Governor General in

Appointment of Commissioners to examine registers

Council, by the order of appointment, or any subsequent order, directs.

34. (1) The Commissioners appointed under the last foregoing section shall enquire into the state, custody and authenticity of every such register or record as may be sent to the Registrar General of Births, Deaths and Marriages under section 32;

and shall deliver to the Registrar General a descriptive list or descriptive lists of all such registers or records, or portions of registers or records, as they find to be accurate and faithful.

(2) The list or lists shall contain the prescribed particulars and refer to the registers or records, or to the portions of the registers or records, in the prescribed manner.

(3) The Commissioners shall also certify in writing, upon some part of every separate book or volume containing any such register or record, or portion of a register or record, as is referred to in any list or lists made by the Commissioners, that it is one of the registers or records, or portions of registers or records, referred to in the said list or lists.

35. (1) Subject to the payment of the prescribed fees the searches of lists prepared by Commissioners and grant of certified copies of entries. (2) Subject to the payment of the prescribed fees the descriptive list or lists of registers or records, or portions of registers or records delivered by the Commissioners to the Registrar General of Births, Deaths and Marriages shall be, at all reasonable times, open to inspection by any person applying to inspect it or them, and copies of entries in those registers or records shall be given to all persons applying for them.

(2) A copy of an entry given under this section shall be certified by the Registrar General of Births, Deaths and Marriages, or by an officer or person authorised in this behalf by the Local Government, and shall be admissible in evidence for the purpose of proving the birth, baptism, naming, dedication, death, burial or marriage to which the entry relates.

CHAPTER VI.

RULES

36. In addition to any other power to make rules impliedly or expressly conferred by this Act, the Governor General in Council may make rules—

(a) to fix the fees payable under this Act;

(b) to prescribe the forms required for the purposes of this Act;

(c) to prescribe the time within which, and the mode in which, persons authorized under this Act to give notice of a birth or death to a Registrar of Births and Deaths must give the notice;

*The Births, Deaths and Marriages Registration Act, 1886.**(Chapter VI.—Rules.—Section 37.)*

- (d) to prescribe the registers to be kept, and the form and manner in which Registrars of Births and Deaths are to register births and deaths under this Act, and the intervals at which they are to send to the Registrar General of Births, Deaths and Marriages true copies of the entries of births and deaths in the registers kept by them,
- (e) to prescribe the particulars which the descriptive list or lists to be prepared by the Commissioners appointed under Chapter V are to contain, and the manner in which they are to refer to the registers or records, or portions of registers or records to which they relate;
- (f) to prescribe the custody in which those registers or records are to be kept; and
- (g) generally to carry out the purposes of this Act.

37. (1) The Governor General in Council shall, before making Procedure for making and publication of rules.

publish a draft of the proposed rules in such manner as may, in his opinion, be sufficient for the information of persons likely to be affected thereby.

(2) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(3) The Governor General in Council shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(4) Every rule made under this Act shall be published in the *Gazette of India*, and the publication in the *Gazette of India* of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made.

S HARVEY JAMES,

Offg. Secretary to the Government of India.

The following Report of the Select Committee on the Bill to provide for the voluntary Registration of certain Births and Deaths, for the establishment of General Registry Offices for keeping Registers of certain Births, Deaths and Marriages, and for certain other purposes, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 5th February, 1886:—

LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which the Bill to provide for the voluntary

Registration of certain Births and Deaths, for the establishment of General Registry Offices for keeping Registers of certain Births, Deaths, and Marriages, and for certain other purposes, was referred, have considered the Bill and the papers noted on the margin and have now the honour to submit this our Report.

From Babú Behary Lal Chandra, Krishnagaur, dated 28th January, 1885 [Paper No. 1]

From Officiating Registrar, High Court, Calcutta, No 919, dated 19th March, 1885, and enclosure [Papers No 2].

From Officiating Secretary to Chief Commissioner, Assam, No 557, dated 6th April 1885, and enclosure [Papers No 3]

From Chief Secretary to Government, Madras, No. 944, dated 9th April, 1885, and enclosure [Papers No 4].

From Under-Secretary to Government, Bombay, No. 1406, dated 18th April, 1885, and enclosure [Papers No 5].

From Officiating Secretary to Government, Punjab, No 409, dated 20th April, 1885, and enclosure [Papers No 6].

Extract, paragraph XIV, from the Proceedings of the Meerut Association, No 20, dated 8th March, 1885 [Paper No. 7]

From Officiating Secretary to Chief Commissioner, British Burma, No. 334—118 S, dated 17th April, 1885, and enclosure [Papers No. 8]

From Under-Secretary to Government, Bombay, No 1452, dated 23rd April, 1885, and enclosure [Papers No 9].

From Secretary to Chief Commissioner, Coorg, No 112—13I, dated 21st April, 1885 [Paper No. 10]

From Under-Secretary to Government, Bombay, No. 1575, dated 29th April, 1885 and enclosure [Papers No 11]

From Chief Commissioner, Ajmer-Merwara, No 442, dated 29th April, 1885, and enclosure [Papers No. 12]

From Officiating Secretary to Government, Punjab, No 500, dated 13th May, 1885, and enclosure [Papers No 13]

From Secretary for Berar to Resident, Hyderabad, No 171 G, dated 16th May, 1885 [Paper No. 14]

From Under-Secretary to Government, Bombay, No 1829, dated 18th May, 1885, and enclosure [Papers No. 15].

From Secretary to Government, Bengal, No, 514, dated 16th May 1885, and enclosure [Papers No. 16].

From Secretary to Government, North Western Provinces and Oudh, No 629—VII 28 18, dated 10th June, 1885, and enclosure [Papers No. 17].

From Assistant Secretary to Chief Commissioner Central Provinces, No 2445—118, dated 30th June, 1885 [Paper No. 18]

tual registration of marriages as were proposed by the Bill to be conferred on the classes to whom Act III of 1872 and the Indian Christian Marriage Act, 1872, apply

2. By section 11, sub-section (2), we propose to enable Local Governments, with the previous sanction of the Governor General in Council, to extend the operation of the chapter respecting the registration of births and deaths to any classes of the community which may be desirous of taking advantage of the provisions of that chapter.

4 By sections 12 and 13 we have proposed to enable Local Governments in British India, and the Governor General in Council in States in India in alliance with Her Majesty, to appoint Registrars of Births and Deaths for classes of persons as well as for local areas. It will thus be practicable to appoint ministers of religion to be Registrars of Births and Deaths for their own congregations only, without imposing on them duties for which they might have neither leisure nor inclination.

5. In section 14 we have provided that every Registrar of Births and Deaths shall be deemed to be a public servant. This provision appears to us to render it unnecessary to retain section 24 of the Bill as introduced.

6. By section 19 we have provided that if a Registrar of Births and Deaths has reason to believe any notice given to him to be in any respect false he may refuse to register the birth or death until he receives an order from the District Court directing him to make the entry and prescribing the manner in which the entry is to be made.

In the same section and in section 22, sub-section (3), we have reproduced the provisions of section 7 of the Statute 37 and 38 Vic., cap. 88.

7. In sections 20 and 21 we have classified, in a modified form, the persons authorized to give notices of births and deaths.

8. We have provided in section 24 that clergymen who may become Registrars of Births and Deaths shall send certified copies of the entries in their registers direct to the Registrar General unless they are required by their ecclesiastical superiors to transmit the copies through them.

9. By section 26 we have proposed to empower the Governor General in Council to make rules authorising Registrars of Births and Deaths, on conditions and in circumstances to be specified in the rules, to register births and deaths occurring outside the local areas or classes for which they have been appointed. Events occurring in the course of journeys, or in places for which Registrars of Births and Deaths have not been appointed, may by those rules be made registrable.

10. We have made fine an alternative punishment for the offence made punishable under section 27.

11. To section 36 we have added a clause enabling the Governor General in Council to make rules as to the custody of registers and records sent to the Registrar General under section 32.

12. The other amendments of the Bill are unimportant and do not call for special remark.

13. In regard to the argument which has been urged in some of the papers before us that the existing registers of certain religious bodies are admissible in evidence, we are informed that the legal value of those registers has been questioned by high authority, on the ground that they are not maintained under any special injunction of law, or in the ordinary course of business, within the meaning of the Indian Evidence Act, 1872.

14. As regards the working of the proposed Act we understand that existing machinery will, so far as possible, be utilised, and that expenses will be defrayed from fees payable under the Act.

15. Other objections taken to the Bill are (a) that some Registrars may object to the provisions of section 16, sub-section (2) and (b) that difficulties may result from the requirement of section 22, sub-section (1), that the person giving notice of a birth or death must sign the entry in the register in the presence of the Registrar. As regards the first of these objections we observe that section 16, sub-section (2), will not apply to all Registrars, but only to those to whom the Local Government applies the sub-section. As regards the second objection the risk of difficulties arising may be diminished, if not removed, by provision being made, in the rules under clause (c) of section 36, for an enlargement under certain circumstances of the time within which notices may be given of births and deaths.

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

		<i>In English.</i>	
<i>Gazette.</i>			<i>Date.</i>
Gazette of India	17th, 24th and 31st January, 1885
Fort Saint George Gazette	10th February, 1885.
Bombay Government Gazette	22nd and 29th January, and 5th February, 1885.
Calcutta Gazette	21st and 28th January, and 4th February, 1885.
North-Western Provinces and Oudh Government Gazette	20th and 31st January, and 7th February, 1885.
Punjab Government Gazette	29th January, and 5th and 12th February, 1885.
Central Provinces Gazette	24th and 31st January, and 7th February, 1885.
British Burma Gazette	7th, 14th and 21st February, 1885
Assam Gazette	7th, 14th and 21st February, 1885.
Coorg District Gazette	2nd March, 1885.

		<i>In the Vernaculars.</i>	
<i>Province</i>		<i>Language.</i>	<i>Date.</i>
Madras.	..	Telugu	... 31st March, 1885
	..	Kanarese	... 8th April, 1885.
	..	Tamil	... 5th May, 1885
	..	Hindustani	... 12th May, 1885.
Bombay	...	Malayalam	... 2nd June, 1885.
	...	Maráthi	...
	...	Gujaráthi	... 23rd April, 1885.
Bengal	...	Kanarese	... 30th May, 1885.
	...	Bengali	... 3rd, 10th and 17th February, 1885.
	...	Hindi	... 17th and 24th February, and 3rd March, 1885
Punjab.	...	Urdu	... 12th, 19th and 26th February, 1885
	...	Urdu	... 2nd, 9th and 16th March, 1885
Central Provinces	...	Maráthi	... 2nd, 9th and 16th May, 1885
British Burma	...	Burmese	... 21st and 28th March, and 4th April, 1885.
Assam	...	Bengali	... 21st February, 1885

17. 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) C. P. ILBERT.
 (") S C BAYLEY.
 (") PEARI MOHAN MUKERJI.
 (") H. ST. A. GOODRICH.
 (") ROBERT STEEL.
 (") W. W. HUNTER.

The 5th February, 1886.

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

LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor General on the 8th March 1886, and was promulgated for general information in the *Gazette of India* on the 13th March 1886.—

Act No. VII of 1886.

An Act to amend the Indian Registration Act, 1877.

877 WHEREAS it is expedient to amend the Indian Registration Act, 1877, in manner hereinafter appearing, It is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called the Indian Registration Act, 1886, and

(2) It shall come into force at once.

877. Addition to section 17 of Act III of 1877

2. After clause (f) of section 17 of the Indian Registration Act, 1877, the following clause shall be inserted, that is to say:—

“(ff) any debenture issued by any such company and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immovable property except in so far as it entitles the holder to the security afforded by a registered instrument whereby the Company has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures, or”

884. Addition to sections 17 and 89, and amendment of section 58, of same Act.

3 (1) After clause (l) of section 17 of the same Act the following clause shall be added, that is to say:—

“(m) orders granting loans under the Agriculturists' Loans Act, 1884, and instruments for securing the repayment of loans made under that Act”

1871 (2) In section 58 of the same Act, for the words “or a copy of a certificate under the Land Improvement Act, 1871, sent by the Collector to be registered,” or, where the Land Improvement Loans Act, 1883, is in force, for the words “or a copy of an order under the Land Improvement Loans Act, 1883, sent by the Collector to be re-

gistered,” there shall be substituted the following words, namely:—

“or a copy sent to a registering officer under section 89”

(3) After the second paragraph of section 89 of the same Act the following paragraph shall be added, that is to say:—

“Every officer granting a loan under the Agriculturists' Loans Act, 1884, shall send a copy of any instrument whereby immovable property is mortgaged for the purpose of securing the repayment of the loan; and, if any such property is mortgaged for the same purpose in the order granting the loan, a copy also of that order, to the registering officer within the local limits of whose jurisdiction the whole or any part of the property so mortgaged is situate, and such registering officer shall file the copy or copies, as the case may be, in his Book No. 1”

4. After clause (m) of section 17 of the same Act as amended by this Act the following clause shall be added, that is to say:—

“(n) any endorsement on a mortgage-deed acknowledging the payment of the whole or any part of the mortgage-money, and any other receipt for payment of money due under a mortgage when the receipt does not purport to extinguish the mortgage.”

5. In the second paragraph of section 50 of the same Act, “(ff)” shall be inserted between “(f)” and “(g)”, and for the word and letter “and-(l)” the letters and word “(l), (m) and (n)” shall be substituted.

6. (1) After clause (d) of section 90 of the same Act the following clause shall be inserted, that is to say:—

“(e) notices given under section 74, or section 76, of the Bombay Land-revenue Code, 1879, of relinquishment of occupancy by occupants, or of alienated land by holders of such land”

(2) In section 91, for the word and letter “and (c)” the letters and word “(c) and (e)” shall be substituted

(3) The said Act shall be construed as if the amendments made in it by this section had been made at the time the Act came into force.

S. HARVEY JAMES,

Offg. Secretary to the Government of India

The following Report of the Select Committee on the Bill to amend the Indian Registration Act, 1877, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 5th February, 1886:—

LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which the Bill to amend the Indian Registration Act, 1877, was referred, have considered the Bill and the papers noted on the margin, and have now the honour to submit this our Report.

From Officiating Secretary to Chief Commissioner, Assam, No 1223, dated 22nd July, 1885 [Paper No 1].
From Officiating Secretary to Chief Commissioner, Central Provinces, No. 3004-140, dated 8th August, 1885, and enclosure [Papers No 2].
From Registrar, High Court, Calcutta, No 2344, dated 13th August, 1885 [Paper No 3].
From Secretary to Chief Commissioner, Coorg, No 896-123, dated 13th August, 1885 [Paper No 4].
From Chief Secretary to Government, Madras, No. 2049, dated 7th August, 1885, and enclosures [Papers No. 5].

From Secretary for Berár to Resident, Hyderabad, No 6—B.-C., dated 19th August, 1885 [Paper No 6]
 From Secretary to Government, North-Western Provinces and Oudh, No. 848—VII-14-13, dated 1st September 1885 [Paper No. 7]
 From Chief Secretary to Government, Bengal, No. 966 P D, dated 29th August, 1885, and enclosures [Papers No 8]
 Endorsement by Chief Secretary to Government, Madras, No. 2184, dated 21st August 1885, and enclosure [Papers No 9]
 From Under Secretary to Government, Bombay, No. 7268, dated 8th September, 1885 [Paper No 10].
 From Registrar, High Court, Calcutta, No. 2705, dated 18th September, 1885, and enclosure [Papers No. 11].
 From Officiating Secretary to Government, Punjab, No 1430 S., dated 21st September, 1885, and enclosures [Papers No 12]
 From Officiating Secretary to Chief Commissioner, British Burma, No. 131—25 L., dated 8th October, 1885, and enclosure [Papers No. 13].
 From Mr P. V. Krishnaswami Ayer, First Grade Pleader, Trichinopoly, No 389, dated 29th November, 1885 [Paper No 14].
 Circular from Secretary to Government of India, Legislative Department, Nos. 1581—86, dated 13th October, 1885, with replies [Papers No 15].
 From Chief Secretary to Government, Bengal, No. 273 P., dated 23rd January, 1886, and enclosures [Papers No. 16].

2. The Bill as introduced has been approved by the authorities to whose criticism it was submitted. Some suggestions for the further amendment of the Act have been made; but, as the revision of the law relating to registration is understood to be under the consideration of the Government of India, we have deemed it advisable not to deal with them generally in this Bill. On one suggestion, however, we have deemed it necessary to act at once. It was that the law should declare receipts for payments of mortgage-money to be optionally, and not compulsorily, registrable. In connection with this suggestion we have considered the case reported at I. L. R. 6 All. 335, and the cases there cited, and the replies of Local Governments and High Courts to a letter addressed to them by the Government of India on the subject of those cases. The authorities to whom the letter was addressed are almost unanimously of opinion that on grounds of convenience, receipts for payment of mortgage-money ought not to be compulsorily registrable. We concur in that opinion, and have added to the Bill a clause (section 4) excepting from the operation of clauses (b) and (c) of section 17 of the Act (i) any endorsement on a mortgage-deed acknowledging the payment of the whole or any part of the mortgage-money, whether the endorsement does or does not purport to extinguish the mortgage, and (ii) any other receipt for payment of money due under a mortgage when the receipt does not purport to extinguish the mortgage. In so framing the clause we have, as regards endorsements, followed the course recommended by the High Court at Bombay, and, as regards other receipts, the general tenor of the opinions expressed by the authorities whom the Government of India has consulted.

3. The amendments which the Bill renders it necessary to make in section 50 of the Act have been made in a separate clause (section 5).

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

		<i>In English.</i>		<i>Date.</i>
		<i>Gazette.</i>		
Gazette of India	13th, 20th and 27th June 1885.
Fort Saint George Gazette	30th June 1885.
Bombay Government Gazette	18th and 25th June, and 2nd July 1885.
Calcutta Gazette	24th June, and 1st and 8th July 1885.
North-Western Provinces and Oudh Government Gazette	20th and 27th June, and 4th July 1885.
Punjab Government Gazette	18th and 25th June, and 2nd July 1885.
Central Provinces Gazette	20th and 27th June, and 4th July 1885.
British Burma Gazette	4th, 11th and 18th July 1885.
Assam Gazette	4th, 11th and 18th July 1885.
Coorg District Gazette	1st August 1885.
Sindh Official Gazette	2nd July 1885.

		<i>In the Vernaculars.</i>		<i>Date.</i>
<i>Province.</i>	<i>Language</i>			
Madras	Tamil	...	...	31st July 1885.
	Telugu	...	...	Ditto.
	Hindustáni	...	...	Ditto.
	Kánarese	...	...	7th August 1885.
Bombay	Malayalam	...	...	Ditto
	Maráthi	...	...	16th July 1885.
	Gujaráthi	...	...	Ditto.
	Kánarese	...	...	Ditto
Bengal	Sindhí	...	...	16th July 1885
	Bengalí	...	...	14th, 21st and 28th July 1885.
Punjab	Hindi	...	...	11th, 18th and 25th August 1885.
	Urdu	...	...	27th July, and 3rd and 10th August 1885.
Central Provinces	Maráthi	...	...	8th, 15th and 22nd August 1885.
British Burma	Burmese	...	...	18th and 25th July, and 1st August 1885.
Coorg	Kánarese	...	...	1st September 1885

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

(Signed) C. P. ILBERT.
 (") S. C. BAYLEY.
 (") V. N. MANDLIK.,
 (") G. H. P. EVANS.
 (") ROBERT STEEL.
 (") W. W. HUNTER.

The 5th February 1886

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

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 12th March 1886, and was promulgated for general information in the *Gazette of India* on the 13th March 1886:—

Act No. X of 1886.

An Act to amend the Code of Criminal Procedure, 1882, and certain other Acts.

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882, and certain other Acts, It is hereby enacted as follows:—

Code of Criminal Procedure, 1882

1. In the last paragraph of section 31 of the Code of Criminal Procedure, 1882, for the words "any sentence of imprisonment for a term exceeding three years" the words "any sentence of imprisonment for a term exceeding four years, and any sentence of transportation," shall be substituted.

2. For section 34 of the same Code the following shall be substituted, namely:—

"34. The Court of a District Magistrate, specially empowered under section 30, may pass any sentence authorized by law, except a sentence of death or of transportation for a term exceeding seven years or of imprisonment for a term exceeding seven years, but any sentence of imprisonment for a term exceeding four years, and any sentence of transportation, shall be subject to confirmation by the Sessions Judge."

3. After section 55 of the same Code, and after section 56 thereof, the following shall be added, namely:—

"This section applies to the police in the towns of Calcutta and Bombay."

4. In sections 88 and 514 of the same Code, after the words "District Magistrate" the words "or Chief Presidency Magistrate" shall be inserted.

5. In section 110 of the same Code, for the words "Sub-divisional Magistrate or Magistrate of the first class specially empowered in this behalf by the Local Government" the words "or Sub-divisional Magistrate, or a Magistrate of the first class specially empowered in this behalf by the Local Government" shall be substituted.

6. In section 162 of the same Code the word "shall" shall be inserted before the words "be used".

7. In section 173 of the same Code, the following shall be substituted for the second paragraph, namely:—

"Where a superior officer of police has been appointed under section 158, the report shall, in any cases in which the Local Government by general or special order so directs, be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer in charge of the police-station to make further investigation."

8. In section 266 of the same Code, for the word and figures "section 307" the words and figures "sections 276 and 307" shall be substituted.

9. For the second paragraph of section 269 of the same Code the following shall be substituted, namely:—

"When the accused is charged at the same trial with several offences of which some are and some are not triable by jury, he shall be tried by jury for such of those offences as are triable by jury, and by the Court of Session, with the aid of the jurors as assessors, for such of them as are not triable by jury."

10. For section 398 of the same Code the following shall be substituted, namely:—

"398. (1) Nothing in section 396 or section 397 shall be held to excuse any person from any part of the punishment to which he is liable upon his former or subsequent conviction.

(2) When an award of imprisonment in default of payment of a fine is annexed to a substantive sentence of imprisonment, or to a sentence of transportation or penal servitude for an offence punishable with imprisonment, and the person undergoing the sentence is after its execution to undergo a further substantive sentence, or further substantive sentences, of imprisonment, transportation or penal servitude, effect shall not be given to the award of imprisonment in default of payment of the fine until the person has undergone the further sentence or sentences."

11. (1) For the third paragraph of section 401 of the same Code the following shall be substituted, namely:—

"If any condition on which a sentence has been suspended or remitted is, in the opinion of the Governor General in Council or of the Local Government, as the case may be, not fulfilled, the Governor General in Council or the Local Government may cancel the suspension, or remission, and thereupon the person in whose favour the sentence has been suspended or remitted may, if at large, be arrested by any police-officer without warrant and remanded to undergo the unexpired portion of the sentence."

(2) After the third paragraph of the same section the following shall be inserted, namely:—

“The condition on which a sentence is suspended or remitted under this section may be one to be fulfilled by the person in whose favour the sentence is suspended or remitted, or one independent of his will.”

12. After section 475 of the same Code the following sections shall be inserted, namely:—

475A. The Governor General in Council may direct that any person whom the Local Government has ordered under this chapter to be confined in a lunatic asylum, jail or other place of safe custody, shall be removed from the place where he is confined to any lunatic asylum, jail or other place of safe custody in British India.

475B. The Local Government may empower the officer in charge of the jail in which a person is confined under the provisions of section 466 or section 471 to discharge all or any of the functions of the Inspector General of Prisons under section 472, section 473 or section 474.”

13 (1) For the first sentence of section 495 of the same Code the following shall be substituted, namely:—

“Any Magistrate inquiring into or trying any case may permit the prosecution to be conducted by any person other than an officer of police below a rank to be prescribed by the Local Government in this behalf with the previous sanction of the Governor General in Council.”

(2) After the last sentence of the same section the following shall be added, namely:—

“An officer of police shall not be permitted to conduct the prosecution if he has taken any part in the investigation into the offence with respect to which the accused is being prosecuted”

14. In section 510 of the same Code, for the word “the” before the words “Chemical Examiner” where those words first occur, the word “any” shall be substituted.

15. After section 541 of the same Code the following shall be inserted, namely:—

541A. (1) If any person liable to be imprisoned or committed to custody under this Code is in confinement in a civil jail, the Court or Magistrate ordering the imprisonment or committal may direct that the person be removed to a criminal jail.

(2) When a person is removed to a criminal jail under sub-section (1), he shall, on being released therefrom, be sent back to the civil jail, unless either—

(a) three years have elapsed since he was removed to the criminal jail, in which

case he shall be deemed to have been discharged from the civil jail under section 342 of the Code of Civil Procedure; or

(b) the Court which ordered his imprisonment in the civil jail has certified to the officer in charge of the criminal jail that he is entitled to be discharged under section 341 of the Code of Civil Procedure.”

16. After section 558 of the same Code the following section shall be added, namely:—

559. A public servant having any duty to perform in connection with the sale of any property under this Code shall not purchase or bid for the property.”

17. In Schedule II of the same Code, between the two lines of entries against section 211 of the Indian Penal Code, the following shall be inserted, namely:—

Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8
“If offence charged be punishable with imprisonment for seven years.”	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for seven years and fine	Court of Session, Presidency Magistrate or Magistrate of the first class

18. In the same Schedule, for section 225A and the line of entries against that section the following shall be substituted, namely:—

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8
“225A	Omission to apprehend, or sufferance of escape, on part of public servant in cases not otherwise provided for— (a) in case of intentional omission or sufferance, (b) in case of negligence or omission or sufferance.	Shall not arrest without warrant	Ditto	Bailable	Ditto	Imprisonment of either description for three years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
“225B	Resistance or obstruction to lawful apprehension, or escape or rescue, in cases not otherwise provided for	May arrest without warrant.	Summons.	Ditto	Ditto	Simple imprisonment for two years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class Ditto”

XIV of 1882.

XIV of 1882.

XLV of 1880.

19. In the part of Schedule III of the same Code entitled "*IV.—Ordinary Powers of a Sub-divisional Magistrate,*" the following shall be inserted after the second article, namely:—

"(2A) Power to require security for good behaviour, section 110."

Bombay District Police Act, 1867.

20. The last nine words of section 23 of the Bombay District Police Act, 1867, are hereby repealed.

Indian Penal Code.

21. (1) In the second clause of section 40 of the Indian Penal Code, between the figures "66" and "71" the figures "67" shall be inserted

(2) In the second clause of section 64 of the same Code, after the word "punishable" the words "with imprisonment or fine, or" shall be inserted.

22. In section 75 of the same Code, for the words "or to double the amount of punishment" to the end of the section the following shall be substituted, namely:—
"or to imprisonment of either description for a term which may extend to ten years."

23. After the first paragraph of section 216 of the same Code the following shall be inserted, namely:—

"Offence" in this section includes also any act or omission of which a person is alleged to have been guilty out of British India which, if he had been guilty of it in British India, would have been punishable as an offence, and for which he is, under any law relating to extradition, or under the Fugitive Offenders Act, 1881, or otherwise, liable to be apprehended or detained in custody in British India; and every such act or omission shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in British India."

24. (1) For section 225A of the same Code the following sections shall be substituted, namely:—

"225A. Whoever, being a public servant legally bound as such public servant to apprehend, or to keep in confinement any person in any case not provided for in section 221, section 222 or section 223, or in any other law for the time being in force, omits to apprehend that person or suffers him to escape from confinement, shall be punished—

"(a) if he does so intentionally, with imprisonment of either description for a term which may extend to three years; or with fine, or with both; and

"(b) if he does so negligently, with simple imprisonment for a term which may extend to two years, or with fine, or with both.

"225B. Whoever, in any case not provided for in section 224 or section 225 or in any other law for the time being in force, intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself or of any other person, or escapes or attempts to escape from any custody in which he is lawfully detained, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both."

(2) Section 651 of the Code of Civil Procedure XIV of 1882. is hereby repealed.

Prisoners' Act, 1871.

25. For sections 30, 31 and 32 of the Prisoners' Act, 1871, the following shall be substituted, namely:—

"30. When any person is, or has been, sentenced to imprisonment by any Court, or, in default of giving security for keeping the peace or maintaining good behaviour, has been committed to, or is detained in, prison under section 123 of the Code of Criminal Procedure, 1882, the Local Government, or (subject to its orders and under its control) the Inspector General of Prisons, may order his removal during the period for which he has been sentenced to imprisonment or the security has been ordered to be given, as the case may be, from the jail or place in which he is confined to any other jail or place of imprisonment within the territories subject to the same Local Government.

"31 (1) Whenever it appears to the Local Government that any person detained or imprisoned under any order or sentence of any Magistrate or Court is of unsound mind, that Government by a warrant setting forth the grounds of belief that the person is of unsound mind, may order his removal to a lunatic asylum or other place of safe custody within the territories subject to the same Local Government, there to be kept and treated as the Local Government directs during the remainder of the term for which he has been ordered or sentenced to be detained or imprisoned, or, if on the expiration of that term it is certified by a medical officer that it is necessary for the safety of the prisoner or others that he should be further detained under medical care or treatment, then until he is discharged according to law.

"(2) When it appears to the Local Government that the prisoner has become of sound mind, that Government, by a warrant directed to the person having charge of the prisoner, shall, if the prisoner is still liable to be kept in custody, remand him to the prison from which

he was removed or to another prison within the territories subject to the same Local Government or, if the prisoner is no longer liable to be kept in custody, order him to be discharged.

"(3) The provisions of section 9 of Act XXXVI of 1858 (*relating to Lunatic Asylums*) shall apply to every person confined in a lunatic asylum under sub-section (1) after the expiration of the term for which he was ordered or sentenced to be detained or imprisoned; and the time during which a prisoner is confined in a lunatic asylum under that sub-section shall be reckoned as part of the term of detention or imprisonment which he may have been ordered or sentenced by the Magistrate or Court to undergo.

"(4) In any case in which a Local Government is competent under sub-section (1) to order the removal of a prisoner to a lunatic asylum or other place of safe custody within the territories subject to the same Local Government, the Governor General in Council may order his removal to any lunatic asylum or other place

of safe custody in any part of British India; and the provisions of this section respecting the custody, detention, remand and discharge of a prisoner removed by order of a Local Government shall, so far as they can be made applicable, apply to a prisoner removed by order of the Governor General in Council.

"32. When any person is, or has been sentenced to imprisonment by any Court, or in default of giving security for maintaining good behaviour, has been committed to, or is detained in, prison under section 123 of the Code of Criminal Procedure, 1882, X of 1882, the Governor General in Council may order his removal during the period for which he has been sentenced to imprisonment or the security has been ordered to be given, as the case may be, from the jail or place in which he is confined to any other jail or place of imprisonment in British India."

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

The following Report of the Select Committee on the Bill to amend the Code of Criminal Procedure, 1882, the Bombay District Police Act, 1867, the Indian Penal Code and the Prisoners' Act, 1871, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 5th March, 1886—

LEGISLATIVE DEPARTMENT.

We, the undersigned, Members of the Select Committee to which the

- Bill to amend the Code of Criminal Procedure, 1882, the Bombay District Police Act, 1867, the Indian Penal Code and the Prisoners' Act, 1871, 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 object of the Bill was, as remarked in the Statement of Objects and Reasons, to correct certain minor defects of the criminal law which had been brought to the notice of the Government of India since the passing of the Code of Criminal Procedure, 1882. The papers laid before us contain numerous suggestions for other amendments in the Code. We have given our careful attention to these suggestions, but have come to the conclusion that, subject to a very few exceptions, it would not be expedient to act upon them without giving further notice to the public, and, for this reason, we have abstained from dealing with them in the present
- From Mr P R Desai, Pleader, District Court, Sátára, dated 27th August, 1885 [Paper No. 1]
 - From Mr. Nowrojee Ardesir, Pleader, District Court, Broach, dated 31st August, 1885 [Paper No. 2]
 - From Mr Sorábhshá Dádabhái Munsifná, No 383, dated 5th September, 1885 [Paper No 3]
 - From Secretary for Berar to Resident, Hyderabad, No. 357G., dated 16th September, 1885 [Paper No 4]
 - From Secretary to Chief Commissioner, Coorg, No. 1103-142, dated 19th September, 1885 [Paper No 5]
 - From Chief Commissioner, Ajmer-Merwára, No 1033, dated 22nd September, 1885 [Paper No. 6]
 - From Officiating Secretary to Chief Commissioner, Assam, No. 1717, dated 21st September, 1885 [Paper No. 7].
 - From Officiating Secretary to Chief Commissioner, Central Provinces, No 3684-170, dated 22nd September, 1885 [Paper No. 8].
 - From Chief Secretary to Government, Madras, No. 2429, dated 14th September, 1885, and enclosures [Papers No 9]
 - From Secretary to Government, North-Western Provinces and Oúdh, No. 1861-VI-395-21, dated 10th October, 1885, and enclosures [Papers No. 10].
 - From Chief Secretary to Government, Madras, No. 2647, dated 30th September, 1885, and enclosures [Papers No 11]
 - Supplementary Memorandum of suggestions, by Mr P. R. Desai, Pleader, District Court, Sátára, dated 24th October, 1885 [Paper No 12]
 - From Mr P V Krishnaswami Ayer, First Grade Pleader, Trichinopoly, No. 388, dated 29th November, 1885 [Paper No 13]
 - From Officiating Secretary to Chief Commissioner, British Burma, No 137-30L., dated 8th October, 1885, and enclosure [Papers No 14].
 - From Under-Secretary to Government, Bombay, No 8050, dated 20th November, 1885, and enclosures [Papers No 15]
 - Suggestions by Mr M. Subba Rao, First Grade Pleader, Mangalore, dated 5th December, 1885 [Paper No 16].
 - From Officiating Secretary to Government, Punjab, No 1061, dated 18th December, 1885, and enclosures [Papers No 17].
 - From Registrar, High Court, Calcutta, No 2414, dated 29th December, 1885, and enclosure [Papers No 18]
 - From Chief Secretary to Government, Bengal, No 142J, dated 8th January, 1886, and enclosures [Papers No 19]
 - From Registrar, High Court, Calcutta, No 274, dated 6th February, 1886 [Paper No 20]

Report.

2 The object of the Bill was, as remarked in the Statement of Objects and Reasons, to correct certain minor defects of the criminal law which had been brought to the notice of the Government of India since the passing of the Code of Criminal Procedure, 1882. The papers laid before us contain numerous suggestions for other amendments in the Code. We have given our careful attention to these suggestions, but have come to the conclusion that, subject to a very few exceptions, it would not be expedient to act upon them without giving further notice to the public, and, for this reason, we have abstained from dealing with them in the present

to which our attention has been thus directed, and the propriety of amending which should, we think, be considered by the legislature on the next suitable opportunity, are section 107 (with advertence to the cases reported at I. L. R. 6 All. 26 and 11 Cal 737), section 110 (with respect to habitual protectors or harbourers of thieves and habitual aiders in the concealment or disposal of stolen property), section 145 (with advertence to the case reported at I. L. R. 11 Cal. 413), section 9 or section 193 (with respect to the powers of Additional or Joint Sessions Judges), section 239 (with respect to the meaning of the words "in the same transaction"), section 348 (for applying the procedure of section 349 to habitual offenders forwarded to the Court of Session), and section 437 (for the purpose of reconciling the conflicting rulings as to the meaning of the words "further inquiry").

3 We will now notice in consecutive order such sections of the Bill as appear to us to call for remark.

4. *Sections 1 and 2.*—There are sections of the Indian Penal Code under which transportation for shorter terms than seven years may be awarded, but we are of opinion that any sentence of transportation passed by an Assistant Sessions Judge or District Magistrate should be subject to confirmation by the Sessions Judge.

5. *Section 3.*—We have added this section at the instance of the Government of Bengal. It appears to us that sections 55 and 56 of the Code should apply to the police in the towns of Calcutta and Bombay as they do to the police in the town of Madras and in the rest of British India.

6. *Section 4.*—The Chief Presidency Magistrate of Madras has pointed out that there is the same defect in section 514 as in section 88.

7. *Section 7.*—The practice of submitting final police reports through a superior officer of police depends on circumstances varying from season to season and from province to province and even from district to district, and should, in our opinion, be left to be regulated by the Local Government.

8. *Section 9.*—We have, on the recommendation of the Madras Government and High Court, amended section 269 of the Code so that, where an accused person is charged at the same trial with several offences of which some are and some are not triable by jury, he shall be tried by jury for such of those offences as are triable by jury, and by the Court of Session, with the aid of jurors as assessors, for such of them as are not triable by jury.

9. *Section 10.*—The object of the amendment made by this section is to secure uniformity of practice with respect to the time when imprisonment in default of payment of fine is to be undergone where there are other substantive sentences of imprisonment to be undergone after the execution of the sentence to which the award of imprisonment in default of payment of fine was annexed.

10. *Section 11.*—There has been some misunderstanding in regard to the proposed amendment of section 401. It was originally proposed to meet a technical difficulty arising out of the case of a prisoner who had become insane after his discharge, and it appears to us that in the case of political offenders it may be useful as enabling the Government to set them at large on the understanding that, if any movement with which they were connected revives, they will, in the interests of the public safety, be re-arrested and detained until either the movement again subsides or they complete their sentences whichever event may first occur.

11. *Section 12.*—We have, on the recommendation of the Bombay Government, authorised Local Governments to empower officers in charge of jails to discharge certain functions of the Inspector General of Prisons. It is often impossible for the Inspector General punctually to discharge the functions personally.

12. *Section 13.*—Difficulty has been caused by the specification in the Code of the rank of the police-officer who may be permitted to conduct a prosecution. Inspectors are officers of different rank in different parts of the country. We have, therefore, left it to Local Governments to prescribe the rank with the previous sanction of the Governor General in Council, but we have provided that an officer of police shall not be permitted to conduct the prosecution if he has taken any part in the investigation into the offence with respect to which the accused is being prosecuted.

13. *Section 16.*—A case which has recently occurred in the Bombay Presidency has suggested the introduction into the Code of Criminal Procedure of a section on the lines of section 292 of the Code of Civil Procedure.

14. *Section 17.*—This section in the Bill has been misunderstood. In Schedule II to the Code of Criminal Procedure, as it now stands, the punishment for making a false charge of an offence punishable with imprisonment for a term of seven years appears as imprisonment for two years only, whereas the punishment may under the Indian Penal Code be imprisonment extending to seven years.

15. *Section 21.*—The object of this section is to make the provisions of section 67 of the Indian Penal Code applicable to all fines imposed under any law, and to make it clear that section 64 applies to offences punishable with imprisonment or fine as well as to offences punishable with both imprisonment and fine.

16. *Section 22.*—We agree with the Government of the North-Western Provinces and Oudh, the High Court at Madras and the other authorities who have directed attention to section 75 of the Indian Penal Code, in considering that the alternative penalties prescribed by the section must often be either inadequate or excessive, and that a wider discretion should be given to the Courts. We have provided therefore that on repeated conviction of an offence punishable under Chapter XII or Chapter XVII of

the Indian Penal Code the offender shall be subject to transportation for life or, in the discretion of the Court, to imprisonment for any term not exceeding ten years.

17. *Section 23.*—At present there is no provision of law for the punishment of a person who, knowing that a warrant has been issued by a Magistrate for the apprehension of a foreign subject under the Foreign Jurisdiction and Extradition Act, 1879, harbours that subject. The inconvenience resulting from the absence of such a provision has been pointed out by the Government of the North-Western Provinces and Oudh, and ought in our opinion to be removed.

18. *Section 24.*—We have added a section suggested by the case reported at I. L. R. 12 Cal. 190.

19. *Section 25.*—We have proposed to re-enact in an amended form the whole of the three sections of the Prisoners' Act, 1871, relating to the removal of prisoners, instead of merely patching the existing sections.

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

In English.

<i>Gazette.</i>	<i>Date.</i>
Gazette of India	25th July, and 1st and 8th August 1885.
Fort Saint George Gazette	14th August 1885.
Bombay Government Gazette	30th July and 6th and 13th August 1885.
Calcutta Gazette	5th, 12th and 19th August 1885.
North-Western Provinces and Oudh Government Gazette..	1st, 8th and 15th August 1885
Punjab Government Gazette	30th July, and 6th and 13th August 1885.
Central Provinces Gazette	1st, 8th and 15th August 1885.
British Burma Gazette	15th, 22nd and 29th August 1885.
Assam Gazette	15th, 22nd and 29th August 1885.
Coorg District Gazette... ..	1st September 1885.

In the Vernaculars.

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Madras	Tamil	23rd October 1885.
	Telegu	25th September 1885.
	Hindustáni	3rd October 1885.
Bombay	Maráthi	27th August 1885.
	Gujaráthi	
	Kánarese	
Bengal	Bengali	22nd and 29th September, and 6th October 1885
	Hindi	13th, 20th and 27th October 1885.
North-Western Provinces and Oudh... ..	Uríya	15th, 22nd and 29th October 1885.
	Urdu	29th August, and 5th and 12th September 1885.
	Urdu	27th August 1885
Punjab	Urdu	27th August 1885
Central Provinces	Hindi	5th, 12th and 19th September 1885.
	Maráthi	12th, 19th and 26th September 1885.
British Burma	Burmese	12th, 19th and 26th September 1885.

21. 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) C. P. ILBERT.
 (") S. C. BAYLEY,
 (") W. W. HUNTER.
 (") G. H. P. EVANS *
 (") PEARI MOHAN MUKERJI.
 (") H. ST A. GOODRICH.
 (") J. W. QUINTON.
 (") V. N. MANDLIK.

The 5th March, 1886.

* I much doubt the advisability of amending section 107 in the direction suggested.

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

LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor General on the 12th March, 1886, and was promulgated for general information in the *Gazette of India* on 13th March 1886.

Act No. XI. of 1886.

THE INDIAN TRAMWAYS ACT,
1886.

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*The Indian Tramways Act, 1886.**(Preliminary.—Orders authorising the Construction of Tramways.—Sections 1-4.)**An Act to facilitate the construction and to regulate the working of Tramways.*

WHEREAS it is expedient to facilitate the construction and to regulate the working of tramways; It is hereby enacted as follows:—

Preliminary.

Short title and commencement. 1. (1) This Act may be called the Indian Tramways Act, 1886; and

(2) It shall come into force at once.

Local extent. 2. (1) It extends in the first instance to the whole of British India, except the territories administered by the Governor of Fort Saint George in Council, the Governor of Bombay in Council, and the Lieutenant-Governor of Bengal:

(2) But the Governor of Fort Saint George in Council, the Governor of Bombay in Council or the Lieutenant-Governor of Bengal may, by notification in the official Gazette, extend this Act to the whole or any part of the territories under his administration.

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

(1) "local authority" means a municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund:

(2) "road" means the way of a road, street, thoroughfare, passage or place along or across which a tramway authorised under this Act is, or is intended to be, laid, and includes the surface soil and sub-soil of a road, and the footway, berms, drains and ditches of a road, and any bridge, culvert or causeway forming part of a road:

(3) "road-authority" in relation to a road, means—

(a) if a local authority maintains and repairs the road, then that authority;

(b) if a local authority does not maintain and repair the road, and the road is neither vested in Her Majesty nor maintained and repaired by the Government, then the person in whom the road is vested, and

(c) if a local authority does not maintain and repair the road, and the road is vested in Her Majesty or maintained and repaired by the Government, then the Local Government:

(4) "circle", in relation to a local authority or road-authority, means the area within the control of that authority:

(5) "tramway" means a tramway, or any part of a tramway, or any siding, turnout, connection, line or track belonging to a tramway:

(6) "order" means an order authorising the construction of a tramway under this Act, and

includes a further order substituted for, or amending, extending or varying, that order:

(7) "promoter" means a local authority or person in whose favour an order has been made, and includes a local authority or person on whom the rights and liabilities conferred and imposed on the promoter by this Act and by the order and any rules made under this Act, as to the construction, maintenance and use of the tramway, have devolved:

(8) "undertaking" includes all moveable and immoveable property of the promoter suitable to and used by him for the purposes of the tramway:

(9) "carriage", in the case of a tramway on which steam-power or any other mechanical power is used, includes an engine worked on the tramway for the purpose of producing that power:

(10) "toll" includes any charge leviable in respect of the use of a tramway:

(11) "lessee" means a person to whom a lease has been granted of the right of user of a tramway and of demanding and taking the authorised tolls:

(12) "District Magistrate" includes an officer empowered by the Local Government by name or by virtue of his office to discharge within any local area all or any of the functions of a District Magistrate under this Act:

(13) "District Court" means a principal Civil Court of original jurisdiction, and includes a High Court having ordinary original civil jurisdiction:

(14) "Collector" means the chief officer in charge of the revenue-administration of a district, and includes an officer empowered by the Local Government by name or by virtue of his office to discharge within any local area the functions of a Collector under this Act; and

(15) "prescribed" means prescribed by rules made by the Local Government under this Act.

Orders authorising the Construction of Tramways.

4. (1) The Local Government may make an order authorising the construction of a tramway in a circle on application made—

(a) by the local authority of the circle, with the consent of the road-authority of any road or part of a road which is to be traversed by the tramway, and of which the local authority is not itself the road-authority; or

(b) by any person with the consent of the local authority of the circle, and of the road-authority of any road or part of a road which is to be traversed by the tramway and of which the local authority is not the road-authority.

Provided that, if any part of the proposed tramway is to traverse land which is not included within the limits of a municipality or of a cantonment, the Local Government shall not make

*The Indian Tramways Act, 1886.**(Orders authorising the Construction of Tramways.—Sections 5-7.)*

the order without the previous sanction of the Governor-General in Council.

(2) A local authority shall not make an application for an order, or be deemed to consent to an application being made by any person for an order, unless the making of the application or the giving of the consent has been approved, by the local authority in manner prescribed.

5. When it is proposed to lay a tramway in

Consent of local or road authority not necessary in certain cases. authority having control in either or any of the circles does not consent thereto, or attaches conditions to its consent, the Local Government may, nevertheless, make an order authorising the construction of the tramway in the circle, or by the order impose on the promoter any conditions which it deems fit, if, after considering the reasons of the authority for withholding its consent or attaching the conditions thereto, it is satisfied that the construction of the tramway in the circle is expedient, or, as the case may be, that the conditions attached by the authority to its consent ought not to be imposed.

6. (1) The Local Government on receiving an application shall consider it, and, if satisfied, as to the propriety of proceeding thereon, publish in the official Gazette, and in such other manner as it deems sufficient for giving information to persons interested, a draft of a proposed order authorising the construction of the tramway.

(2) A notice shall be published with the draft stating that any objection or suggestion which any person may desire to make with respect to the proposed order will, if submitted to the Local Government on or before a date to be specified in the notice, be received and considered.

(3) If, after considering any objections or suggestions which may have been made with respect to the draft on or before the date so specified, the Local Government is of opinion that the application should be granted, with or without addition or modification, or subject or not to any restriction or condition, it may make an order accordingly.

(4) Every order authorising the construction of a tramway shall be published in the official Gazette in English, and in the other prescribed language or languages, if any, and that publication shall be conclusive proof that the order has been made as required by this section.

7. (1) An order made under section 6 shall empower the promoter therein specified to construct and maintain the tramway therein described in the manner therein provided, and shall specify the time within which the tramway shall be commenced and the time within which it shall be completed and opened for public traffic.

(2) The order may also provide, in manner consistent with this Act, for all or any of the following, among other matters, that is to say.—

(a) a period before the expiration of which the tramway shall not be commenced,

and the conditions subject to which the local authority, when it is not itself the promoter, may, within that period, elect to be substituted in the place of the promoter in respect of the undertaking or of so much thereof as is within its circle; and the limits of time within which, and the terms upon which, the local authority may, after the tramway has been constructed, require the promoter to sell to it the undertaking or so much thereof as is within its circle;

(b) the acquisition by the promoter of land for the purposes of the tramway, and the disposal by him of land which has been acquired but is no longer required for those purposes;

(c) the conditions subject to which roads may be opened and broken up for the purposes of the construction or maintenance of the tramway or any part thereof, and the method of, and materials to be used in, the reinstating of the roads, and the approval of the method and materials by the Local Government or the road-authority before the commencement of the work;

(d) the conditions on which the tramway may be constructed over a bridge or across a railway or tramway when the carriageway over the bridge is to form part of the tramway or when the tramway is to cross a railway or another tramway on the level;

(e) the space which shall ordinarily intervene between the outside of the carriageway on either side of a road whereon the tramway is to be constructed and the nearest rail of the tramway, and the conditions on which a smaller space may be permitted;

(f) the gauge of the tramway; the rails to be used, and the mode in which and the level at which they shall be laid and maintained; and the adoption and application by the promoter of such improvements in the rails, and in their situation, and in the sub-structure upon which they rest, as the Local Government may from time to time require;

(g) the portion of the road or roads traversed by the tramway to be kept in repair by the promoter, the maintenance by the promoter to the satisfaction of the Local Government or the road-authority, or both, of that portion of the road or roads; and the liability of the promoter, on the requisition of the Local Government, from time to time to adopt and apply such improvements in the tramway as the Local Government may consider necessary or desirable for the safety or convenience of the public, and to alter the position or level of the tramway to suit future alterations in the road or roads;

*The Indian Tramways Act, 1886.**(Orders authorising the Construction of Tramways.—Sections 8-9.)*

- (h) the application of material excavated by the promoter in the construction or maintenance of the tramway ;
- (i) the provision of such crossings, passing-places, sidings, junctions and other works, in addition to those specified in or authorised by the order, as may from time to time be necessary or convenient to the efficient working of the tramway ;
- (j) the powers which may from time to time be exercised by the Local Government, the local authority, the road-authority or any person in respect of sewers, drains, telegraph-lines, gas-pipes, water-pipes or other things in or on land occupied by the tramway ; the notice (if any) to be given of the intended exercise of those powers ; the manner in which the powers shall be exercised ; and the extent to which the tramway and the traffic thereon may be interfered with in the exercise thereof ;
- (k) the conditions subject to which the promoter may from time to time interfere with, or alter or require the alteration of the position of, drains (not being sewers or main drains), telegraph-lines, gas-pipes, water-pipes or other things as aforesaid ;
- (l) the provision of a temporary tramway in place of a part of a tramway which has been removed, or of which the use has been discontinued, by reason of the execution of any work affecting a road along which the part of the tramway was laid, or by reason of the use of the road being interrupted by floods or other cause ;
- (m) the motive power to be used on the tramway, and the conditions on which steam-power or any other mechanical power may be used ;
- (n) the nature, dimensions, fittings, appliances and apparatus of the carriages to be used on the tramway, and the inspection and examination thereof by officers of the Local Government or the local authority, and the liability of the promoter or lessee, on the requisition of the Local Government, from time to time, to adopt and apply such improvements in the carriages and in the fittings, appliances and apparatus, as the Local Government may consider necessary or desirable for the safety or convenience of the public ;
- (o) the traffic which may be carried on the tramway, the traffic which the promoter or lessee shall be bound to carry, and the traffic which he may refuse to carry ; the tolls to be leviable by the promoter or lessee, and the periodical revision thereof by the Local Government ; and the regulation of the traffic and of the levy of the tolls ;
- (p) the use of the tramway free of toll by the local authority, with its own carriages, for specified purposes, during specified hours, with power to the local authority to make such sidings and other works as may be necessary for communication between its premises and the tramway ;
- (q) the conditions subject to which the promoter may transfer the undertaking, or any part thereof, by sale, mortgage, lease, exchange or otherwise ; and the conditions subject to which the local authority may be the transferee ;
- (r) the performance by the Local Government or by the local authority or road-authority of any work required by the Act or the order to be done by the promoter ; and
- (s) the penalty to be incurred by the promoter or lessee for failure to observe any condition or direction contained in the order, and the application of the penalty when recovered.
- (3) The Local Government may, in providing in the order for the acquisition of land for the purposes of a tramway of which the promoter is not a company, direct that land may be acquired for the promoter under the provisions of the Land Acquisition Act, 1870, in the same manner and on the same conditions as it might be acquired for the purposes of the tramway if a company were the promoter. X. of 1870.
- (4) The order shall imply the condition—
- (a) in the case of a tramway of which a local authority is the promoter, that a lease thereof shall be granted only in manner by this Act provided ; and
- (b) in the case of a tramway of which a local authority is not the promoter, that a lease thereof shall be only of the right of user and of demanding and taking the authorised tolls, and shall not confer or impose on the lessee any of the powers or duties of the promoter in respect of the construction or maintenance of the tramway.
8. (1) The Local Government may, on the application of the promoter, revoke, amend, extend or vary the order by a further order.
- (2) An application for a further order shall be made in the same manner and subject to the same conditions as an application for an order.
- (3) The Local Government may, in its discretion, either grant or reject the application.
- (4) If it grants the application, it shall make the further order in the same manner as an order, except that no addition to, or modification of, the rights, powers and authorities asked for in the application, or restriction or condition with respect thereto, shall be made or imposed by the further order without the consent in writing of the promoter.
9. (1) Subject to, and in accordance with, the provisions of this Act, the Local Government may, on a joint application, or on two or more separate applications make an order empowering two or more local authorities, respectively, jointly to construct the whole, or separately to construct parts, of a tramway, and

*The Indian Tramways Act, 1886.**(Orders authorising the Construction of Tramways.—Construction and Maintenance of Tramways.—Traffic on Tramways.— Sections 10-16).*

jointly or separately to own the whole or parts thereof.

(2) All the provisions of this Act which relate to the construction of tramways shall extend and apply to the construction of the whole and the separate parts of the tramway, and the form of the order may be adapted to the circumstances of the case

10. (1) If a promoter authorised by an order Cessation of powers given to construct a tramway—by an order

- (a) does not within the time specified in the order substantially commence the construction of the tramway, or
- (b) having commenced the construction, suspends it without a reason sufficient in the opinion of the Local Government to warrant the suspension, or
- (c) does not within the time specified in the order complete the tramway and open it for public traffic,

the following consequences shall ensue—

- (i) the powers given by the order to the promoter for constructing the tramway and otherwise in relation thereto shall, unless the Local Government, by special direction in writing, prolongs the time or condones the suspension, cease to be exercised except as to so much of the tramway as is then completed:
- (ii) as to so much of the tramway as is then completed the Local Government may either permit, or refuse to permit, the powers given by the order to continue,
- (iii) if the Local Government refuses to permit the powers to continue, then so much of the tramway as is then completed may be dealt with, under the provisions of this Act relating to the discontinuance of tramways, as a tramway of the working whereof the discontinuance has been proved to the satisfaction of the Local Government.

(2) A notification published by the Local Government in the official Gazette to the effect that on a date specified in the notification the construction of a tramway had not been substantially commenced or a tramway had not been completed and opened for public traffic, or that the construction of a tramway had been suspended without sufficient reason, shall, for the purposes of this section, be conclusive proof of the matter stated therein.

Construction and Maintenance of Tramway

11. A tramway shall be constructed and Mode of formation of maintained in the manner tramway provided by the order.

12. A tramway, or portion or extension of, or Inspection of tramway before opening addition to, a tramway, shall not be opened for public traffic until an engineer appointed in this behalf by the Local Government has inspected it and certified it to be fit for such traffic

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13. Subject to the provisions of any order for Agreement between road- the time being in force authority and promoter as with respect to the mat- to repair of roadway. ters mentioned in section 7, sub-section (2), clause (g), the road-authority and the promoter may from time to time enter into agreements as to the keeping in repair of the whole or a part of a road traversed by a tramway, and as to the proportion to be paid by either of them of the expense of keeping the road or part in repair.

Traffic on Tramways.

14. (1) The promoter of a tramway shall, sub- Rights of promoters and the public over tramways ject to the provisions of sub-section (2) and to the other provisions of this Act and of the order, have the exclusive use of the tramway for carriages with flange-wheels or other wheels suitable to run on the rail described in the order as the rail to be used on the tramway.

Provided that nothing in this Act or in the order or any rule made under this Act shall affect the right of any person authorised to use a tramway or railway to pass across a tramway constructed under this Act with carriages having wheels suitable to run on the rail thereof.

(2) The public shall have a right to pass along or across any part of a road along or across which a tramway is constructed, whether on or off the tramway, with carriages not having flange-wheels or other wheels suitable to run on the rail of the tramway provided—

- (a) that this sub-section shall not apply where the tramway is constructed on land the right to the exclusive possession of which has been acquired by the promoter, and
- (b) that the Local Government may by an order authorise the construction of a tramway on any part of a road with rails raised above the surface of the road, if it is satisfied that the convenience of the public will not be injuriously affected thereby

15 (1) The promoter or lessee may demand Tolls leviable by pro- and take, in respect of moter or lessee the tramway, tolls not exceeding the limits specified in or determinable under the order, or, if the order contains no provision in this behalf, then such sums as may from time to time be fixed by the promoter or lessee with the previous sanction of the Local Government

(2) A list of all the tolls authorised to be levied shall be exhibited, in such languages as the District Magistrate may direct, in a conspicuous place inside and outside each of the carriages used upon the tramway.

16 (1) A person shall not be entitled to carry, Carriage of dangerous or offensive goods or to require to be carried, on a tramway constructed under this Act; a y goods of a dangerous or offensive nature,

(2) A person taking such goods with him on the tramway shall, before entering the carriage, give notice of their nature to the servant of the promoter or lessee in charge of the carriage

*The Indian Tramways Act, 1886.**(Licenses to use Tramways.—Discontinuance of Tramways.—Sections 17-20.)*

(3) A person sending such goods by the tramway shall distinctly mark their nature on the outside of the package containing them, or otherwise give notice thereof in writing to the servant of the promoter or lessee with whom he leaves them for the purpose of their being sent by the tramway.

(4) Any servant of the promoter or lessee may refuse to carry upon the tramway a parcel which he suspects to contain goods of a dangerous or offensive nature, and, if any such parcel has been received for the purpose of being carried upon the tramway, may stop the transit thereof until he is satisfied as to the nature of its contents.

(5) Where a servant of the promoter or lessee refuses under sub-section (4) to carry a parcel which has been received for the purpose of being carried upon the tramway, he shall, as soon as may be, give notice of his refusal to the consignor or consignee if he refuses at a time when neither of them is present.

Licenses to use Tramways.

17. If, at any time after a tramway or part of a tramway has been opened for three years in a circle, the local authority of the circle represents in writing to the Local Government that the public is deprived of the full benefit of the tramway or of the part thereof, the Local Government may, if after considering any statement which the promoter or lessee or both may desire to make, and after such further enquiry as it deems necessary it is satisfied as to the truth of the representation, grant a license to any person to use the tramway conformably to this Act and to the order and the rules made under this Act, subject to the following provisions, namely:—

- (a) the license shall be for a period not less than one year or more than three years from the date of the license, but the Local Government may in its discretion renew it;
- (b) the license shall be to use the whole of the tramway for the time being opened for public traffic, or such part or parts of the tramway as the Local Government, having regard to the cause for granting the license, thinks fit,
- (c) the license shall specify the number of carriages which the licensee shall run upon the tramway, the mode in which, and times at which, the carriages shall be run, the tolls to be paid to the promoter or lessee by the licensee for the use of the tramway, and the tolls, being those for the time being leviable by the promoter or lessee, which the licensee may demand and take for the use of his carriages;
- (d) the licensee and his officers and servants shall permit one person, duly authorised for that purpose by the promoter or lessee, to travel free of toll in or upon each carriage of the licensee run upon the tramway for the whole or any part of a journey;
- (e) any provision of this Act, or of the order or rules made under this Act, relating to the

functions of a servant of a promoter or lessee shall be construed, so far as may be, as referring to a servant of the licensee; and

- (f) the Local Government may revoke, alter or modify the license for any cause sufficient in its opinion to warrant the revocation, alteration or modification thereof.

18. A licensee shall, on demand, give to an officer or servant authorised in that behalf by the promoter or lessee an exact account in writing, signed by the licensee, of the number of passengers, or number or quantity of goods, conveyed by any and every carriage used by him on the tramway.

Discontinuance of Tramways.

19. If it is proved to the satisfaction of the Local Government, at any time after the opening of a tramway for public traffic, that the working of the tramway, or any part thereof, has been practically discontinued, for the space of three months, without a reason sufficient, in the opinion of the Local Government, to warrant the discontinuance, the Local Government, if it thinks fit, may, by notification in the official Gazette, declare that the powers of the promoter and of the lessee, if any, in respect of the tramway or the part thereof of which the working has been so discontinued, shall, from the date of the notification, be at an end; and thereupon the said powers shall cease and determine, except in so far as they may be purchased by a local authority in manner by this Act provided.

20. (1) Where a notification has been published under section 19, the road-authority may, at any time after the expiration of two months from the date of the notification, remove the tramway or part of the tramway of which the working has been so discontinued, and use the materials thereof in re-instating the road.

(2) The promoter shall pay to the road-authority the cost incurred by that authority in removing the tramway or the part thereof and in re-instating the road.

(3) The cost shall be certified by an officer of the road-authority, and his certificate, countersigned by the District Magistrate, shall be conclusive proof as to the cost incurred.

(4) If the promoter does not pay the amount so certified within one month after the delivery to him of the certificate or of a copy thereof, the road-authority may, without any previous notice to the promoter and without prejudice to any other remedy which it may have for the recovery of the amount, sell and dispose of such materials of the tramway or part thereof removed as it has not used in re-instating the road, either by public auction or by private sale, and for such sum or sums, and to such person or persons, as it thinks fit, and may, out of the

*The Indian Tramways Act, 1886.**(Insolvency of Promoter.—Purchase of Tramways.—Working of Tramways owned by Local Authorities.—Rules.—Sections 21-24.)*

proceeds of the sale, pay and reimburse itself the amount of the cost aforesaid and of the expenses of the sale, and shall pay over the residue (if any) of the proceeds of the sale to the promoter

Insolvency of Promoter.

21. (1) If, at any time after the opening of a tramway in a circle for public traffic, it appears to the road-authority or local authority of the circle that the promoter of the tramway is insolvent, so that he is unable to maintain the tramway, or to work it with advantage to the public, and either of those authorities makes a representation to that effect to the Local Government, the Local Government may, if after considering any statement which the promoter may desire to make, and after such further enquiry as it deems necessary, it is satisfied as to the truth of the representation, declare, by notification in the official Gazette, that the powers of the promoter shall, at the expiration of six months from the publication of the notification, be at an end; and the powers of the promoter shall cease and determine at the expiration of that period, except in so far as they may be purchased by a local authority in manner by this Act provided

(2) Where a notification has been published under sub-section (1), the road-authority may, at any time after the expiration of six months from the date thereof, remove the tramway in the same manner, and subject to the same provisions as to the payment of the cost of the removal, and to the same remedy for recovery of the cost, in every respect as in cases of removal under section 20.

Purchase of Tramways.

22. (1) Where the promoter of a tramway in a circle is not the local authority, the local authority, with the previous sanction of the Local Government, may—

- (a) within such limits of time as may be specified in this behalf in the order, or
- (b) if a time was not specified in the order, then within six months after the expiration of a period of twenty-one years from the date of the order, and within six months after the expiration of every subsequent period of seven years, or
- (c) within two months after the publication of a notification under section 19 or within six months after the publication of a notification under section 21,

by notice in writing, require the promoter to sell to the local authority his undertaking or the part thereof which is within the circle of the local authority and thereupon the promoter shall sell the same upon the terms specified in the order, or, if the terms were not specified in the order, then upon the terms of paying the then value of the undertaking or of the part thereof, exclusive of any allowance for past or future profits of the

undertaking or any compensation for compulsory sale or other consideration whatsoever.

(2) A requisition shall not be made under sub-section (1) unless the making thereof has been approved by the local authority in manner prescribed.

(3) When a sale has been made under this section, all the rights, powers and authorities of the promoter in respect of the undertaking or part thereof sold, or, where a notification has been published under section 19 or section 21, all the rights, powers and authorities of the promoter previous to the publication of the notification in respect of the undertaking or part thereof sold, shall be transferred to the authority to whom the undertaking or part has been sold, and shall vest in, and may be exercised by, that authority in the same manner as if the tramway had been constructed by it under an order made under this Act.

(4) Subject to, and in accordance with, the preceding provisions of this section, two or more local authorities may jointly purchase an undertaking or so much thereof as is within their circles.

Working of Tramways owned by Local Authorities.

23. (1) When a local authority has under the authority of an order completed a tramway, or has under the provisions of this Act or of an order acquired possession of a tramway, it may, by a lease to be approved by the Local Government, let to any person the right of user of the tramway and of demanding and taking the authorised tolls

(2) On the determination of a lease the local authority may from time to time let the right for such further term and on such conditions as the Local Government may approve

(3) Every lease made under this section shall imply a condition of re-entry if at any time after the making thereof it is proved to the satisfaction of the Local Government that the lessee has practically discontinued the working of the tramway leased, or of any part thereof, for the space of one month without a reason sufficient, in the opinion of the Local Government, to warrant the discontinuance

(4) Notice of the intention of the local authority to make a lease shall be given in manner prescribed.

(5) If the local authority cannot by means of a lease obtain what it deems to be a fair rent for the tramway, it may itself, with the previous sanction of the Local Government and for such term as the Local Government directs, place and run carriages upon the tramway, and demand and take the authorised tolls in respect of the use of the carriages.

Rules.

24. (1) In addition to any other power to make rules expressly or by implication conferred by this Act, the Local Government may make rules consistent with this Act—

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(Rules.—Sections 25-26.)

- (a) as to the form in which an application for an order shall be made;
- (b) as to the costs to be paid by an applicant in respect of an order, and the time when, and the place where, those costs shall be paid;
- (c) as to the payment of money or lodgment of securities, by way of deposit, by the applicant for an order before the order is published under section 6, sub-section (4), or a further order is made under section 8; the investment of money so paid; the disposal of interest or dividends from time to time accruing due on money or securities so paid, lodged or invested, the application of the money or securities or the produce thereof to the discharge of any liability incurred by the promoter; and the forfeiture, repayment or return of the money or securities;
- (d) as to the plans and sections of any works to be deposited by applicants for orders or by promoters;
- (e) for regulating the use of steam-power or any other mechanical power on a tramway;
- (f) as to any matter specified in section 7, sub-section (2), clauses (c), (d), (e), (g) and (k), as a matter which may be provided for in an order, when that matter has not been so provided for, or has not, in the opinion of the Local Government, been effectually so provided for;
- (g) as to the periodical submission, by promoters, lessees and licensees, of accounts of traffic and receipts to the Local Government or as that Government directs, and as to the forms in which those accounts are to be submitted;
- (h) as to the accidents of which report is to be made to the Local Government or as that Government directs;
- (i) as to any matter respecting which rules may be made under this section by a local authority or a promoter or lessee; and,
- (j) generally, as to any other matter or thing in respect of which it may seem to the Local Government to be expedient to make rules for carrying out the purposes of this Act
- (2) A local authority may, from time to time, with the previous sanction of the Local Government, make rules consistent with this Act and with the order and any rules made by the Local Government under this Act, for regulating—
- (a) the rate of speed to be observed in travelling upon a tramway within the circle of the local authority;
- (b) the use of animal power on the tramway;
- (c) the distances at which carriages using the tramway are to be allowed to follow one after the other,
- (d) the stopping of carriages using the tramway, and the notice to be given to the public of their approach;
- (e) the manner in which carriages using the tramway after sunset and before sunrise are to be lighted;
- (f) the traffic on roads along or across which the tramway is laid;
- (g) the number of passengers which may be carried in any carriage;
- (h) the licensing and control of drivers, conductors and other persons having charge of the carriages of the promoter or lessee or a licensee; and,
- (i) generally, the mode of use of the tramway.
- (3) The promoter or lessee of a tramway may, from time to time, with the previous sanction of the Local Government, make rules consistent with this Act and with the order and any rules made under this Act—
- (a) for preventing the commission of any nuisance in or upon any carriage, or in or against any premises belonging to him, and
- (b) for regulating the travelling in any carriage belonging to him.
- (4) The Local Government may cancel any rule made by a local authority or by a promoter or lessee under this section.
25. The authority making any rule under section 24 may direct that a breach of it shall be punishable with fine which may extend—
- Power to impose penalty by rule.
- tion 24 may direct that a breach of it shall be punishable with fine which may extend—
- (a) if the authority making the rule is the Local Government, to two hundred rupees, and
- (b) if that authority is a local authority or a promoter or lessee, to twenty rupees; and when the breach is a continuing breach, with a further fine which may extend—
- (c) if the authority making the rule is the Local Government, to fifty rupees, and
- (d) if that authority is a local authority or a promoter or lessee, to five rupees, for every day after the first during which the breach continues.
26. (1) Every authority having power to make rules under any section of this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.
- (2) The publication shall be made, in the case of rules made by the Local Government, in such manner as may in its opinion be sufficient for giving information to persons interested, and, in the case of rules made by a local authority or by a promoter or lessee, in manner prescribed
- (3) There shall be published with the draft a notice specifying a date, not earlier than the expiration of one month after the date of publication, at or after which the draft will be taken into consideration.
- (4) The authority shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.
- (5) The publication in the official Gazette of a rule purporting to be made under this Act shall be conclusive proof that it has been duly made.

*The Indian Tramways Act, 1886.**(Offences.—Sections 27-34.)**Offences.*

Penalty for failure of promoter, lessee or licensee to comply with Act or order.

27. If a promoter—
- constructs or maintains a tramway otherwise than in accordance with the order, or
 - opens the tramway for traffic, or permits it to be so opened, before it has been inspected and certified in manner required by section 12, or
 - fails to observe any requirement or condition of the order for neglect or breach whereof no penalty has been expressly provided in the order,

or if a promoter, lessee or licensee runs a carriage on a tramway otherwise than in accordance with the order,

he shall (without prejudice to the enforcement of specific performance of the requirements of this Act or of the order, or to any other remedy which may be obtained against him in a Court of Civil Judicature), on complaint made by the Local Government or by the local authority or road-authority or by the District Magistrate or, with the previous sanction of the District Magistrate, by any person injuriously affected by the act or omission, be punished with fine which may extend to two hundred rupees, and in the case of a continuing offence to a further fine which may extend to fifty rupees for every day after the first during which the offence continues to be committed.

28. If any person without lawful excuse, the burden of proving which shall lie upon him, wilfully obstructs any person acting under the authority of the promoter in the lawful exercise of his powers in constructing or maintaining a tramway, or injures or destroys any mark made for the purpose of setting out the line of the tramway, he shall be punished with fine which may extend to fifty rupees.

29. If any person without lawful excuse, the burden of proving which shall lie upon him, wilfully does any of the following things, namely:—

- interferes with, removes or alters any part of a tramway constructed under this Act, or of the works connected therewith, or
- places or throws upon or across any such tramway any wood, stone, refuse or other thing, or
- does anything in such a manner as to obstruct any carriage using any such tramway, or
- abets within the meaning of the Indian Penal Code the doing of, or attempts to do, anything mentioned in clause (a), clause (b) or clause (c),

he shall (without prejudice to any other remedy which may be obtained against him in a Court of Civil Judicature) be punished with fine which may extend to one hundred rupees.

30. If any person, except under a lease from, or by agreement with, the promoter, or under license from the Local Government granted under this Act, uses on a tramway, otherwise than as permitted by section 14, a carriage having flange-wheels or other wheels suitable to run on the rail of the tramway, he shall be punished with fine which may extend to two hundred rupees.

Government granted under this Act, uses on a tramway, otherwise than as permitted by section 14, a carriage having flange-wheels or other wheels suitable to run on the rail of the tramway, he shall be punished with fine which may extend to two hundred rupees.

31. (1) If any person travelling or having travelled in a carriage of the promoter or lessee or of a licensee evades or attempts to evade payment of toll, or if any person having paid toll for a certain distance wilfully proceeds in any such carriage beyond that distance and does not pay the additional toll for the additional distance or attempts to evade payment thereof, or if any person wilfully refuses or neglects on arriving at the point to which he has paid toll to quit the carriage, he shall be punished with fine which may extend to ten rupees.

(2) When a person commits an offence under this section and refuses on demand of a servant of the promoter, lessee or licensee to give his name and residence, or gives a name or residence which the servant has reason to believe to be false, he may be arrested and taken to the nearest police-station by the servant or any person whom the servant may call to his aid.

(3) When the person is taken to the police-station, he shall with the least possible delay be forwarded to the nearest Magistrate, unless his true name and residence are ascertained, in which case he shall be released on his executing a bond for his appearance before a Magistrate if so required.

32. If any person takes or sends by a tramway any goods of a dangerous or offensive nature without giving the notice required by section 16, he shall be punished with fine which may extend to fifty rupees.

33. (1) If a licensee fails on demand to give the account mentioned in section 18; or, with intent to evade the payment of tolls, gives a false account when he is called upon to give an account under that section, he shall be punished with fine which may extend to fifty rupees.

(2) The fine shall be in addition to any tolls payable by the licensee to the promoter or lessee in respect of the passengers or goods conveyed by the carriage or carriages used by the licensee on the tramway.

34. Nothing in this Act shall prevent a person from being prosecuted under any other law for an act or omission which constitutes an offence against this Act or the rules made under it, or from being liable under that other law to any other or higher punishment or penalty than that provided by this Act or the rules made under it: Provided that a person shall not be punished twice for the same offence.

*The Indian Tramways Act, 1886.**(Settlement of Differences.—Recovery of Tolls.—Savings.—Sections 35-39.)**Settlement of Differences.*

35. (1) If any difference arises between the promoter or lessee on the one hand and the Local Government, or the local authority, or the road-authority, or a person having the charge of any sewers, drains, telegraph-lines, gas-pipes, water-pipes, or other things in or on land occupied by the tramway, on the other hand, with respect to any interference or control exercised or claimed to be exercised by, or on behalf of, either party by virtue of this or any other Act, or of the order or the rules made under this Act, or with respect to the propriety of, or the mode of, the execution of any work, or with respect to any compensation to be made by or to the promoter or lessee, or on the question whether any work is such as ought reasonably to satisfy the Local Government or the road-authority or both, or with respect to any other subject or thing regulated by, or comprised in, this Act or the order or the rules made under this Act, and not otherwise expressly provided for therein, the matter in difference shall, except where the parties elect to proceed under section 523 of the Code of Civil Procedure, be settled, on the application of either party, by a referee.

(2) Where the difference is—

- (a) between the promoter or lessee on the one hand and the Local Government, either as such or as the road-authority, on the other, or
- (b) between the promoter on the one hand and the local authority on the other, with respect to the sum to be paid by the local authority for an undertaking or part of an undertaking which that authority has required the promoter to sell under section 22,

the referee shall be the District Court within the jurisdiction of which the tramway is situate, or, where the tramway is within the jurisdiction of more than one District Court, the District Court within the jurisdiction of which the greater part of the tramway is situate.

(3) In other cases, the referee shall be appointed by the Local Government.

(4) Except where the referee is the District Court, the powers and procedure of the referee may be prescribed.

(5) In the case of a difference between a promoter on the one hand and a local authority on the other, with respect to the sum to be paid by the local authority for an undertaking or part of an undertaking which that authority has required the promoter to sell under section 22, an appeal shall lie to the High Court from the award of the referee as from an original decree of the District Court.

(6) In the case of every other difference the award of the referee shall be final.

Recovery of Tolls.

36. Any of the following moneys, namely, any rent due to a local authority from a lessee, any penalty recoverable from a promoter or lessee under an order, any sum payable by a promoter

or lessee under an award of a referee, the cost of the performance under this Act by the Local Government, or by a local authority or road-authority of any work required by this Act or by an order to be done by a promoter, and the cost incurred by a road-authority in removing a tramway and re-instating a road under this Act, may, without prejudice to any other remedy that the authority to which the money is due may have by suit or otherwise, be recovered by that authority, on application made in this behalf to the Collector, as if the sum due were an arrear of land revenue due by the promoter or lessee or his surety (if any):

Provided that nothing in this section shall authorise the arrest of the promoter or lessee or his surety in execution of any process issued by the Collector.

37. (1) If a licensee fails to pay on demand the tolls due for the use of a tramway, the promoter or lessee to whom the tolls are due may, without prejudice to the remedy which he may have by suit, apply to a Magistrate to recover the amount of the tolls, and the Magistrate may, after giving notice to the licensee if possible and allowing him an opportunity of being heard, proceed to recover the amount by distress and sale of any carriages or other moveable property of the licensee which may be found on the tramway or on premises connected therewith.

(2) When a licensee has failed to pay on demand the tolls due from him, the promoter or lessee to whom the tolls are due may seize any carriage or other moveable property of the licensee on the tramway or on premises connected therewith, and detain the same for forty-eight hours unless the tolls are sooner paid.

(3) When application is made to a Magistrate under sub-section (1), he may make an interim order of distraint pending his final decision.

38. Any toll due to a promoter, lessee or licensee from a passenger may be recovered either by suit or, on application to a Magistrate having jurisdiction within any local area in which any part of the tramway is laid, by distress and sale of any moveable property belonging to the passenger within the local limits of the jurisdiction of the Magistrate.

Savings.

39. (1) Notwithstanding anything contained in this Act or in an order or any rule made under this Act, a promoter shall not acquire any right other than that of user only over a road along or across which he lays a tramway, nor shall anything contained in this Act or in an order or any rule made under this Act, exempt the promoter of a tramway, or any other person using the tramway, from the payment of such charges as may lawfully be levied in respect of the use of a road or bridge along or across which the tramway is laid.

(2) The Local Government may, if it thinks fit, fix rates at which a promoter, lessee or licensee may compound for the charges payable in respect of the use of a road or bridge.

*The Indian Tramways Act, 1886.**(Savings.—Supplemental Provisions.—Sections 40-50.)*

40. (1) Nothing in this Act or in an order or any rule made under this Act, shall take away or abridge any power which a road-authority, local authority or other person has by law to break up, widen, alter, divert or improve a road, railroad or tramway along or across which a tramway is laid

(2) The road-authority, local authority or other person executing any work referred to in sub-section (1) shall not be liable to pay to a promoter, lessee or licensee any compensation for injury done to a tramway by the execution of the work or for loss of traffic occasioned by the reasonable use of any power lawfully exercised for the execution thereof.

41 Nothing in this Act or in an order or any rule made under this Act, shall affect the powers of a local authority or of a Magistrate or police-officer to regulate the passage of traffic along or across a road along or across which a tramway is laid; and the authority, Magistrate or officer aforesaid may exercise its or his powers as well on as off the tramway and with respect as well to the traffic of a promoter, lessee or licensee as to the traffic of other persons.

Supplemental Provisions

42. A promoter, lessee or licensee shall be answerable for all injuries happening through his act or default, or through the act or default of any person in his employment, by reason or in consequence of any of his carriages or works, and shall save harmless all authorities and persons collectively and individually, and their officers and servants, from all damages and costs in respect of injuries so happening.

43 For the purposes of this Act, want of funds shall not be deemed to be a sufficient reason for the suspension of the construction, or the discontinuance of the working, of a tramway by a promoter or lessee.

44. When a tramway is constructed under this Act within the limits of a municipality, the Local Government may exempt the animals, plant, rolling-stock, yards, workshops, engine-sheds and depôts of the promoter, lessee or licensee, for such period as it thinks fit, from all or any municipal taxes leviable within those limits.

45. (1) The fund to or with the control or management of which the local authority of a municipality, cantonment or district is entitled or entrusted shall, notwithstanding anything in any enactment respecting the purposes to which that fund may be applied, be applicable, subject to the control of the Local Government, to the payment of expenses incidental to the exercise of the powers and functions which may be vested in or exercised by a local authority under this Act.

(2) The fund shall also be applicable, with the previous sanction of the Local Government, to a guarantee of the payment of interest on money to be applied, with the concurrence in writing of the local authority, within the limits of the local area under its control, to any of the purposes to which the fund might be applied by the local authority under sub-section (1).

46. The Local Government may, with the consent of the local authority and road-authority and of the promoter and his lessee (if any) extend any part of this Act, or any rules made under this Act, either with or without modification, to the whole or any part of a tramway constructed, or authorised by the Local Government to be constructed, before the passing of this Act; and may withdraw any part of the Act or any rules so extended.

47 (1) A tramway of which the construction has not been authorised by the Local Government before the passing of this Act shall not after the passing of this Act be constructed for public traffic in any place to which this Act extends, except in pursuance of an order made under this Act.

(2) A person constructing a tramway in contravention of sub-section (1) of this section, or after the passing of this Act maintaining or using for public traffic, otherwise than in pursuance of an order made under this Act, a tramway which was not constructed, or authorised by the Local Government to be constructed, before the passing of this Act, shall be liable, on the complaint of the Local Government or local authority, to double the penalty to which a promoter acting otherwise than in accordance with an order is liable under section 27.

48. If at any time a local area comprising a tramway to which this Act or any part thereof or any rule thereunder applies ceases to be included in the circle of a local authority, the functions of that authority under this Act or the part thereof or the rule thereunder, and under the order (if any), shall, in respect of that local area, devolve on the Local Government or, if that Government so directs, on the local authority of the circle in which the tramway has been included.

49. In section 54 of the Indian Railway Act, IV. of 1879, the word "tramway" shall have the meaning assigned to it by section 3 of this Act.

(2) In the same section of that Act, after the words "by steam" the words "or other mechanical power" shall be added.

50. All powers conferred by this Act on a Local Government may be exercised from time to time as occasion requires.

S. HARVEY JAMES,
Offg. Secy. to the Govt. of India.

The following Report of the Select Committee on the Bill to facilitate the construction and to regulate the working of Tramways was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 5th March, 1886 :—

LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which the Bill to facilitate the construction and to regulate the working of Tramways was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

From Secretary to Chief Commissioner, Coorg, No. 1573-466, dated 12th December, 1885 [Paper No 1].
 From Secretary for Berar to Resident, Hyderabad, No. 582 G., dated 14th December, 1885 [Paper No 2].
 From Chief Commissioner, Ajmer-Merwara, No. 215 C., dated 17th December, 1885 [Paper No. 3].
 From Registrar, High Court, Calcutta, No 3303, dated 23rd December, 1885 [Paper No 4].
 From Secretary to Government, North-Western Provinces and Oudh, No. 1097-XI-176-16, dated 31st December, 1885, and enclosure [Papers No 5].
 From Officiating Assistant Secretary to Chief Commissioner, Central Provinces, No. 62-214, dated 7th January, 1886 [Paper No. 6].
 From Under-Secretary to Government, Bombay, No. 62, dated 9th January, 1886, and enclosures [Papers No 7].
 From Secretary to Chief Commissioner, Assam, No 6 T., dated 9th January, 1886 [Paper No 8].
 From Acting Chief Secretary to Government, Madras, No. 77, dated 11th January, 1886, and enclosures [Papers No. 9].
 Memorandum by J. Kincaid, Esq., M.C.I.E. [Paper No. 10].
 From Under-Secretary to Government, Bombay, No. 321, dated 26th January, 1886 [Paper No. 11].
 From Officiating Secretary to Government, Punjab, No. 143, dated 6th February, 1886, and enclosures [Papers No. 12].
 From Officiating Secretary to Chief Commissioner, British Burma, No. 388-6L, dated 12th February, 1886, and enclosures [Papers No. 13].
 From Officiating Under-Secretary to Government, Bengal, No. 805, dated 20th February, 1886, and enclosures [Papers No. 14].

2. The object of the proviso to section 4, sub-section (1), of the Bill does not appear to have been understood. In the case of lines extending beyond municipal limits, it is often difficult to say whether the line ought to be treated as a tramway or as a light railway, and the object of the proviso is to give the Government of India an opportunity of determining, with reference to particular cases or classes of cases, to which of the two categories such lines ought to be treated as belonging.

3. By section 5 we have empowered the Local Government to modify conditions sought to be imposed by a local authority with respect to the construction within its circle of part of a tramway which is to be laid in two or more circles.

4. In sections 17 and 21 we have provided for an opportunity being given to the promoter to state his case before the Local Government either grants licenses under the former section or determines the powers of the promoter under the latter section.

5. By clauses (g) and (h) of sub-section (1) of section 24 we have enabled the Local Government to make rules as to the periodical submission of statistics relating to tramways, and as to the accidents of which report is to be made.

6. By clause (e) of sub-section (2) of the same section we have empowered local authorities to make rules as to the manner in which carriages using the tramway after sunset and before sunrise are to be lighted.

7. By section 27 we have made the previous sanction of the District Magistrate a condition precedent to the institution by a private person of criminal proceedings against a promoter, lessee or licensee for breach of any provision of the Act or of any direction of an order authorizing the construction of a tramway.

8. By section 35 we have provided that, except where the parties to a difference elect to proceed under section 523 of the Code of Civil Procedure, the matter in difference between them shall be settled, on the application of either party, by a referee, and that, where the difference is between the promoter on the one hand and the local authority on the other with respect to the sum to be paid by the local authority for an undertaking which that authority has required the promoter to sell under section 22, the referee shall be the District Court. We have also provided that, in that case, an appeal shall lie to the High Court from the award of the District Court.

9. To section 45 we have added a sub-section supplementary to Act XV of 1885 (*an Act to amend the Local Authorities Loan Act, 1879*).

10. By section 47 of the Bill we have proposed that, in places to which the Act extends, tramways of which the construction has not been authorised before the passing of the Act shall not be constructed, after the passing of the Act, otherwise than in pursuance of an order made under the Act.

11. By section 48 we have made provision for cases in which a local area comprising a tramway is excluded from the circle of one local authority and included in that of another.

12. By section 49 we have proposed so to amend section 54 of the Indian Railway Act, 1879, as to enable the Governor General in Council to apply that Act or any portion thereof to a tramway worked by any mechanical power.

13. The other amendments of the Bill are few and unimportant, and do not call for special notice.

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

		<i>In English.</i>	
	<i>Gazette</i>		<i>Date</i>
Gazette of India	31st October, and 7th and 14th November, 1885
Fort Saint George Gazette	18th November, 1885
Bombay Government Gazette	5th, 12th and 19th November, 1885.
Calcutta Gazette	11th, 18th and 25th November, 1885
North-Western Provinces and Oudh Government Gazette	7th, 14th and 21st November, 1885
Punjab Government Gazette	5th, 12th and 19th November, 1885
Central Provinces Gazette	7th, 14th and 21st November, 1885
British Burma Gazette	21st and 28th November, and 5th December, 1885
Assam Gazette	21st November, 1885
Coorg District Gazette	1st December, 1885
Sindh Official Gazette	10th December, 1885.

<i>In the Vernaculars.</i>			
<i>Province.</i>		<i>Language.</i>	<i>Date</i>
Bombay	...	Maráthi	} 17th December, 1885
		Gujaráthi	
		Kanarese	
		Sindhi	
North-Western Provinces and Oudh		Urdú	23rd and 30th January, and 6th February, 1886.

15 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) C. P. ILBERT
 (") S. C. BAYLEY
 (") T. C. HOPE
 (") H. ST. A. GOODRICH
 (") ROBERT STEEL
 (") V. N. MANDLIK.

The 5th March, 1886

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

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 12th March, 1886, and was promulgated for general information in the *Gazette of India* on the 13th March 1886.

Act No. XII of 1886.

THE PETROLEUM ACT, 1886.

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THE SCHEDULE.

An Act to regulate the importation, possession and transport of Petroleum and other fluids of a like nature.

WHEREAS it is expedient to regulate the importation, possession and transport of petroleum and other fluids of a like nature; It is hereby enacted as follows:—

Preliminary

Short title, commencement and local extent.

1. (1) This Act may be called the Petroleum Act, 1886; and

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

(3) The provisions of this Act relating to dangerous petroleum, and the importation of petroleum, extend to the whole of British India. The rest of this Act extends only to such local areas as the Local Government may from time to time, by notification in the official Gazette, direct

(4) Any power conferred by this Act to make rules or issue orders may be exercised at any time after the passing of this Act; but a rule or order so made or issued shall not take effect until the Act comes into force.

2 (1) On and from the day on which this Act comes into force, the VIII of 1881, Petroleum Act, 1881, shall be repealed.

(2) But all notifications issued, rules made, licenses granted, powers conferred and certificates given under that Act shall, so far as may be, be deemed to have been issued, made, granted, conferred and given under this Act.

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

(1) "petroleum" includes also the liquids commonly known by the names of rock oil, Rangoon oil, Burma oil, kerosine, paraffin oil, mineral oil, petroline, gasoline, benzol, benzoline, benzine, and any inflammable liquid which is made from petroleum, coal, schist, shale, peat or any other bituminous substance, or from any products of petroleum; but it does not include any oil ordinarily used for lubricating purposes and having its flashing point at or above two hundred degrees of Fahrenheit's thermometer.

(2) "dangerous petroleum" means petroleum having its flashing point below seventy-six degrees of Fahrenheit's thermometer: Provided that, when all or any of the petroleum on board a ship, or in the possession of a dealer, is declared by the master of the ship or the consignee of the cargo, or by the dealer, as the case may be, to be of one uniform quality, the petroleum shall not be deemed to be dangerous if the samples selected from the petroleum have their flashing points, on an average, at or above seventy-three degrees of Fahrenheit's thermometer, and if no one of those samples has its flashing point below seventy degrees of that thermometer:

*The Petroleum Act, 1886.**(Dangerous Petroleum.—Petroleum generally.—Sections 4-8)*

(3) "import" means to bring into British India by sea or land,

and "importation" means the bringing into British India as aforesaid :

(4) "transport" means to remove from one place to another within British India : and

(5) "ship" includes anything made for the conveyance by water of human beings or property.

4. (1) The flashing point of petroleum means the lowest temperature at which the petroleum yields a vapour which will furnish a momentary flash or flame, when tested in accordance with the directions in the schedule to this Act with an apparatus which has been stamped and certified as provided by this Act within a period of five years immediately preceding the date on which the apparatus is used for the testing, and after the corrections (if any) which the certificate declares are to be applied to the results of the testing have been made.

(2) Notwithstanding anything in the definitions of "import", "importation" and "transport", the Local Government, with the previous sanction of the Governor General in Council, may from time to time, by notification in the official Gazette, declare—

- (a) that petroleum imported into its territories from any part of British India, by sea or across intervening territory not being part of British India, shall, for all or any of the purposes of this Act, be deemed to be transported; and
- (b) that petroleum transported into its territories from any place in British India shall, for all or any of those purposes, be deemed to be imported; and thereupon the provisions of this Act, and of the rules made under this Act, with respect to transport and import, respectively, shall apply to petroleum so imported or transported.

Dangerous Petroleum.

5. (1) No quantity of dangerous petroleum exceeding forty gallons shall be imported or transported, or kept by any one person or on the same premises, except under, and in accordance with the conditions of, a license from the Local Government granted as next hereinafter provided.

(2) Every application for such a license shall be in writing, and shall declare—

- (a) the quantity of the petroleum which it is desired to import, transport or possess, as the case may be;
- (b) the purpose for which the applicant believes that the petroleum will be used; and
- (c) that petroleum other than dangerous petroleum cannot be used for that purpose.
- (3) If the Local Government sees reason to believe that the petroleum will be used for that purpose, and that no petroleum other than danger-

ous petroleum can be used for the purpose, it may grant the license for the importation, transport or possession (as the case may be) of the petroleum, absolutely or subject to such conditions as it thinks fit.

6. No quantity of dangerous petroleum equal to or less than forty gallons shall be kept or transported, without a license :

Provided that nothing in this section shall apply in any case when the quantity of the petroleum kept by any one person or on the same premises, or transported, does not exceed three gallons, and the petroleum is placed in separate glass, stone-ware or metal vessels, each of which contains not more than a pint and is securely stopped.

Vessels containing dangerous petroleum to be labelled

7. Dangerous petroleum—

- (a) which is kept at any place after seven days from the date on which it is imported, or
- (b) which is transported, or
- (c) which is sold or exposed for sale, shall be contained in vessels having attached thereto a label in conspicuous characters stating the description of the petroleum, with the addition of the words "highly inflammable" and with the addition—
- (d) in the case of a vessel kept, of the name and address of the consignee or owner;
- (e) in the case of a vessel transported, of the name and address of the sender; and
- (f) in the case of a vessel sold or exposed for sale, of the name and address of the vendor.

Petroleum generally.

8. (1) The Local Government, with the previous sanction of the Governor General in Council, may make rules consistent with this Act to regulate the importation of petroleum, and in particular—

- (a) to determine the ports at which only petroleum may be imported;
- (b) to ascertain the quantity and description of any petroleum on board any ship;
- (c) to determine the places at which, and the conditions, on, and subject, to which petroleum may be discharged into boats, landed, transhipped or stored;
- (d) to provide for the selection by an officer appointed by the Local Government in this behalf, and for the delivery to him, either after or before petroleum has been landed, of samples of all petroleum landed or intended to be landed;
- (e) to provide, in the case of each consignment, which is stated to be of one uniform quality, for the number of samples to be selected, and for the averaging of the results of the testing of those samples;
- (f) to provide, where the results of the testing of the samples raise a doubt as to the uniformity of the quality of the petro-

*The Petroleum Act, 1886.**(Petroleum generally.—Sections 9-13.)*

leum in any such consignment, for the division of the consignment into lots, and for the selection and testing of samples of each lot, and for the treatment of the lot in accordance with the results of the testing of those samples,

- (g) to fix fees for the sampling and testing of petroleum; and
(h) to fix fees for the storage of petroleum unless a body of port commissioners or other like body is empowered in that behalf.

(2) The Local Government, with the previous sanction of the Governor General in Council, may, with respect to any petroleum produced within its territories, make rules—

- (a) to define the limits of the places where the petroleum is to be refined,
(b) to provide for the testing of the petroleum at or near those places; and
(c) to prevent the removal from those limits, otherwise than under the provisions of this Act applicable to dangerous petroleum, of petroleum which has not satisfied the tests prescribed by the rules.

9 (1) Petroleum discharged into boats or landed, in accordance with rules made under section 8, sub-section (1), shall not be removed from the boats or places in or at which it is stored until the samples selected therefrom in accordance with those rules have been tested by an officer appointed by the Local Government in this behalf in the manner described in the schedule to this Act with an apparatus which has been stamped and certified as provided by this Act, and until the officer has given a certificate that the petroleum is not dangerous petroleum

(2) If the officer after testing the samples refuses to give the certificate in respect of any petroleum, the Local Government may permit the consignee, within a time to be fixed by the Local Government in this behalf,—

- (a) to rectify the petroleum,
(b) to apply for a license to import the petroleum as dangerous petroleum, or
(c) to re-export the petroleum.

(3) If the consignee does not within the time fixed under sub-section (2) avail himself of the permission granted under that sub-section, the petroleum may be disposed of as the Local Government directs.

(4) Notwithstanding anything in the foregoing portions of this section, the Local Government in its discretion may, where the officer has refused the certificate, direct that the petroleum be re-tested by another officer appointed by it in this behalf, and may, if that officer advises that the petroleum is not dangerous petroleum, authorise its removal from the boats or places in or at which it is stored.

10 No quantity of petroleum exceeding five hundred gallons shall be kept by any one person or on the same premises

Possession and transport of petroleum

or shall be transported except under, and in accordance with the conditions of, a license granted under this Act.

11. (1) The Local Government, with the previous sanction of the Governor General in Council, may make rules consistent with this Act as to the granting of licenses to possess or transport petroleum in cases where such licenses are by law required.

(2) The rules may provide for the following among other matters, that is to say—

in the case of licenses to possess petroleum—
(a) the nature and situation of the premises for which they may be granted, and

(b) the inspection of the premises and the testing of petroleum found thereon;

in the case of licenses to transport petroleum—
(c) the manner in which the petroleum is to be packed, the mode and time of transit, and the route by which it is to be taken, and

(d) the stoppage and inspection of it during transit,

in the case of both such licenses—

(e) the authority by which the license may be granted,

(f) the fee to be charged for it,

(g) the quantity of petroleum it is to cover,

(h) the conditions which may be inserted in it,

(i) the time during which it is to continue in force, and

(j) the renewal of the license.

(3) The Governor General in Council may make rules consistent with this Act as to the granting of licenses to transport petroleum from any part of British India to any other part of British India in cases where such licenses are by law required, and those rules may provide, among other matters, for those mentioned in sub-section (2) as matters for which rules made by a Local Government with respect to licenses to transport petroleum may provide

12. Any officer specially authorized by name or by virtue of his office require dealer to sell samples in this behalf by the local Government may

require any dealer in petroleum to show him any place and any of the vessels in which any petroleum in his possession is stored or contained, to give him such assistance as he may require for examining the same, and to deliver to him samples of the petroleum on payment of the value of the samples.

13. When any such officer has, in exercise of the powers conferred

by section 12, or by purchase, obtained a sample of petroleum in the possession of a dealer, he may give a notice in writing to the dealer informing him that he is about to test the sample or cause it to be tested with the apparatus and in the manner described in the schedule to this Act, at a time and place to be fixed in the notice, and that the dealer or his agent may be present at the testing.

Notice to be given when officer proposes to test samples

*The Petroleum Act, 1886.**(Petroleum generally.—Penalties.—Test-apparatus.—Miscellaneous.—Sections 14-23.)*

14. On any such testing, if it appears to the officer or other person so testing that the petroleum from which the sample has been taken is or is not dangerous petroleum, the officer or other person may certify the fact; and the certificate so given shall be receivable as evidence in any proceedings which may be taken under this Act against the dealer in whose possession the petroleum was found, and shall, until the contrary is proved, be evidence of the fact stated therein; and a certified copy of the certificate shall be given free of charge to the dealer at his request.

Penalties.

15. Any person who, in contravention of this Act or of any rules made under this Act, imports, possesses or transports any petroleum, and any person who otherwise contravenes any such rules or any condition contained in a license granted under this Act, shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

16. Any person keeping, transporting, selling or exposing for sale petroleum in vessels not labelled as prescribed by section 7, shall be punished with fine which may extend to five hundred rupees

17. Any dealer in petroleum who refuses or neglects to show to any Officer authorized under section 12 any place or any of the vessels in which petroleum in his possession is stored or contained, or to give him such assistance as he may require for examining the same, or to give him samples of the petroleum on payment of the value of the samples, shall be punished with fine which may extend to two hundred rupees

18. In any case in which an offence under section 15 or section 16 has been committed, the convicting Magistrate may direct that—

- (a) the petroleum in respect of which the offence has been committed, or
- (b) where the offender is importing or transporting, or is in possession of, any petroleum exceeding the quantity (if any) which he is permitted to import, transport or possess, as the case may be, the whole of the petroleum which he is importing or transporting or is in possession of, shall, together with the tins or other vessels in which it is contained, be confiscated.

19. The criminal jurisdiction under this Act shall, in the towns of Calcutta, Madras and Bombay, be exercised by a Presidency Magistrate, and elsewhere by a Magistrate of the first class, or (where specially empowered by the Local Government to try cases under this Act) a Magistrate of the second class.

Test-apparatus.

20. A model of the apparatus for testing petroleum under this Act, constructed in accordance with the description contained in the schedule to this Act, shall be deposited in the office of the Chemical Examiner to Government, Calcutta, and be marked with the words "Model test-apparatus."

21. (1) The Chemical Examiner shall, on payment of such fee (if any) as the Governor General in Council may, from time to time, by notification in the Gazette of India, prescribe, compare with the said model test-apparatus and verify every apparatus for testing petroleum which is submitted to him for the purpose.

(2) If any apparatus for testing petroleum, when compared and verified as provided by subsection (1), is found correct, or correct subject to certain corrections to be applied to the results of the tests, the Chemical Examiner shall stamp the same with a special number, and with the date of the verification, and shall further give a certificate in writing under his hand, in a form to be prescribed by the Governor General in Council, to the effect that on the date aforesaid the apparatus was compared and verified by him and found to be correct, or correct subject to certain specified corrections to be applied to the results of the tests.

(3) A certificate granted under this section shall, until the contrary is proved, be conclusive proof of the matters stated therein.

(4) The Chemical Examiner shall keep a register, in a form to be prescribed by the Governor General in Council, of the certificates granted under this section.

(5) Subject to the payment of such fees as the Governor General in Council may, by notification in the Gazette of India, prescribe in this behalf, the said model test-apparatus shall be at all reasonable times open to inspection by any person desiring to inspect it.

Miscellaneous.

22. The Local Government may, from time to time, by notification in the official Gazette, exempt petroleum from the operation of all or any of the provisions of this Act; or of all or any of the rules made under this Act, any petroleum which has its flashing point at or above one hundred and twenty degrees of Fahrenheit's thermometer and is imported as ordinary cargo and in quantity not exceeding that specified in the notification.

23. The Governor General in Council may, from time to time, by notification in the Gazette of India, apply the whole or any portion of this Act to any inflammable fluid other than petroleum, and may by the notification fix, in substitution for the quantities of petroleum fixed by sections 5, 6 and 10, the quantities of the fluid to which those sections shall apply.

*The Petroleum Act, 1886.**(Miscellaneous.—Sections 24-26.—The Schedule.)*

24. The Governor General in Council may, from time to time, by notification in the Gazette of India and in the local official Gazette, limit, in any manner he deems fit, the operation of any enactment for the time being in force relating to municipalities in any local area or to any particular municipality, and the exercise of any power conferred by any such enactment, in so far as the enactment relates to the possession or transport of petroleum.

25. A notification made under this Act may be revoked or varied by the authority making it by a notification published in the same manner as the notification so revoked or varied.

26. (1) An authority making rules under this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(2) The publication shall be made in such manner as the Governor General in Council, from time to time, by notification in the Gazette of India, prescribes.

(3) There shall be published with the draft a notice specifying a date at or after which the draft will be taken in consideration.

(4) The authority making the rules shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) A rule made under this Act shall not take effect if it is made by the Governor General in Council until it has been published in the Gazette of India, and if it is made by the Local Government until it has been published in the local official Gazette.

(6) The publication in the Gazette of a rule purporting to be made under this Act shall be conclusive proof that it has been duly made.

(7) All powers to make rules conferred by this Act may be exercised from time to time as occasion requires.

THE SCHEDULE.

I.—Nature of the Test-apparatus.

The apparatus consists of the following parts:—

- (1) the oil-cup,
- (2) the cover, with slide, test-lamp, and clockwork arrangement for opening and closing the holes in the cover and for dipping the test-flame,
- (3) the water-bath or heating vessel;
- (4) the tripod stand, with jacket and spirit lamp for heating the water-bath;
- (5) the thermometer for indicating the temperature of the oil in the oil-cup;
- (6) the thermometer for indicating the temperature of the water in the water-bath,

- (7) the thermometer for indicating the temperature of the oil before it is poured into the oil-cup;
- (8) the dropping bottle, or *pipette* for replenishing the test-lamp; and
- (9) a barometer standardised at the Meteorological Office of the province or at any other place appointed by the Local Government.

The oil-cup is a cylindrical flat-bottomed vessel, made of gun-metal or brass, and tinned or silvered inside. A gauge is fixed to the inside of the cup to regulate the height to which it is to be filled with the sample under examination.

The cup is provided with a close fitting overlapping cover which carries the thermometer, the test-lamp, and the adjuncts thereto. The test-lamp is suspended upon two supports by means of trunnions, which allow it to be easily inclined to a particular angle and restored to its original position. The socket in the cover, which is to hold a round bulb thermometer for indicating the temperature of the oil during the testing operation, is so adjusted that the bulb of the latter is always inserted in a definite position below the surface of the liquid.

The cover is provided with three holes, one in the centre and two smaller ones close to the sides. These are closed and opened by means of a pivoted slide. When the slide is moved so as to uncover the holes, the suspended lamp is caught by a projection fixed on the slide, and tilted in such a way as to bring the end of the spout just below the surface of the lid. As the slide moves back, so as to cover the holes, the lamp returns to its original position. Upon the cover, in front of and in a line with the nozzle of the lamp, is fixed a white bead, the diameter of which represents the size of the test-flame to be used.

The water-bath or heating vessel is so constructed that, when the oil-cup is placed in position in it, an air-space or air-chamber intervenes between the two; consequently, in applying the test under ordinary circumstances, the heat is transmitted gradually to the oil from the hot water through the air-space. The water-bath is fitted with a socket for receiving a long bulb thermometer, to indicate the temperature of the water. It is also provided with a funnel, an overflow-pipe and two handles.

The water-bath rests upon a tripod stand, which is fitted with a copper cylinder or jacket, so that the bath is surrounded by an enclosed air-space, which retains and regulates the heat. One of the legs of the stand serves as a support for a spirit-lamp, which is attached to it by a small swing bracket.

The clockwork arrangement, by which during the operation of testing the slide is withdrawn, and the test-flame dipped into the cup and raised again as the slide is replaced, is provided with a ratchet key for setting it in action for each test, and with a trigger for starting it each time that the test-flame is applied.

*The Petroleum Act, 1886.**(The Schedule.)**II.—Directions for drawing the Sample and preparing it for Testing.*

1 *Drawing the sample.*—In all cases the testing officer or some person duly authorised by him shall personally superintend the drawing of the sample from an original unopened tin or other vessel.

An opening sufficiently large to admit of the oil being rapidly poured or syphoned from the tin or other vessel shall be made.

Two bottles, each of the capacity of about 40 fluid ounces, are to be filled with the oil. One of these, the contents of which is intended to be preserved for reference in case of need, is to be carefully corked, the cork being well driven home, cut off level with the neck, and melted sealing-wax worked into it. The other bottle may be either stoppered or corked.

2 *Preparing the sample for testing.*—About ten fluid ounces of the oil, sufficient for three tests, are transferred from the bottle into which the sample has been drawn to a pint flask or bottle, which is to be immersed in water artificially cooled until a thermometer, introduced into the oil, indicates a temperature not exceeding 50° Fahrenheit.

III.—Directions for preparing and using the Test-apparatus.

1 *Preparing the water-bath.*—The water-bath is filled by pouring water into the funnel until it begins to flow out at the overflow-pipe. The temperature of the water at the commencement of each test, as indicated by the long bulb thermometer, is to be 130° Fahrenheit, and this is attained in the first instance by mixing hot and cold water, either in the bath or in a vessel from which the bath is filled, until the thermometer, which is provided for testing the temperature of the water, gives the proper indication; or the water is heated by means of the spirit-lamp (which is attached to the stand of the apparatus) until the required temperature is indicated.

2 *Preparing the test-lamp.*—The test-lamp is fitted with a piece of cylindrical wick of such thickness that it fills the wick-holder, but may readily be moved to and fro for the purpose of adjusting the size of the flame. In the body of the lamp, upon the wick, which is coiled within it, is placed a small tuft of cotton wool, moistened with petroleum, any oil not absorbed by the wool being removed. When the lamp has been lighted, the wick is adjusted by means of a pair of forceps until the flame is of the size of the bead fixed on the cover of the oil-cup; should a particular test occupy so long a time that the flame begins to get smaller, through the supply of oil in the lamp becoming exhausted, three or four drops of petroleum are allowed to fall upon the tuft of wool in the lamp from the dropping bottle or pipette provided for that purpose. This can be safely done without interrupting the test.

3 *Filling the oil-cup.*—The oil-cup having been previously cooled, by placing it bottom downwards in water at a temperature not exceeding 50° Fahrenheit, is to be rapidly wiped dry, placed on

a level surface in a good light, and the oil to be tested is poured in very slowly, without splashing, until its surface is level with the point of the gauge which is fixed in the cup. The round bulb thermometer is inserted into the lid of the cup, care being taken that the projecting rim of the collar touches the edge of the socket; the test-lamp, prepared as already described, is placed in position, and the cover is then put on to the cup and pressed down so that its edge rests on the rim of the cup.

4 *Application of the test.*—The water-bath, with its thermometer in position, is placed in some locality where it is not exposed to currents of air, and where the light is sufficiently subdued to admit of the size of the entire test-flame being compared with that of the bead on the cover. The cup is carefully lifted without shaking it, and placed in the bath, the test-lamp is lighted, and the clockwork wound up by turning the key. The thermometer in the oil-cup is now watched, and when the temperature has reached 56° Fahrenheit the clockwork is set in motion by pressing the trigger.

If no flash takes place the clockwork is at once re-wound, and the trigger pressed at 57° Fahrenheit, and so on, at every degree rise of temperature, until the flash occurs, or until a temperature of 95° Fahrenheit has been reached.

If the flash takes place at any temperature below 77° Fahrenheit the temperature at which it occurs is to be recorded. The fresh portions of the sample are then to be successively tested in a similar manner and the results recorded. If no greater difference than 2° Fahrenheit exists between any two of the three recorded results, each result is to be corrected for atmospheric pressure, as hereafter described, and the average of the three corrected results is the flashing point of the sample. In the event of there being a greater difference than 2° Fahrenheit between any two of the results, the series of tests is to be rejected and a fresh series, of three, similarly obtained, and so on until a sufficiently concordant series is furnished, when the results are to be corrected and the average taken in the manner already described.

No flash which takes place within eight degrees of the temperature at which the testing is commenced shall be accepted as the true flashing point of the sample tested. In the event of a flash occurring at or below 64° when the test is applied in the manner above described, the next testing shall be commenced ten degrees lower than the temperature at which the flash had been previously obtained (that is to say, at 54°, or thereunder), and this procedure shall be continued until the results of three consecutive tests do not show a greater difference than 2°.

If a temperature of 76° Fahrenheit has been reached without a flash occurring, the application of the test-flame is to be continued at every degree rise of temperature until a temperature of 95° Fahrenheit has been reached. If no flash has occurred up to this point, and if the petroleum is

The Petroleum Act, 1886.

(The Schedule.)

declared to be imported subject to the provisions of the Act, the tests shall not be continued, and the testing officer shall certify that the petroleum has a flashing point over 95° and is not dangerous. But if the petroleum is oil ordinarily used for lubricating purposes and is declared to have its flashing point at or above 200° degrees, or is oil to which a notification of the Local Government exempting it from the operation of the Act will be applicable in the event of the flashing point being found to be at or above 120°, the test shall be continued as follows:—The oil-cup is to be removed from the water-bath, and the temperature of the water in the water-bath is to be reduced to 95° Fahrenheit by pouring cold water into the funnel (the hot water escaping by the overflow-pipe). The air-chamber is then to be filled to a depth of 1½ inches with water at a temperature of about 95° Fahrenheit, the oil-cup is to be replaced in the water-bath and the spirit-lamp attached to the water-bath is to be lighted and placed underneath. The test-flame is then to be again applied, from 96° Fahrenheit, at every degree rise of temperature as indicated by the thermometer in the oil-cup until a flash takes place or until a temperature of 200° Fahrenheit or 120° Fahrenheit, as the case may be, has been reached. If during this operation the test-flame appears to diminish in size, the lamp is to be replenished in the manner prescribed at (2) without interrupting the test.

If a flash occurs at any temperature between 76° and 200° Fahrenheit, the temperature at which it occurs, subject to correction for atmospheric pressure, is the flashing point of the sample.

In repeating a test a fresh sample of oil must always be used, the tested sample being thrown away, and the cup must be wiped dry from any adhering oil and cooled, as already described, before receiving the fresh sample.

5. *Correction for atmospheric pressure*—As the flashing point of an oil is influenced by changes in atmospheric pressure to an average extent of 1.6° Fahrenheit for every inch of the barometer, a correction of the observed flashing point may become necessary. The height of the barometer must therefore be determined at the time of making the test for the flashing point. The true height of the barometer for the purpose of the test shall be considered to be the height of the column of mercury measured at 32° Fahrenheit, which is supported by the air pressure at the time of the experiment; that is, the actual height of the barometer at the time of observation duly corrected for any error of the instrument and for its temperature if necessary. For the purpose of applying the correction to the flashing point of the oil obtained by the test, a table is appended to this schedule, giving the flashing points of oils ranging from 65° to 80° Fahrenheit, under pressure ranging from 27 to 31 inches of mercury.

The table is used in the following manner:—

Example.—An oil has given a flashing point of 71°, the barometer being at 28.6 inches; take the nearest number to 71° in the vertical column headed 28.6. This number is 70.8. Substitute for this the number in the same horizontal line in the column headed 30 (the normal height of the

barometer). The substituted number, that is, the true flashing point of the oil, is 73°.

Table for correction of Flashing Points indicated by the Test for Variations in Barometric Pressure on either side of Thirty Inches.

		Barometer in Inches																				
		27	27.2	27.4	27.6	27.8	28	28.2	28.4	28.6	28.8	29	29.2	29.4	29.6	29.8	30	30.2	30.4	30.6	30.8	31
60.2	60.5	61.2	61.5	61.8	62.2	62.5	62.8	63.1	63.4	63.8	64.1	64.4	64.7	65.0	65.4	65.7	66.0	66.3	66.6	66.9	67.3	67.6
61.2	61.5	62.2	62.5	62.8	63.2	63.5	63.8	64.1	64.4	64.8	65.1	65.4	65.7	66.0	66.4	66.7	67.0	67.3	67.6	67.9	68.3	68.6
62.2	62.5	63.2	63.5	63.8	64.2	64.5	64.8	65.1	65.4	65.8	66.1	66.4	66.7	67.0	67.4	67.7	68.0	68.3	68.6	68.9	69.3	69.6
63.2	63.5	64.2	64.5	64.8	65.2	65.5	65.8	66.1	66.4	66.8	67.1	67.4	67.7	68.0	68.4	68.7	69.0	69.3	69.6	69.9	70.3	70.6
64.2	64.5	65.2	65.5	65.8	66.2	66.5	66.8	67.1	67.4	67.8	68.1	68.4	68.7	69.0	69.4	69.7	70.0	70.3	70.6	70.9	71.3	71.6
65.2	65.5	66.2	66.5	66.8	67.2	67.5	67.8	68.1	68.4	68.8	69.1	69.4	69.7	70.0	70.4	70.7	71.0	71.3	71.6	71.9	72.3	72.6
66.2	66.5	67.2	67.5	67.8	68.2	68.5	68.8	69.1	69.4	69.8	70.1	70.4	70.7	71.0	71.4	71.7	72.0	72.3	72.6	72.9	73.3	73.6
67.2	67.5	68.2	68.5	68.8	69.2	69.5	69.8	70.1	70.4	70.8	71.1	71.4	71.7	72.0	72.4	72.7	73.0	73.3	73.6	73.9	74.3	74.6
68.2	68.5	69.2	69.5	69.8	70.2	70.5	70.8	71.1	71.4	71.8	72.1	72.4	72.7	73.0	73.4	73.7	74.0	74.3	74.6	74.9	75.3	75.6
69.2	69.5	70.2	70.5	70.8	71.2	71.5	71.8	72.1	72.4	72.8	73.1	73.4	73.7	74.0	74.4	74.7	75.0	75.3	75.6	75.9	76.3	76.6
70.2	70.5	71.2	71.5	71.8	72.2	72.5	72.8	73.1	73.4	73.8	74.1	74.4	74.7	75.0	75.4	75.7	76.0	76.3	76.6	76.9	77.3	77.6
71.2	71.5	72.2	72.5	72.8	73.2	73.5	73.8	74.1	74.4	74.8	75.1	75.4	75.7	76.0	76.4	76.7	77.0	77.3	77.6	77.9	78.3	78.6
72.2	72.5	73.2	73.5	73.8	74.2	74.5	74.8	75.1	75.4	75.8	76.1	76.4	76.7	77.0	77.4	77.7	78.0	78.3	78.6	78.9	79.3	79.6
73.2	73.5	74.2	74.5	74.8	75.2	75.5	75.8	76.1	76.4	76.8	77.1	77.4	77.7	78.0	78.4	78.7	79.0	79.3	79.6	79.9	80.3	80.6
74.2	74.5	75.2	75.5	75.8	76.2	76.5	76.8	77.1	77.4	77.8	78.1	78.4	78.7	79.0	79.4	79.7	80.0	80.3	80.6	80.9	81.3	81.6
75.2	75.5	76.2	76.5	76.8	77.2	77.5	77.8	78.1	78.4	78.8	79.1	79.4	79.7	80.0	80.4	80.7	81.0	81.3	81.6	81.9	82.3	82.6

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

The following Report of the Select Committee on the Bill to amend the Petroleum Act, 1881, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 5th March, 1886:—

LEGISLATIVE DEPARTMENT.

We, the undersigned Members of the Select Committee to which the Bill to amend the Petroleum Act, 1881, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

2. On the general question of standards and the definition of dangerous petroleum, we adhere to the scheme laid down in section 3 of the Bill. But Dr. Warden and Mr. Pedler suggest that the lowest standard for lubricating oils (the attainment of which would exempt them from the operation of the Act) should be fixed at 200° instead of

From Officiating Secretary to Chief Commissioner, Assam, No. 599, dated 14th April, 1885 [Paper No. 1]
 From Secretary for Berar to Resident, Hyderabad, No. 176G, dated 18th May, 1885 [Paper No. 2]
 From Chief Commissioner, Ajmer-Merwara, No. 644, dated 17th June, 1885 [Paper No. 3]
 From Secretary to Chief Commissioner, British Burma, No. 388—2M., dated 16th June, 1885, and enclosures [Papers No. 4]
 From Registrar, High Court, Calcutta, No. 1885, dated 23rd June, 1885 [Paper No. 5]
 From Chief Secretary to Government, Madras, No. 1606, dated 17th June, 1885, and enclosures [Papers No. 6]
 From Secretary to Chief Commissioner, Coorg, No. 543—63, dated 26th June, 1885, [Paper No. 7]
 From Secretary to Government, North-Western Provinces and Oudh, No. 1148—VI-190-15, dated 29th June, 1885 [Paper No. 8]
 From Officiating Secretary to Government, Punjab, No. 610S., dated 8th July, 1885, and enclosures [Papers No. 9]
 From Under Secretary to Government, Bombay, No. 2501, dated 6th July, 1885, and enclosures [Papers No. 10]
 From Her Majesty's Secretary of State for India, No. 65, dated 18th June, 1885, and enclosure [Papers No. 11]
 From Officiating Secretary to Government, Bengal, No. 827T.—M., dated 2nd July, 1885, and enclosures [Papers No. 12]
 From Assistant Secretary to Chief Commissioner, Central Provinces, No. 2653—83, dated 11th July, 1885 [Paper No. 13]
 From Secretary to Government, North-Western Provinces and Oudh, No. 1544—VI-190-22, dated 27th August, 1885, and enclosure [Papers No. 14]

250° as in the present Act. It is, they explain, practically impossible with the Abel apparatus to test up to 250°. They consider the limit of 150°, which is proposed in some of the papers, too low for this country, and believe 200° would meet all reasonable requirements. In this view we concur. We are also of opinion that Local Governments should be empowered to exempt from the operation of the Act and rules oil certified to be over 120° when imported as ordinary cargo and in limited quantities.

3. We consider that section 4 of the Bill should be omitted. Messrs. Warden and Pedler point out that the drawback of the fragility of glass for carriage is frequently more than counterbalanced by its impermeability. It is very difficult in this country to get tin or metal vessels made which shall be thoroughly impervious to highly volatile oil.

4. It is suggested by the Bombay Government and other authorities that it should be made clear that conveyance by sea from one part of British India to another is "transport" and not "import" within the meaning of the Act. We are of opinion that some discretion in the matter should be left to the Local Governments. It would be unsafe, for instance, at present to admit freely to Calcutta oil brought up from Burma. Experience has shown that in Burma refining is not yet thoroughly understood, and the local testing is not at present very trustworthy. The Local Governments in India should have power to treat such oil as foreign oil until its quality generally improves. On the other hand, there is no reason why foreign oil once properly tested should be re-tested on arrival at a second port. We have taken power for the Local Governments of territories, such as Burma and Assam, in which oil is or is likely to be produced, to appoint testing officers at or near refineries, and to prevent the removal from the refineries of oil which does not satisfy the tests otherwise than under the regulations for the control of dangerous petroleum.

5. Turning now to the question of the method of sampling cargoes, we concur with the Bombay Government and other authorities in thinking that it should be open to the Local Government by rule to provide for sampling either before or after landing; to prescribe the number of samples to be taken from a cargo or consignment or any part thereof; to provide, when the first test is unsatisfactory, or when doubt is felt as to the uniformity of quality in the cargo, for the landing and sorting of the cargo in lots, or its delivery into boats, each of a certain capacity; and for the sampling of each lot or boat-load, and its ultimate treatment in accordance with the results of the test in each case.

When a doubtful cargo has to be landed and stacked, substantial fees should be levied, as much additional work is thrown upon Government officers.

6. With reference to the objections taken by some Bombay officers to the provisions of the schedule requiring that the sample tin should be tapped in presence of the testing officer, we observe that Messrs. Warden and Pedler both attach importance to this, as all manipulation and airing of the oil tends to raise its flashing point, and the drawing of oil for testing purposes should in any case be under the control of a responsible officer of the testing department. They consider that in most cases the selection of one case from a cargo of oil certified before arrival to be ordinary petroleum is sufficient; if care is taken to get the samples from below, and thus to defeat any attempt at "facing" the cargo. The number of samples taken at Bombay appears to be unduly large, and has given rise to the objection that to convey them to the Chemical Examiner's laboratory would be an arduous task. We have so amended the Schedule, Part II, paragraph 1, as to provide that the testing officer or some person duly authorized by him shall superintend the drawing of the sample.

7. In revising the Bill we have had regard to the practice which obtains in Bombay of allowing delivery into cargo-boats pending the result of testing, and to the suggestion of the Bengal Government that the Local Government should have the power in special cases to order further tests in such manner as it may deem expedient.

8. As regards the suggestion of the Bombay Government that a second standard apparatus should be maintained at Bombay, it appears to us to be highly important to secure uniformity in the tests throughout India. To this end there should be but one absolute and ultimate standard, and this can most conveniently be maintained in Calcutta.

9. We are of opinion that the Chemical Examiner should stamp any apparatus sent to him not only with a special number but also with the date of his verification of the apparatus, and further that he should give a certificate in writing under his hand, in a form to be laid down by the Governor General in Council, to the effect that the apparatus has been compared and verified by him on a given date and been found to be correct, or correct subject to certain specified corrections to be applied to the results of tests.

10. The Chemical Examiner should also keep a register of verifications

11. Messrs. Warden and Pedler suggest that in the Schedule, Part I, provision be made for "a barometer standardised at the Meteorological Office of the province, or at any other place appointed by the Local Government." We have accepted the suggestion.

12. With respect to the changes in the Schedule, Part III, proposed by Dr. Lyon, Messrs. Warden and Pedler are inclined to hold that Sir F. Abel has in a paper before us sufficiently met Dr. Lyon's difficulty, and they believe that in practice no difficulty is likely to arise of the kind Dr. Lyon puts forward. They have, however, suggested, and we have acted on the suggestion, that all possible objection would be removed if it were provided that no flashing point obtained should be accepted, unless it be at least 8° above the temperature at which the testing commenced.

13. Messrs. Warden and Pedler are of opinion that it is unnecessary in the case of ordinary petroleum to continue the tests when no flash has been obtained up to 95° Fahrenheit. It is only in the case of petroleum for which exemption from the Act is claimed that the test need be continued in the manner laid down in the fourth paragraph of the rules for "application of the test." We have modified that paragraph accordingly.

14. In the Schedule, Part III, paragraph 5, we have pointed out that the height of the barometer must be determined at the time of making the test for the flashing point.

15. We are advised not to accept the suggestion made from Burma to adopt Hewmann's apparatus in preference to Abel's.

16. We have had regard to the remarks of the Bombay Government with reference to the repeal of the municipal laws affecting petroleum, and to giving power to Port Trusts to regulate their own fees for the storage of petroleum.

17. Having thus amended the Bill we have deemed it advisable to consolidate it and the Petroleum Act of 1881, and, in doing so, have taken the opportunity (a) to enhance the penalty for keeping, transporting, selling or exposing for sale dangerous petroleum in contravention of the Act, and (b) to empower the Governor General in Council to make rules as to the transport of petroleum from any part of British India to any other part.

18. The other alterations we have made in consolidating the Bill and the Act are few and unimportant and do not call for notice.

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

		<i>In English.</i>		<i>Date</i>
		<i>Gazette.</i>		
Gazette of India	14th, 21st and 28th March, 1885.
Fort Saint George Gazette	8th April, 1885
Bombay Government Gazette	26th March, and 2nd and 9th April, 1885.
Calcutta Gazette	1st and 8th April, 1885
North-Western Provinces and Oudh Government Gazette	26th March, and 4th and 11th April, 1885.
Punjab Government Gazette	9th, 16th and 23rd April, 1885.
Central Provinces Gazette	4th, 11th and 18th April, 1885
British Burma Gazette	11th, 18th and 25th April, 1885.
Assam Gazette	4th, 11th and 18th April, 1885.
Coorg District Gazette	1st May, 1885.

		<i>In the Vernaculars.</i>		<i>Date</i>
<i>Province.</i>		<i>Language.</i>		
Madras	...	Kánarese	...	16th June, 1885.
	...	Telugu	...	23rd June, 1885.
	...	Malayalam	...	30th June, 1885
Bombay	...	Hindustáni	...	17th July, 1885.
	...	Gujaráthi	...	4th June, 1885.
	...	Maráthi	...	11th June, 1885.
Bengal	...	Kánarese	...	28th April, 1885.
	...	Bengali	...	21st May, 1885
	...	Uríya	...	9th June, 1885
Punjab	...	Hindi	...	18th and 25th May, and 1st June, 1885.
	...	Urdu	...	20th and 27th June, and 4th July, 1885.
Central Provinces	...	Maráthi	...	20th and 27th June, and 4th July, 1885.

20. 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 and consolidated with the Act of 1881.

(Signed) C. P. ILBERT.
 { " } S. C. BAYLEY.
 { " } J. W. QUINTON.
 { " } H. ST. A. GOODRICH.
 { " } ROBERT STEEL.

The 5th March 1886.

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

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 19th March, 1886, and was promulgated for general information in the *Gazette of India* on the 20th March 1886:—

Act No. XIII of 1886.

THE INDIAN SECURITIES ACT,
1886.

CONTENTS.

SECTION.

1. Short title and commencement.
2. Repeal.
3. Definitions.
4. Notice of trust not receivable.
5. Right of survivors of joint payees of Government securities.
6. Prohibition of indorsements on allonges to Government securities.
7. Holding of Government securities by holders for the time being of public offices.
8. Transfer and discharge of certificates and coupons.
9. Indorser of Government security not liable for amount thereof.
10. Impression of signature on Government securities.
11. Issue of renewed securities.
12. Issue of duplicate securities.
13. Period after which the Government is released from liability in respect of original security.
14. Power of Governor General in Council to make rules.
15. Publication of drafts and rules.

An Act to consolidate and amend the law relating to Government Securities.

WHEREAS it is expedient to consolidate and amend the law relating to Government securities; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Securities Act, 1886; and

Short title and commencement.

(2) It shall come into force on the first day of April, 1886.

(3) The power conferred on the Governor General in Council by section 7, sub-section (1), may be exercised at any time after the passing of this Act; but a notification issued in exercise of that power shall not take effect until the Act comes into force.

2. (1) On and from the day on which this Act comes into force, the

Repeal

Indian Securities Act,

III of 1881, 1881, and the Indian Securities Act, 1885, shall be repealed.

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(2) But any authority conferred, notification issued, list published or rule or order made under either of those Acts shall, so far as may be, be deemed to have been conferred, issued, published or made under this Act.

Definitions.

3. In this Act—

(1) "Government security" includes promissory notes, debentures, stock-certificates and all other securities issued by the Government of India or by any Local Government in respect of any loan contracted either before or after the passing of this Act, but does not include a stock-note or a currency-note; and

(2) "prescribed" means prescribed by rules made by the Governor General in Council

4. No notice of any trust in respect of any Government security shall be receivable by the Government.

Notice of trust not receivable.

5. (1) Notwithstanding anything in the Indian Contract Act, 1872, IX of 1872, section 45, when a Government security is payable to two or more persons jointly and either or any of them dies, the security shall be payable to the survivor or survivors of those persons.

(2) Nothing herein contained shall affect any claim which the representative of the deceased person may have against the survivor or survivors in respect of the security jointly payable to him or them and the deceased.

(3) This section shall apply whether the death of the person to whom the security was jointly payable occurred or occurs before or after this Act comes into force.

6. Notwithstanding anything in section 15 of the Negotiable Instruments Act, 1881, the holder of a Government

security shall not be said to indorse the security, or be called the indorser thereof, if, when he signs the same for the purpose of negotiation, he indorses his signature for that purpose elsewhere than on the back of the security itself.

7. (1) In the case of any public office to which the Governor General in Council may, from time to time, by notification in the Gazette of India,

declare this sub-section to apply, a Government security may be made or indorsed payable to or to the order of the holder for the time being of the office by the name of the office.

(2) When a Government security is made or indorsed as aforesaid, it shall be deemed to be transferred without any or further indorsement from each holder for the time being of the office to the succeeding holder for the time being of the office on and from the date on which the latter takes charge of the office.

(3) When the holder for the time being of the office indorses to a third party a Government security made or indorsed as aforesaid, he shall subscribe the indorsement with his name and the name of the office.

(4) A writing on a Government security now or heretofore standing in the name of the holder of a public office, whereby the security has been or was made or indorsed payable to or to the order of the holder of the office for the time being, shall not be deemed to be or to have been invalid by reason only of the payee or indorsee being the holder for the time being of a public office by the name of the office.

(5) This section applies as well to an office of which there are two or more joint holders as to an office of which there is a single holder.

8. (1) Whenever the Governor General in Council has issued, in respect of any loan, a certificate declaring the bearer thereof to be entitled to the portion of the loan therein expressed, or a coupon for any amount payable as interest on any portion of the loan, the title to the certificate or coupon may be transferred as if the certificate or coupon were a promissory note payable to bearer.

(2) On payment, by or on behalf of the Government, to the bearer of the certificate or coupon, of the amount expressed therein, at or after the date on which it becomes due, the Government shall be discharged as if the certificate or coupon were a promissory note payable to bearer.

9. A person shall not, by reason only of his having indorsed a Government security, be liable to pay any money due, either as principal or as interest, thereunder.

10. (1) The signature of the officer of the Government of India authorized to sign Government securities on behalf of the Government may be printed, engraved or lithographed, or impressed by such other mechanical process as the Governor General in Council may direct, on the securities.

(2) A signature so printed, engraved, lithographed or otherwise impressed shall be as valid as if it had been inscribed in the proper handwriting of the officer.

11. A person claiming to be entitled to a Government security as payable to him under an indorsement may, on satisfying the prescribed officer of the justice of his claim and paying the prescribed fee and delivering the security duly received to the prescribed officer, obtain from the officer a renewed security issued payable to himself.

12. (1) When a Government security is alleged to have been wholly or partly lost or destroyed, and a person claims to be the person to whom but for the loss or destruction it would be payable, he may, on application to the prescribed officer, and on producing proof to his satisfaction of the loss or destruction and of the justice of the claim, obtain from him an order for—

- (a) the payment of interest in respect of the security said to be lost or destroyed pending the issue of a duplicate security; and
- (b) the issue of a duplicate security payable to the applicant.

(2) An order shall not be passed under sub-section (1) until after the issue of the prescribed notification of the loss or destruction and after the expiration of the prescribed period, nor until the applicant has given the prescribed indemnity against the claims of all persons deriving title under the security lost or destroyed.

(3) A list of the securities in respect of which an order is passed under sub-section (1) shall be published in the Gazette of India at such times as the Governor General in Council may, from time to time, direct.

13. When a renewed security has been issued under section 11, or a duplicate security has been issued under section 12, the Government shall be discharged from all liability in respect of the original security of which the renewed or duplicate security has been issued—

- (a) in the case of a renewed security, after the lapse of six years from the date of the issue of the renewed security;
- (b) in the case of a duplicate security, after the lapse of six years from the date of the publication under section 12, sub-section (3), of the list in which the security is first mentioned, or from the date of the last payment of interest on the original security, whichever date is the later.

14. The Governor General in Council may, from time to time, make rules to prescribe—

- (a) the mode in which payment of interest in respect of Government securities is to be recorded and acknowledged;
- (b) the circumstances in which Government securities must be renewed before further payment of interest thereon can be claimed;
- (c) the fees to be paid in respect of applications under sections 11 and 12;
- (d) the form in which securities delivered for renewal are to be receipted;
- (e) the officer who is to exercise all or any of the powers and perform all or any of the duties prescribed by sections 11 and 12;
- (f) the proof which is to be produced by persons applying for duplicate securities;
- (g) the form and mode of publication of the notification mentioned in section 12, and the period after which interest may be paid or a duplicate security may be issued under that section;
- (h) the nature and amount of the indemnity to be given by a person applying under section 12 for the payment of interest or the issue of a duplicate security; and,
- (i) generally, all matters connected with the grant of renewed and duplicate securities.

15. (1) The Governor General in Council shall, before making rules under section 14, publish a draft of the proposed rules in such manner as may, in his opinion, be sufficient for the information of the public.

(2) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(3) The Governor General in Council shall receive and consider any objection or suggestion

which may be made by any person with respect to the draft before the date so specified.

(4) Every rule made under section 14 shall be published in the Gazette of India, and the publication in that Gazette of a rule purporting to be made under that section shall be conclusive proof that it has been duly made.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

The following Report of the Select Committee on the Bill to amend the law relating to Government securities was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 12th March, 1886:—

LEGISLATIVE DEPARTMENT.

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

Telegram from Chief Commissioner, Coorg, dated 17th February, 1886 [Paper No. 1].
From Secretary for Berar to Resident, Hyderabad, No. 43G, dated 13th February, 1886 [Paper No. 2].

From Under-Secretary to Chief Commissioner, Central Provinces, No 549-33, dated 15th February, 1886 [Paper No. 3].

Telegram from Secretary to Government, North-Western Provinces and Oudh, dated 19th February, 1886 [Paper No. 4].

From Officiating Secretary to Government, Bengal, No. 605, dated 19th February, 1886, and enclosures [Paper No. 5].

Telegram from Chief Commissioner, Ajmer-Merwara, No. 326C, dated 21st February, 1886 [Paper No. 6].

From Acting Chief Secretary to Government, Madras, No. 421, dated 17th February, 1886, and enclosures [Paper No. 7].

Telegram from Secretary to Government, Bombay, dated 22nd February, 1886 [Paper No. 8].

From Officiating Secretary to Chief Commissioner, Assam, No 378, dated 16th February, 1886 [Paper No. 9].

Telegram from Chief Commissioner, British Burma, dated 27th February, 1886 [Paper No. 10].

From Under-Secretary to Government, Bombay, No. 544, dated 1st March, 1886 [Paper No. 11].

to apply not only to an office of which there is a single holder but to an office of which there are two or more joint holders

3. We consider it desirable that the law relating to Government securities should be consolidated. We have, therefore, proposed to repeal the Indian Securities Acts of 1881 and 1885, and to embody the substance of them and of the Bill in a single enactment

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

<i>In English.</i>		<i>Date.</i>
<i>Gazette</i>		
Gazette of India	...	6th, 13th and 20th February, 1886.
For Saint George Gazette	...	12th February, 1886.
Bombay Government Gazette	...	11th February, 1886.
Calcutta Gazette	...	10th, 17th and 24th February, 1886.
North-Western Provinces and Oudh Government Gazette	...	13th, 20th and 27th February, 1886.
Punjab Government Gazette...	...	18th and 25th February, and 4th March, 1886.
Central Provinces Gazette	...	13th, 20th and 27th February, 1886.
British Burma Gazette	...	6th March, 1886.
Assam Gazette	...	6th March, 1886.

<i>In the Vernaculars</i>		
<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Bengal	Bengali	16th February, 1886
North-Western Provinces and Oudh.	Urdu	13th, 20th and 27th February, 1886.

5. We do not think that the measure has been so altered as to require re-publication, and we recommend that the Bill, as amended by us and consolidated with the Acts of 1881 and 1885, be passed.

(Signed) A. COLVIN.
(") C. P. ILBERT.
(") G. H. P. EVANS
(") ROBERT STEEL
(") V. N. MANDLIK.

The 9th March, 1886.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

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1881

6. Notwithstanding anything in section 15 of the Negotiable Instruments Act, 1881, the holder of a Government security shall not be said to indorse the security, or be called the indorser thereof, if, when he signs the same for the purpose of negotiation, he subscribes his signature for that purpose elsewhere than on the back of the security itself.

7. (1) In the case of any public office to which the Governor General in Council may, from time to time, by notification in the Gazette of India, declare this sub-section to apply, a Government security may be made or indorsed payable to or to the order of the holder for the time being of the office by the name of the office.

(2) When a Government security is made or indorsed as aforesaid, it shall be deemed to be transferred without any or further indorsement from each holder for the time being of the office to the succeeding holder for the time being of the office on and from the date on which the latter takes charge of the office.

(3) When the holder for the time being of the office indorses to a third party a Government security made or indorsed as aforesaid, he shall subscribe the indorsement with his name and the name of the office.

(4) A writing on a Government security now or heretofore standing in the name of the holder of a public office, whereby the security has been or was made or indorsed payable to or to the order of the holder of the office for the time being, shall not be deemed to be or to have been invalid by reason only of the payee or indorsee being the holder for the time being of a public office by the name of the office.

(5) This section applies as well to an office of which there are two or more joint holders as to an office of which there is a single holder.

8. (1) Whenever the Governor General in Council has issued, in respect of any loan, a certificate declaring the bearer thereof to be entitled to the portion of the loan therein expressed, or a coupon for any amount payable as interest on any portion of the loan, the title to the certificate or coupon may be transferred as if the certificate or coupon were a promissory note payable to bearer.

(2) On payment, by or on behalf of the Government, to the bearer of the certificate or coupon, of the amount expressed therein, at or after the date on which it becomes due, the Government shall be discharged as if the certificate or coupon were a promissory note payable to bearer.

9. A person shall not, by reason only of his having indorsed a Government security, be liable to pay any money due, either as principal or as interest, thereunder.

10. (1) The signature of the officer of the Government of India authorized to sign Government securities on behalf of the Government may be printed, engraved or

lithographed, or impressed by such other mechanical process as the Governor General in Council may direct, on the securities.

(2) A signature so printed, engraved, lithographed or otherwise impressed shall be as valid as if it had been inscribed in the proper handwriting of the officer.

11. A person claiming to be entitled to a Government security as payable to him under an indorsement may, on satisfying the prescribed officer of the justice of his claim and paying the prescribed fee and delivering the security duly receipted to the prescribed officer, obtain from the officer a renewed security issued payable to himself.

12. (1) When a Government security is alleged to have been wholly or partly lost or destroyed, and a person claims to be the person to whom but for the loss or destruction it would be payable, he may, on application to the prescribed officer, and on producing proof to his satisfaction of the loss or destruction and of the justice of the claim, obtain from him an order for—

- (a) the payment of interest in respect of the security said to be lost or destroyed pending the issue of a duplicate security; and
- (b) the issue of a duplicate security payable to the applicant.

(2) An order shall not be passed under sub-section (1) until after the issue of the prescribed notification of the loss or destruction and after the expiration of the prescribed period, nor until the applicant has given the prescribed indemnity against the claims of all persons deriving title under the security lost or destroyed.

(3) A list of the securities in respect of which an order is passed under sub-section (1) shall be published in the Gazette of India at such times as the Governor General in Council may, from time to time, direct.

13. When a renewed security has been issued under section 11, or a duplicate security has been issued under section 12, the Government shall be discharged from all liability in respect of the original security of which the renewed or duplicate security has been issued—

- (a) in the case of a renewed security, after the lapse of six years from the date of the issue of the renewed security;
- (b) in the case of a duplicate security, after the lapse of six years from the date of the publication under section 12, sub-section (3), of the list in which the security is first mentioned, or from the date of the last payment of interest on the original security, whichever date is the later.

14. The Governor General in Council may, from time to time, make rules to prescribe—

- (a) the mode in which payment of interest in respect of Government securities is to be recorded and acknowledged;

- (b) the circumstances in which Government securities must be renewed before further payment of interest thereon can be claimed,
- (c) the fees to be paid in respect of applications under sections 11 and 12,
- (d) the form in which securities delivered for renewal are to be receipted;
- (e) the officer who is to exercise all or any of the powers and perform all or any of the duties prescribed by sections 11 and 12,
- (f) the proof which is to be produced by persons applying for duplicate securities;
- (g) the form and mode of publication of the notification mentioned in section 12, and the period after which interest may be paid or a duplicate security may be issued under that section;
- (h) the nature and amount of the indemnity to be given by a person applying under section 12 for the payment of interest or the issue of a duplicate security, and,

(i) generally, all matters connected with the grant of renewed and duplicate securities.

15. (1) The Governor General in Council shall, before making rules under section 14, publish a draft of the proposed rules in such manner as may, in his opinion, be sufficient for the information of the public.

(2) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(3) The Governor General in Council shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(4) Every rule made under section 14 shall be published in the Gazette of India, and the publication in that Gazette of a rule purporting to be made under that section shall be conclusive proof that it has been duly made.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

The following Report of the Select Committee on the Bill to amend the law relating to Government securities was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 12th March, 1886 —

LEGISLATIVE DEPARTMENT.

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

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

2 We have added to the section respecting the holding of Government securities by holders for the time being of public offices two sub-sections, the one removing any doubt which may exist as to the validity of past indorsements in favour of holders for the time being of such offices, and the other declaring the section to apply not only to an office of which there is a single holder but to an office of which there are two or more joint holders

3. We consider it desirable that the law relating to Government securities should be consolidated. We have, therefore, proposed to repeal the Indian Securities Acts of 1881 and 1885, and to embody the substance of them and of the Bill in a single enactment.

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

In English.

<i>Gazette</i>	<i>Date</i>
Gazette of India	6th, 13th and 20th February, 1886.
For Saint George Gazette	12th February, 1886.
Bombay Government Gazette	11th February, 1886.
Calcutta Gazette	10th, 17th and 24th February, 1886.
North-Western Provinces and Oudh Government Gazette	13th, 20th and 27th February, 1886.
Punjab Government Gazette	18th and 25th February, and 4th March, 1886.
Central Provinces Gazette	13th, 20th and 27th February, 1886.
British Burma Gazette	6th March, 1886.
Assam Gazette	6th March, 1886.

In the Vernaculars.

<i>Province</i>	<i>Language.</i>	<i>Date.</i>
Bengal	Bengali	16th February, 1886
North-Western Provinces and Oudh.	Urdu	13th, 20th and 27th February, 1886

5 We do not think that the measure has been so altered as to require re-publication, and we recommend that the Bill, as amended by us and consolidated with the Acts of 1881 and 1885, be passed.

(Signed) A. COLVIN
 (") C. P. ILBERT.
 (") G. H. P. EVANS.
 (") ROBERT STEEL
 (") V. N. MANDLIK.

The 9th March, 1886.

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

THE



Bombay Government Gazette.

Published by Authority.

SATURDAY, 28TH AUGUST 1886.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 7th August 1886, and the assent of His Excellency the Viceroy and Governor General on the 25th August 1886, and is published for general information:—

Bombay Act No. II. of 1886.

An Act to enable the Municipal Corporation of the City of Bombay to raise increased revenue from Town-duties.

[First publication.]

WHEREAS it is expedient to enable the Municipal Corporation of the City of Bombay to increase their revenue from town-duties, with effect from the first day of October 1886, and for this purpose to amend the Schedule B. annexed to the Bombay Municipal Acts of 1872 and 1878; It is enacted as follows:—

1. On and from the first day of October, 1886, the following schedule shall be deemed to be substituted for the Schedule

B. annexed to the said Acts (namely):—

“SCHEDULE B. (Referred to in Section 114.) TOWN-DUTIES.

Articles liable to Duty	Maxima rate leviable.
(1) Grain of all sorts ..	6 annas per candy.
(2) Wines and Spirits ..	4 do. per imperial gallon
(3) Beer	$\frac{1}{2}$ anna per do.
(4) Petroleum, as defined in the Petroleum Act, 1886	$\frac{1}{8}$ do. per do.
(5) Sugar, Molasses and Goor.	8 annas per hundred-weight.
(6) Ghee	10 do. per Bombay maund.
(7) Timber, excluding Railway sleepers.	$2\frac{1}{2}$ per cent. on market value.
(8) Fire-wood	2 annas per candy.”

XII of 1886

Bo III of 1872 and IV of 1878.

New Schedule substituted for Schedule B to Bombay Acts III of 1872 and IV of 1878.

2. Notwithstanding anything contained in the said Acts, as amended by the Bombay Municipal Acts Amendment Act, 1882—

p. VI of
182.

The Municipal Corporation may impose new rates of town-duties with effect from 1st October 1886.

(a) it shall be lawful for the said Corporation, by resolution at a special general meeting held at any time within one month from the date when this Act comes into force, to fix with reference to the said substituted schedule, the articles on which and the rates

at which town-duties shall be levied for the half-year commencing on the first day of October, 1886, and

(b) any resolution so made by the said Corporation shall have effect, during the said half-year, in supersession of the resolution made by the said Corporation in the month of January, 1886, fixing, under sections 67 and 115 of the said Acts, as so amended, the rates at which and the articles on which town-duties shall be leviable for the year 1886-87.

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

A. SHEWAN,

Acting Secretary to the Council of the Governor of
Bombay for making Laws and Regulations.

Poona, 28th August 1886.



THE Bombay Government Gazette.

Published by Authority.

SATURDAY, 25TH SEPTEMBER 1886.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 28th July 1886, and the assent of His Excellency the Viceroy and Governor General on the 9th September 1886, and is published for general information:—

Bombay Act No. III. of 1886.

10. X of 1866 *An Act to amend the Bombay General Clauses Act, 1866, and to shorten the language of the enactments of the Governor of Bombay in Council.*

[First publication.]

10. X. of 1867. Whereas it is expedient to amend the Bombay General Clauses Act, 1866, and to make other provisions for shortening the language of the enactments of the Governor of Bombay in Council, and for explaining their meaning; It is enacted as follows:—

1. This Act may be cited as "The
Short Title. Bombay General
Clauses Act, 1886."

2. The Acts of the Governor of Bombay
Enactments repealed. in Council mentioned
in Schedule A are
repealed to the extent specified in the third
column of the said schedule.

The words quoted in the fourth column
of Schedule B from the enactments made
by the Governor of Bombay in Council
respectively mentioned in the previous
iv.—18

columns of the said schedule are repealed,
and, where such intention is expressed in
the said schedule, the words contained in
the fifth column thereof shall be deemed
to be substituted respectively for the words
so repealed.

3. In this Act and in all Regulations
General definitions. and Acts made by the
Governor of Bombay
in Council, unless there be something re-
pugnant in the subject or context:—

(1) words importing the masculine gen- Act I. of 18
Gender. der include fe- s. 2 (1),
males;

(2) words in the singular include the Act I. of 18
Number. plural, and vice s. 2. (2).
versâ;

- Act I. of 1868, s. 2 (3). (3) "person" includes a company or association or body of individuals, whether incorporated or not;
- Act I. of 1868, s. 2 (4). (4) "year" and "month" mean, respectively, a year and a month reckoned according to the British calendar;
- Act I. of 1868, s. 2 (8). (5) "British India" means the territories for the time being vested in Her Majesty by the Statute 21 and 22 Victoria, Chapter 106 (*an Act for the better Government of India*), other than the settlement of Prince of Wales' Island, Singapore and Malacca;
- Bo. Act X. of 1866, s. 1 (12). (6) "presidency of Bombay" means the territories within British India for the time being under the administration of the Governor of Bombay in Council;
- Bo. Act X. of 1866, s. 1 (10). (7) "city of Bombay" means the area within the local limits for the time being of the ordinary original civil jurisdiction of the Bombay High Court of Judicature;
- Act I. of 1868, s. 2 (7). (8) "Her Majesty" includes Her heirs and successors to the Crown;
- Act I. of 1868, s. 2 (9). (9) "Government of India" means the Governor General of India in Council, or, during the absence of the Governor General of India from his Council, the President in Council, or the Governor General of India alone, in respect of the powers which may be lawfully exercised by them or him respectively;
- Bo. Act X. of 1866, s. 1 (6). (10) "Government" means the Governor of Bombay in Council;
- Bo. Act I. of 1884, s. 3 (2). (11) "Commissioner" means, in Sind, the Commissioner in Sind, and elsewhere the Commissioner of a division appointed under the Bombay Land Revenue Code, 1879, or any other law for the time being in force in this behalf;
- Bo. V. of 1879. (12) "Collector" means, in the city of Bombay, the Collector of Bombay, and elsewhere, the chief local officer in charge of the revenue administration of a district;
- (13) "Magistrate" means any person exercising magisterial powers under the Code of Criminal Procedure;
- (14) "imprisonment" means imprisonment of either description as defined in the Indian Penal Code;
- (15) "to abet" means to abet within the meaning of that term as defined in the Indian Penal Code.
- (16) "immoveable property" includes land, benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth;
- (17) "moveable property" means property of every description, except immoveable property;
- (18) "vessel" means anything made for the conveyance by water of human beings or of property;
- (19) in every case in which a person is by law allowed to affirm or to declare instead of swearing, "oath" includes an affirmation, and "affidavit" includes a declaration, and to "swear" includes to affirm or declare;
- (20) "writing" and "written" include printing, lithography, photography, engraving, and every other mode in which words or figures can be expressed on paper or on any substance;
- (21) "chapter", "part", "section", "Chapter", "Part", and "schedule" mean, respectively, a chapter, part or section of, and a schedule annexed to, the enactment in which the word occurs;
- (22) "from" and "to", when used with reference to a series of days or other periods of time, respectively, exclude and include the first and the last of the days or other periods in such series.
4. For the purpose of expressing that a law relative to the chief or superior of an office shall apply to Official chiefs and subordinates.
- Act I. of 1868, s. 2 (13).
Act X. of 1882.
Act I. of 1868, s. 2 (18).
Act XLV. of 1860.
New.
Act XLV. of 1860.
Act I. of 1868, s. 2 (5).
Act I. of 1868, s. 2 (6).
Bo. Act VI. of 1867, s. 15.
Bo. Act VII. of 1873, s. 1.
Bo. Act VI. of 1879, s. 3 (3).
Act VI. of 1884, s. 5 (1).
Act I. of 1868, s. 2 (17).
Act X. of 1882, s. 4 (e).
Act I. of 1868, s. 2 (15).
Act I. of 1868, s. 3 (2) and (3).
Act I. of 1868, s. 3 (4).

to the deputies or subordinates lawfully executing the duties of such office in the place of their superior, it shall be sufficient to prescribe the duty of the superior.

I. of 1868, 5. For the purpose of indicating the relation of a law to the successors of any functionaries, or of corporations having perpetual succession, it shall be sufficient to express its relation to the functionaries or corporations.

I. of 1868, (6). 6. For the purpose of indicating the application of a law to every person or number of persons for the time being executing the functions of an office, it shall be sufficient to mention the official title of the officer at present executing such functions, or that of the officer by whom the functions are commonly executed.

I. of 1868, (1). Act X. of 1866, s. 2. 7. No provision of any Regulation or Act which has been repealed shall be deemed to be revived by any enactment of the Governor of Bombay in Council, unless such intention is expressly stated in the enactment.

I. of 1868. 8. The repeal of any Regulation or Act by any enactment of the Governor of Bombay in Council shall not, unless a contrary intention is expressed, be deemed to affect anything done or any offence committed or any fine or penalty incurred or any proceeding commenced before the repealing enactment came or comes into force.

Act X. of 1866, s. 4. 9. Whenever in any enactment of the Governor of Bombay in Council or in any rule passed under any such enactment it is directed that any order, notification or other matter shall be notified or published, such notification or publication shall, unless the enactment otherwise provides, be deemed to be duly made if it is published in the *Bombay Government Gazette*.

Act X. of 1866, s. 7. 10. Whenever in any Act of the Governor of Bombay in Council no time is mentioned at which the same shall come into force, such Act shall be deemed to have come into force or shall come into force, as the case may

be, upon the first publication by the Governor of Bombay of the assent of the Governor General of India thereto.

In every such Act the date of the said publication shall be printed either above or below the title of the Act and shall form part of such Act.

11. Whenever by any enactment of the Governor of Bombay in Council, Government is empowered to extend or apply an Act or any provision of an Act to any place, or to any portion

of the presidency of Bombay, the Government may, in any order extending or applying such Act or provision, or in a subsequent order, notify the time at which the same shall come into force in the place or portion of the presidency to which it is so extended or applied;

and, unless it is otherwise provided in the Act, Government may, by notification in the *Bombay Government Gazette*, from time to time postpone the time at which the Act or provision shall come into force in such place or portion of the presidency, or cancel the order for extending or applying the same to such place or portion of the presidency.

Provided that no order postponing the time at which an Act or provision shall come into force, or cancelling an order for extending or applying the same, shall be made after the Act or provision has actually come into force in the place or portion of the presidency to which such order relates.

12. The provisions of sections sixty-three and sixty-eight of the Indian Penal Code applicable to fines, inclusive, of the Indian Penal Code shall be deemed to apply to every fine imposable under any enactment of the Governor of Bombay in Council, unless a contrary intention is expressed in the enactment or appears from the subject or context.

13. Sections three to twelve, both inclusive, apply to all enactments of the Governor of Bombay in Council now in force or which shall hereafter at any time be in force.

SCHEDULE A.

Acts of the Governor of Bombay in Council repealed.

Number and year.	Subject or Short Title.	Extent of repeal
IV. of 1862	Markets and Fairs	Section 11.
VI. of 1862	Relief of Ahmedabad Talukdars.	Section 21, cls (2) and (3).
I. of 1863	Registry of Vessels, on Indus.	Section 18.
II. of 1863	Summary Settlement of claims to exemption from land-revenue.	Section 16, cl. (a).
V. of 1863	Gas Company	So much of section 28 as relates to words importing the singular or the plural number or the masculine gender; and the definitions, in the same section, of the words "person" and "Magistrate."
VII. of 1863	Summary Settlement of claims to exemption from land-revenue.	Section 32, cl. (a).
III. of 1865	Avoiding of Wagers	Section 5.
VII. of 1866	Hindu Heirs' Relief Act.	The latter part of section 7, commencing with and inclusive of the words "and unless."
VIII. of 1866	Sale of Poisons	In section 2, the definitions of the words "month" and "person."
X. of 1866	General Clauses Act	The whole Act.
VI. of 1867	Sanitary regulation of city of Bombay.	Section 15.
VII. of 1867	Bombay District Police Act.	In section 1 the definitions of "Magistrate of the district" and "Magistrate."
II. of 1871	Duties on Non-agricultural classes.	In section 1 the definition of "Collector."
VI. of 1873	Bombay District Municipal Act.	In section 3 the definitions of "Collector," "Magistrate of the district" and "Magistrate."
VII. of 1873	Salt revenue	In section 1 the definition of "vessel."
II. of 1876	Bombay City Land-revenue.	In section 3 the definition of "Collector."
III. of 1878	Bombay License Act	Section 2.
V. of 1878	Bombay Abkari Act	Section 57.
IV. of 1879	Karachi Vaccination Act.	Section 28.
V. of 1879	Bombay Land Revenue Code.	Section 3, cls. (22) and (23).
VI. of 1879	Bombay Port Trust Act.	Section 3, cl. (3).
I. of 1880	Khoti Settlement Act	Section 3, cl. (11).
I. of 1884	Bombay Local Boards Act.	Section 3, cl. (2).

SCHEDULE B.

Verbal amendments made in the Regulations and Acts of the Governor of Bombay in Council.

Enactment.			Words repealed.	Words, if any, substituted for the words repealed.
No. and year.	Section.	Clause.		
REGULATIONS				
XII. of 1827	19	1	"Magistrate"	"District Magistrate."
	"	6	"the Magistrate" (the first time the words occur).	"the District Magistrate."
	"	"	"the Magistrate" (the second time the words occur).	"any Magistrate."
	"	"	"ordinary"	"simple."
	"	"	"without labour"	"
	"	7	"Magistrate" (the first time the word occurs).	"District Magistrate."
	"	"	"Magistrate" (the second time the word occurs).	"Magistrate before whom proceedings against such individual are being held."
	"	8	"The Magistrate shall also."	"Any Magistrate may."
	20	...	"Magistrate"	"District Magistrate."
	27	2	"Magistrate" (each time the word occurs).	"District Magistrate."
	"	"	"ordinary"	"simple."
	"	"	"without hard labour"	"
	37	1	"Magistrate"	"District or Sub-divisional Magistrate."
XXII. of 1827	19	...	"the Magistrate"	"a Magistrate."
	21	1	"local"	"District."
	"	2	"Magistrate"	"District Magistrate"
	40	...	"Magistrate"	"District Magistrate."
	41	1	"local"	"District."
	42	1	"local"	"District."
	42	2, 3, 4	"Magistrate" (each time the word occurs)	"District Magistrate."
XXV of 1827	4	2	"Magistrate" (both times the word occurs).	"District Magistrate"
	7	...	"Magistrate"	"District Magistrate"
ACTS.				
I. of 1862	...	1	"annexed to this Act."	"
IV. of 1862	...	1	"the Magistrate" (the second time the words occur).	"a Magistrate of the first class."
	"	...	"calendar"	"
	6	...	"Magistrate"	"District Magistrate."
	"	...	"this Act"	"section four"
	"	...	"of Police"	"
	7	...	"of either kind"	"
	"	...	"calendar"	"
	10	...	"Magistrate"	"District Magistrate."
	"	...	"of Police"	"
V. of 1862	...	3	"calendar"	"
VI. of 1862	8 and 9	...	"calendar" (each time the word occurs).	"
	21	...	"The following words and expressions."	"
	"	...	"shall have the meanings hereby assigned to them"	"
	"	...	"(that is to say)"	"
I of 1863	...	6	"Justice of the Peace or person exercising the powers of a Magistrate within the province of Sind."	"of the first class."
	12	...	Do.	Do.

SCHEDULE B—continued.

Enactment.			Words repealed.	Words, if any, substituted for the words repealed.
No. and year.	Section.	Clause.		
<i>ACTS—continued.</i>				
II. of 1863	11	...	"of this Act"	.....
	2	...	"of this Act" (the first time the words occur).	.....
	3, 4, 5, 7, 8, 10, 11 and 13.	...	"of this Act" (each time the words occur).	.....
	4, 5 and 11.	...	"calendar" (each time the word occurs).	.....
	5 and 11.	...	"collectorate or" (each time the words occur).	.....
	11	4	"collectorate"	"district."
	"	6	"collectorate" (each time the word occurs).	"district"
III. of 1863	1 and 2	...	"to this Act" (each time the words occur).	.....
V. of 1863	20	...	"of this Act"	.....
VI. of 1863	6, 9 and 11	...	"of this Act" (each time the words occur).	.....
	36	...	The last thirteen words of the section.	.....
VII. of 1863	6	...	"of this Act" (the first time the words occur).	.....
	7, 8, 9, 11, 12, 13 and 26.	..	"of this Act" (each time the words occur).	.....
	9	1 and 2	"collectorate or" (each time the words occur).	.....
VII. of 1863	"	3, 4, 6 and 7	"collectorate" (each time the word occurs).	"district."
	"	8	"calendar."	.....
	"	9	"Revenue"	.....
	"	9	"of the division"	.....
	12	...	"or Sub-Collector"	.....
III. of 1866	20	2	"annexed"	.....
	2	..	"of this Act" (the first time the words occur).	.....
VII. of 1866	3, 4 and 11	...	"either simple or rigorous" (each time the words occur)	.....
	"	...	"calendar" (each time the word occurs).	.....
	8 and 10	...	"of this Act"	.....
VIII. of 1866	6	...	"of this Act"	.....
VIII. of 1866	2	...	"to this Act annexed"	.....
	3, 4 and 13.	...	"annexed to this Act" (each time the words occur).	.....
	18 and 19.	..	"of this Act" (each time the words occur).	.....
XII. of 1866	13	...	"or solemn affirmation"	.....
	14	...	"or solemn affirmations"	.....
	"	...	"or affirmed"	.....
XIII. of 1866	15	...	"annexed to this Act"	.....
	2, 3	...	"or affirmation" (each time the words occur in either section).	.....
III. of 1867	4	...	"the provisions of section 23 of";	.....
	"	...	"Magistrate" (the first time the word occurs);	"Magistrate of the first class."
	"	...	"and within the limits" and all the following words to the end of the section.	.....

SCHEDULE B—continued.

Enactment.			Words repealed.	Words, if any, substituted for the words repealed.
No. and year.	Section.	Clause.		
Acts—continued.				
	5	...	"exercise the powers of a Magistrate within the meaning and for the purpose of the Code of Criminal Procedure and when it shall have been so notified by the Government, he shall".	.. ..
	6	...	"the provisions of section 23 of";	.....
	"	...	"Subordinate Magistrate of the 1st or 2nd class";	"Magistrate of the second or third class."
	"	...	the last sixteen words of the section;	.....
	11	...	"with or without labour." ..	.....
	11, 12, 13, 18, 19, 20, 24 and 25.	..	"of this Act" (each time the words occur).	.....
III. of 1867	14	...	"be imprisoned without labour"	"simple imprisonment."
	"	...	"calendar"	.....
	17	...	"of this Act" (the second time the words occur).	.....
	21	...	"with or without hard labour."	.. ..
	23	..	"with or without hard labour"	.. ..
	"	...	"calendar"	.....
VI. of 1867	5, 9 and 10.	...	"of this Act" (each time the words occur).	.....
VII. of 1867	6	..	"full";	.....
	"	...	"Magistrate"	"Magistrate of the first class."
	7	...	"all or any of the powers of a Magistrate."	"magisterial powers."
	8, 29 and 34.	...	"of this Act" (each time the words occur).	.....
	25, 26 and 29.	...	"of either kind" (each time the words occur).	.. ..
	34	..	"full-power Magistrate"	"Magistrate of the first class."
	39	..	"calendar" (each time the word occurs)	.....
	44	...	"of Police"	.....
VIII of 1867	3, 4, 5, 15 and 18.	...	"of Police" (wherever in the said sections those words follow the word "Commissioner").	.....
	5 and 9	..	"Police" (in each place in which the word precedes the word "Commissioner").	.....
	18	...	"of this Act"	.....
II. of 1868	17	...	"Revenue or Police"	.. ..
III. of 1869	8	..	"of this Act"	.....
II. of 1871	6	..	"hereto annexed"	.. ..
I. of 1872	6 and 7	..	"the Local" (each time these words occur).	.....
III of 1872	2	Definition of "Magistrate."	"all persons exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure in force for the time being, as well as any."	"a."

SCHEDULE B—continued.

Enactment.			Words repealed.	Words, if any, substituted for the words repealed.
No. and year.	Section.	Clause.		
<i>ACTS—continued.</i>				
V of 1873	5	...	The last three words	.....
	8	...	"hereunto annexed"	.....
	"	...	"to this Act annexed"	.....
V of 1873	9, 10, 23 and 24.	...	"of this Act" (each time the words occur).	.....
	22	...	"of this Act" (the first time the words occur).	.....
	"	...	"of either description"	.....
VI. of 1873	61, " 74	...	"of this Act" (each time the words occur)	.....
	and 75.	...	"of this Act" (each time the words occur).	.....
VII. of 1873	30, 34, 37, 38, 56 and 60.	...	"of this Act" (each time the words occur).	.....
	33	2	The last three words	.....
	49, 51, 52, 54, 55.	...	"of either description, as defined in the Indian Penal Code" (in each place in which those words occur).	.....
	53	...	"of either description"	.....
	60	...	"or affirmation"	.....
I. of 1874	In the preamble.	...	"to this Act"	.....
	4	...	The last three words	.....
	13	...	"of this Act" (the first time the words occur).	.....
	14	...	"of this Act"	.....
	29	...	"calendar"	.....
II. of 1874	15, 33, 35 and 38.	...	"of this Act" (each time the words occur).	.....
III. of 1874	3, 4, 6, 7, 10, 11, 12, 13, 21, 31, 37, 38, 39, 44, 47, 50, 53, 55, 59, 67, 73, 75, 76 and 83.	...	"of this Act" (each time the words occur).	.....
	6	1	"Revenue" (each time the word occurs).	.....
	20	...	"of this Act" (the first time the words occur).	.....
	40	1	The last three words	.....
	73	2	"thereof"	.....
	74	...	"revenue"	.....
III. of 1874	74	...	"appointed under Regulation V. of 1830, or other law in force for the time being."	.....
	77	...	"empowered under the provisions of Bombay Act I. of 1868."	.....
	"	...	"so empowered"	.....
	84	...	"Revenue"	.....
III. of 1875	7	...	"of either description"	.....
	"	...	"calendar"	.....

SCHEDULE B—continued.

Enactment.			Words repealed.	Words, if any, substituted for the words repealed.
No. and year.	Section.	Clause.		
<i>Acts—continued.</i>				
II. of 1876	14, 16, 18, and 33.	.	"of this Act" (each time these words occur).	.....
	16.	...	"hereunto annexed"	.....
	31	...	"annexed to this Act"	.....
III. of 1876	15	...	"of this Act"	.....
I. of 1877	3, 9, 16, 17, and 25.	...	"of this Act" (each time the words occur).	.....
	9, 10, 11, 14, 15, 17 and 18.	...	"hereto annexed" (each time the words occur).	.....
	12	(b)	"of this Act."	.....
	19	...	"of this Act" (the first time the words occur).	.....
	23	(b)	"of this Act"	.....
	20 and 24	...	"of either description within the meaning of the Indian Penal Code" (in each place in which these words occur).	.....
	28	..	"The provisions of sections 64 to 70, both inclusive, of the Indian Penal Code shall apply to";	.....
V. of 1878	3	3	"and all such fines"	.....
	3	4	"means, in Sind, the Commissioner in Sind, and elsewhere a Commissioner of land-revenue, or if Government appoint any other officer to be a Commissioner for the purposes of this Act, such other officer."	"includes an officer appointed by Government to be a Commissioner for the purposes of this Act."
	3	4	"means a collector of land-revenue or."	"includes."
	45 and 50	...	"of this Act" (each time the words occur).	.....
IV. of 1879	3	...	The last three words	.....
	9, 10, 11, 14, 15, 17 and 18	...	"hereto annexed" (each time the words occur).	.....
	9, 16, 17, and 25	...	"of this Act" (each time the words occur).	.....
	12	(b)	"of this Act"	.....
	19	..	"of this Act" (the first time the words occur).	.....
	20 and 24	...	"of either description within the meaning of the Indian Penal Code" (in each place in which the words occur).	.....
V. of 1879	23	(b)	"of this Act"	.....
	2	...	"hereto annexed"	.....
	3	2	"of this Act"	.....
	10, 13, 18, 38, 86, 87, 161 and 216.	...	"of this Act" (each time the words occur).	.....
	23	...	"to this Act"	.....
	214	(h)	"of this Act"	.....
	215	...	"of either description within the meaning of the Indian Penal Code."	.....

SCHEDULE B—concluded.

Enactment.			Words repealed.	Words, if any, substituted for the words repealed.
No. and year.	Section.	Clause.		
<i>Acts—continued.</i>				
VI. of 1879	... 21 and 34	...	"of this Act" ...	.....
VII. of 1879	... 3	... 5	"means the head revenue officer of a district and."	.....
	... 57	...	"of this Act" ...	.....
	61 and 62	...	"of either description within the meaning of the said Code" (in each place in which these words occur).	.....
	... 67	...	"of the division" ...	.....
I. of 1880	... 3	... 7	"hereto annexed" ...	.....
	17 and 18	...	"of this Act" (each time the words occur)	.....
	... 33	(b)	"hereto annexed" ...	.....
I. of 1883	... 3, 5 and 8	...	"of this Act" (each time the words occur).	.....
	... 3	...	"annexed to this Act" ...	.....
II. of 1883	... In the preamble	...	"to this Act" ...	.....
	... 4	...	"to this Act" ...	.....
	... 17	...	"of this Act" (the first time the words occur)	.....
I. of 1884	... 2	...	"hereto annexed" ...	.....
II. of 1884	... 3	...	"hereto annexed" ...	.....
	3, 4 and 5	...	"of this Act" (each time the words occur).	.....

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

A. SHEWAN,

Acting Secretary to the Council of the Governor of
Bombay for making Laws and Regulations.

Poona, 23rd September 1886.

- (3) "person" includes a company or association or body of individuals, whether incorporated or not;
"Person."
- (4) "year" and "month" mean, respectively, a year and a month reckoned according to the British calendar;
"Year" and "Month."
- (5) "British India" means the territories for the time being vested in Her Majesty by the Statute 21 and 22 Victoria, Chapter 106 (*an Act for the better Government of India*), other than the settlement of Prince of Wales' Island, Singapore and Malacca;
"British India."
- (6) "presidency of Bombay" means the territories within British India for the time being under the administration of the Governor of Bombay in Council;
"Presidency of Bombay."
- (7) "city of Bombay" means the area within the local limits for the time being of the ordinary original civil jurisdiction of the Bombay High Court of Judicature;
"City of Bombay."
- (8) "Her Majesty" includes Her heirs and successors to the Crown;
"Her Majesty"
- (9) "Government of India" means the Governor General of India in Council, or, during the absence of the Governor General of India from his Council, the President in Council, or the Governor General of India alone, in respect of the powers which may be lawfully exercised by them or him respectively;
"Government of India."
- (10) "Government" means the Governor of Bombay in Council;
"Government."
- (11) "Commissioner" means, in Sind, the Commissioner in Sind, and elsewhere the Commissioner of a division appointed under the Bombay Land Revenue Code, 1879, or any other law for the time being in force in this behalf;
"Commissioner."
- (12) "Collector" means, in the city of Bombay, the Collector of Bombay, and elsewhere, the chief local officer in charge of the revenue administration of a district;
"Collector"
- (13) "Magistrate" means any person exercising magisterial powers under the Code of Criminal Procedure; 1882.
"Magistrate."
- (14) "imprisonment" means imprisonment of either description as defined in the Indian Penal Code; 1860.
"Imprisonment"
- (15) "to abet" means to abet within the meaning of that term as defined in the Indian Penal Code. 1860.
"To abet"
- (16) "immoveable property" includes land, benefits arising out of land, and things attached to the earth or permanently fastened to anything attached to the earth;
"Immoveable property."
- (17) "moveable property" means property of every description, except immoveable property;
"Moveable property."
- (18) "vessel" means anything made for the conveyance by water of human beings or of property;
"Vessel."
- (19) in every case in which a person is by law allowed to affirm or to declare instead of swearing, "oath" includes an affirmation, and "affidavit" includes a declaration, and to "swear" includes to affirm or declare;
"Oath," "affidavit," "swear"
- (20) "writing" and "written" include printing, lithography, photography, engraving, and every other mode in which words or figures can be expressed on paper or on any substance;
"Writing," "written"
- (21) "chapter", "part", "section", "Chapter", "Part", and "schedule" "Section" and "Schedule" mean, respectively, a chapter, part or section of, and a schedule annexed to, the enactment in which the word occurs;
- (22) "from" and "to", when used with reference to a series of days or other periods of time, respectively, exclude and include the first and the last of the days or other periods in such series.
"From" and "To"
4. For the purpose of expressing that a law relative to the chief or superior of an office shall apply to Official chiefs and subordinates.

to the deputies or subordinates lawfully executing the duties of such office in the place of their superior, it shall be sufficient to prescribe the duty of the superior.

5. For the purpose of indicating the relation of a law to the successors of any functionaries, or of corporations having perpetual succession, it shall be sufficient to express its relation to the functionaries or corporations.

6. For the purpose of indicating the application of a law to every person or number of persons for the time being executing the functions of an office, it shall be sufficient to mention the official title of the officer at present executing such functions, or that of the officer by whom the functions are commonly executed.

7. No provision of any Regulation or Act which has been repealed shall be deemed to be revived by any enactment of the Governor of Bombay in Council, unless such intention is expressly stated in the enactment.

8. The repeal of any Regulation or Act by any enactment of the Governor of Bombay in Council shall not, unless a contrary intention is expressed, be deemed to affect anything done or any offence committed or any fine or penalty incurred or any proceeding commenced before the repealing enactment came or comes into force.

9. Whenever in any enactment of the Governor of Bombay in Council or in any rule passed under any such enactment it is directed that any order, notification or other matter shall be notified or published, such notification or publication shall, unless the enactment otherwise provides, be deemed to be duly made if it is published in the *Bombay Government Gazette*.

10. Whenever in any Act of the Governor of Bombay in Council no time is mentioned at which the same shall come into force, such Act shall be deemed to have come into force or shall come into force, as the case may

be, upon the first publication by the Governor of Bombay of the assent of the Governor General of India thereto.

In every such Act the date of the said publication shall be printed either above or below the title of the Act and shall form part of such Act.

11. Whenever by any enactment of the Governor of Bombay in Council, Government is empowered to extend or apply an Act or any provision of an Act to any place in, or to any portion of the presidency of Bombay, the Government may, in any order extending or applying such Act or provision, or in a subsequent order, notify the time at which the same shall come into force in the place or portion of the presidency to which it is so extended or applied;

and, unless it is otherwise provided in the Act, Government may, by notification in the *Bombay Government Gazette*, from time to time postpone the time at which the Act or provision shall come into force in such place or portion of the presidency, or cancel the order for extending or applying the same to such place or portion of the presidency;

Provided that no order postponing the time at which an Act or provision shall come into force, or cancelling an order for extending or applying the same, shall be made after the Act or provision has actually come into force in the place or portion of the presidency to which such order relates.

12. The provisions of sections sixty-three and sixty-eight of the Indian Penal Code applicable to fines, to seventy, both inclusive, of the Indian Penal Code shall be deemed to apply to every fine imposable under any enactment of the Governor of Bombay in Council, unless a contrary intention is expressed in the enactment or appears from the subject or context.

13. Sections three to twelve, both inclusive, apply to all enactments of the Governor of Bombay in Council now in force or which shall hereafter at any time be in force.

SCHEDULE A.

Acts of the Governor of Bombay in Council repealed.

Number and year.	Subject or Short Title.	Extent of repeal.
IV. of 1862 ..	Markets and Fairs ...	Section 11.
VI. of 1862 ..	Relief of Ahmedabad Talukdars.	Section 21, cls. (2) and (3).
I. of 1863 ...	Registry of Vessels on Indus.	Section 18.
II. of 1863 ...	Summary Settlement of claims to exemption from land-revenue.	Section 16, cl. (a).
V. of 1863 ...	Gas Company	So much of section 28 as relates to words importing the singular or the plural number or the masculine gender; and the definitions, in the same section, of the words "person" and "Magistrate."
VII. of 1863 ...	Summary Settlement of claims to exemption from land-revenue.	Section 32, cl. (a).
III. of 1865 ...	Avoiding of Wagers ..	Section 5.
VII. of 1866 ...	Hindu Heirs' Relief Act.	The latter part of section 7, commencing with and inclusive of the words "and unless."
VIII. of 1866 ...	Sale of Poisons	In section 2, the definitions of the words "month" and "person."
X of 1866 ...	General Clauses Act ...	The whole Act.
VI. of 1867 ...	Sanitary regulation of city of Bombay.	Section 15.
VII. of 1867 ...	Bombay District Police Act.	In section 1 the definitions of "Magistrate of the district" and "Magistrate."
II. of 1871 ...	Duties on Non-agricultural classes.	In section 1 the definition of "Collector."
VI. of 1873 ...	Bombay District Municipal Act.	In section 3 the definitions of "Collector," "Magistrate of the district" and "Magistrate."
VII. of 1873 ...	Salt revenue	In section 1 the definition of "vessel."
II. of 1876 ...	Bombay City Land-revenue.	In section 3 the definition of "Collector."
III. of 1878 ...	Bombay License Act ...	Section 2.
V. of 1878 ...	Bombay Abkari Act ...	Section 57.
IV. of 1879 ...	Karachi Vaccination Act.	Section 28.
V. of 1879 ..	Bombay Land Revenue Code.	Section 3, cls. (22) and (23).
VI. of 1879 ...	Bombay Port Trust Act.	Section 3, cl. (3).
I. of 1880 ...	Khota Settlement Act ..	Section 3, cl. (11).
I. of 1884 ...	Bombay Local Boards Act.	Section 3, cl. (2).

SCHEDULE B.

Verbal amendments made in the Regulations and Acts of the Governor of Bombay in Council.

Enactment.			Words repealed.	Words, if any, substituted for the words repealed.	
No. and year.	Section.	Clause			
REGULATIONS.					
XII. of 1827	19	1	"Magistrate"	"District Magistrate."	
	"	6	"the Magistrate" (the first time the words occur)	"the District Magistrate"	
	"	"	"the Magistrate" (the second time the words occur).	"any Magistrate"	
	"	"	"ordinary"	"simple."	
	"	"	"without labour"	"..."	
	"	7	"Magistrate" (the first time the word occurs).	"District Magistrate."	
	"	"	"Magistrate" (the second time the word occurs).	"Magistrate before whom proceedings against such individual are being held."	
	"	8	"The Magistrate shall also."	"Any Magistrate may."	
	"	20	"Magistrate"	"District Magistrate"	
	"	27	2	"Magistrate" (each time the word occurs).	"District Magistrate."
	"	"	"	"ordinary"	"simple."
	"	37	1	"without hard labour"	"..."
XXII of 1827	19	"	"Magistrate"	"District or Sub-divisional Magistrate."	
	21	1	"local"	"a Magistrate."	
	"	2	"Magistrate"	"District."	
	40	"	"Magistrate"	"District Magistrate"	
	41	1	"local"	"District Magistrate."	
	42	1	"local"	"District."	
	42	2, 3, 4	"Magistrate" (each time the word occurs)	"District."	
XXV of 1827	4	2	"Magistrate" (both times the word occurs).	"District Magistrate"	
	7	"	"Magistrate"	"District Magistrate"	
Acts.					
I. of 1862	1	"	"annexed to this Act"	"..."	
IV. of 1862	1	"	"the Magistrate" (the second time the words occur).	"a Magistrate of the first class."	
	"	"	"calendar"	"..."	
	6	"	"Magistrate"	"District Magistrate."	
	"	"	"this Act"	"section four."	
	"	"	"of Police"	"..."	
	"	7	"	"of either kind"	"..."
	"	10	"	"calendar"	"..."
V of 1862	3	"	"Magistrate"	"District Magistrate."	
	"	"	"of Police"	"..."	
VI. of 1862	8 and 9	"	"calendar" (each time the word occurs)	"..."	
	21	"	"The following words and expressions."	"..."	
	"	"	"shall have the meanings hereby assigned to them."	"..."	
I of 1863	6	"	"(that is to say)"	"..."	
	"	"	"Justice of the Peace or person exercising the powers of a Magistrate within the province of Sind."	"of the first class."	
	12	"	Do.	Do.	

SCHEDULE B—continued.

Enactment.			Words repealed.	Words, if any, substituted for the words repealed.
No. and year.	Section.	Clause.		
<i>ACTS—continued.</i>				
II. of 1863	11 2	...	"of this Act"	.....
	3, 4, 5, 7, 8, 10, 11 and 13	....	"of this Act" (the first time the words occur).	.....
	4, 5 and 11.	..	"of this Act" (each time the words occur).	.....
	5 and 11.	...	"calendar" (each time the word occurs).	.....
	11	4	"collectorate or" (each time the words occur).	.....
	"	6	"collectorate" (each time the word occurs).	"district."
III. of 1863	1 and 2	...	"collectorate" (each time the word occurs).	"district"
V. of 1863	20	...	"to this Act" (each time the words occur).	.....
VI. of 1863	6, 9 and 11	...	"of this Act"	.....
	36	...	"of this Act" (each time the words occur).	.....
VII. of 1863	6	...	The last thirteen words of the section.	.....
	7, 8, 9, 11, 12, 13 and 26.	...	"of this Act" (the first time the words occur).	.....
	9	1 and 2	"of this Act" (each time the words occur).	.....
	"	3, 4, 6 and 7	"collectorate or" (each time the word occurs).	"district."
	"	8	"calendar."	.....
VII. of 1863	9	9	"Revenue"	.....
	12	...	"of the division"	.....
	20	2	"or Sub-Collector"	.....
III. of 1866	2	...	"annexed"	.....
	3, 4 and 11	...	"of this Act" (the first time the words occur).	.....
	"	...	"either simple or rigorous" (each time the words occur)	.....
	"	...	"calendar" (each time the word occurs).	.....
VII. of 1866	8 and 10	...	"of this Act"	.....
VIII. of 1866	6	...	"of this Act"	.....
	2	...	"to this Act annexed"	.....
	3, 4 and 13.	...	"annexed to this Act" (each time the words occur).	.....
	18 and 19.	..	"of this Act" (each time the words occur).	.....
XII. of 1866	13	...	"or solemn affirmation"	.....
	14	...	"or solemn affirmations"	.....
	"	...	"or affirmed"	.....
	15	...	"annexed to this Act"	.....
XIII. of 1866	2, 3	...	"or affirmation" (each time the words occur in either section).	.....
III. of 1867	4	...	"the provisions of section 23 of";	.....
	"	...	"Magistrate" (the first time the word occurs);	"Magistrate of the first class."
	"	...	"and within the limits" and all the following words to the end of the section.	.....

SCHEDULE B—continued.

Enactment.			Words repealed.	Words, if any, substituted for the words repealed.
No and year.	Section.	Clause.		
ACTS—continued.				
	5	...	"exercise the powers of a Magistrate within the meaning and for the purpose of the Code of Criminal Procedure and when it shall have been so notified by the Government, he shall"	.....
	6	...	"the provisions of section 23 of";	.....
	"	...	"Subordinate Magistrate of the 1st or 2nd class";	"Magistrate of the second or third class."
	"	...	the last sixteen words of the section;	.....
	11	...	"with or without labour."	.....
	11, 12, 13, 18, 19, 20, 24 and 25.	...	"of this Act" (each time the words occur).	.....
III. of 1867	14	...	"be imprisoned without labour"	"simple imprisonment."
	"	...	"calendar"	.....
	17	...	"of this Act" (the second time the words occur).	.....
	21	...	"with or without hard labour"	.....
	23	...	"with or without hard labour."	.....
	"	...	"calendar"	.....
VI. of 1867	5, 9 and 10.	...	"of this Act" (each time the words occur).	.....
VII. of 1867	6	...	"full";	.....
	"	...	"Magistrate"	"Magistrate of the first class."
	7	...	"all or any of the powers of a Magistrate."	"magisterial powers."
	8, 29 and 34.	...	"of this Act" (each time the words occur).	.....
	25, 26 and 29.	...	"of either kind" (each time the words occur).	.....
	34	...	"full-power Magistrate"	"Magistrate of the first class."
	39	...	"calendar" (each time the word occurs).	.....
	44	...	"of Police"	.....
VIII. of 1867	3, 4, 5, 15 and 18	...	"of Police" (wherever in the said sections those words follow the word "Commissioner").	.....
	5 and 9	...	"Police" (in each place in which the word precedes the word "Commissioner").	.....
	18	...	"of this Act"	.....
II of 1868	17	...	"Revenue or Police"	.....
III. of 1869	8	...	"of this Act"	.....
II. of 1871	6	...	"hereto annexed"	.....
I. of 1872	6 and 7	...	"the Local" (each time these words occur).	.....
III of 1872	2	Definition of "Magistrate."	"all persons exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure in force for the time being, as well as any."	"a."

SCHEDULE B—continued.

Enactment.			Words repealed.	Words, if any, substituted for the words repealed.
No. and year.	Section.	Clause.		
<i>ACTS—continued</i>				
V. of 1873	5	...	The last three words	.....
	8	...	"hereunto annexed"	.....
		...	"to this Act annexed"	.....
V. of 1873	9, 10, 23 and 24.	...	"of this Act" (each time the words occur).	.....
	22	...	"of this Act" (the first time the words occur).	.....
		...	"of either description"	.....
VI. of 1873	61, 74 and 75.	...	"of this Act" (each time the words occur).	.....
VII. of 1873	30, 34, 37, 38, 56 and 60.	...	"of this Act" (each time the words occur).	.....
	33	2	The last three words	.....
	49, 51, 52, 54, 55.	...	"of either description, as defined in the Indian Penal Code" (in each place in which those words occur).	.....
	53	...	"of either description"	.....
	60	...	"or affirmation"	.....
I. of 1874	In the pre- amble.	...	"to this Act"	.....
	4	...	The last three words	.....
	13	...	"of this Act" (the first time the words occur).	.....
	14	...	"of this Act"	.....
	29	...	"calendar"	.....
II. of 1874	15, 33, 35 and 38.	...	"of this Act" (each time the words occur).	.....
III. of 1874	3, 4, 6, 7, 10, 11, 12, 13, 21, 31, 37, 38, 39, 44, 47, 50, 53, 55, 59, 67, 73, 75, 76 and 83.	...	"of this Act" (each time the words occur).	.....
	6	1	"Revenue" (each time the word occurs).	.....
	20	...	"of this Act" (the first time the words occur).	.....
	40	1	The last three words	.....
	73	2	"thereof"	.....
	74	...	"revenue"	.....
III. of 1874	74	...	"appointed under Regulation V, of 1830, or other law in force for the time being."	.....
	77	...	"empowered under the provisions of Bombay Act I. of 1868."	.....
	"	...	"so empowered"	.....
III. of 1875	84	...	"Revenue"	.....
	7	...	"of either description"	.....
	"	...	"calendar"	.....

SCHEDULE B—continued.

Enactment.			Words repealed.	Words, if any, substituted for the words repealed.
No. and year.	Section.	Clause.		
<i>Acts—continued.</i>				
II. of 1876	14, 16, 18, and 33.	...	"of this Act" (each time these words occur).	.....
	16	...	"hereto annexed	.....
	31	...	"annexed to this A "	.....
III. of 1876	15	...	"of this Act "	.....
I. of 1877	3, 9, 16, 17, and 25.	...	"of this Act" (each time the words occur).	.....
	9, 10, 11, 14, 15, 17 and 18.	...	"hereto annexed" (each time the words occur).	.....
	12	(b)	"of this Act."	.....
	19	...	"of this Act" (the first time the words occur)	.....
	23	(b)	"of this Act "	.....
	20 and 24	...	"of either description within the meaning of the Indian Penal Code" (in each place in which these words occur).	.....
	23	...	"The provisions of sections 64 to 70, both inclusive, of the Indian Penal Code shall apply to",	.....
V. of 1878	3	3	"and all such fines"	.....
	3	4	"means, in Sind, the Commissioner in Sind, and elsewhere a Commissioner of land-revenue, or if Government appoint any other officer to be a Commissioner for the purposes of this Act, such other officer."	"includes an officer appointed by Government to be a Commissioner for the purposes of this Act."
	45 and 50	...	"means a collector of land-revenue or "	"includes."
IV. of 1879	3	...	"of this Act" (each time the words occur).	.....
	9, 10, 11, 14, 15, 17 and 18.	...	The last three words.	.....
	9, 16, 17, and 25	...	"hereto annexed" (each time the words occur).	.....
	12	(b)	"of this Act" (each time the words occur).	.....
	19	...	"of this Act "	.....
	20 and 24	..	"of this Act" (the first time the words occur).	.....
	23	(b)	"of either description within the meaning of the Indian Penal Code" (in each place in which the words occur).	.....
V. of 1879	2	...	"of this Act "	.....
	3	2	"hereto annexed "	.....
	10, 13, 18, 38, 86, 87, 161 and 216.	...	"of this Act "	.....
	23	...	"of this Act" (each time the words occur).	.....
	214	(h)	"to this Act "	.....
	215	...	"of this Act "	.....
		...	"of either description within the meaning of the Indian Penal Code."	.....

SCHEDULE B—concluded.

Enactment.			Words repealed.	Words, if any, substituted for the words repealed.
No. and year.	Section.	Clause.		
<i>Acts—continued.</i>				
VI. of 1879	... 21 and 34	...	"of this Act" ...	.....
VII. of 1879	... 3	... 5	"means the head revenue officer of a district and."	.....
	... 57	...	"of this Act" ...	.....
	... 61 and 62	...	"of either description within the meaning of the said Code" (in each place in which these words occur).	.....
	... 67	...	"of the division"	.....
I. of 1880	... 3	... 7	"hereto annexed" ...	.....
	... 17 and 18	...	"of this Act" (each time the words occur).	.....
	... 33	(b)	"hereto annexed" ...	.....
I. of 1883	... 3, 5 and 8	...	"of this Act" (each time the words occur)	.....
	... 8	...	"annexed to this Act" ...	.....
II. of 1883	... In the preamble	...	"to this Act" ...	.....
	... 4	...	"to this Act" ..	.....
	... 17	...	"of this Act" (the first time the words occur);	.....
I. of 1884	... 2	...	"hereto annexed" ...	.....
II. of 1884	... 3	...	"hereto annexed" ...	.....
	... 3, 4 and 5	...	"of this Act" (each time the words occur).	.....

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

A. SHEWAN,

Acting Secretary to the Council of the Governor of
Bombay for making Laws and Regulations.

Poona, 23rd September 1886.

THE



Bombay Government Gazette.

Published by Authority.

THURSDAY, 30TH SEPTEMBER 1886.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 24th September 1886, and is hereby promulgated for general information:—

Act No. XVIII of 1886.

An Act to amend Act XXXVI of 1858.

WHEREAS it is expedient to amend Act XXXVI of 1858 (*an Act relating to Lunatic Asylums*); It is hereby enacted as follows:—

New section inserted after section 6. 1. After section 6 the following shall be inserted, namely:—

“ 6 A. (1) Where a person found wandering at large who is deemed to be a lunatic, or where a person believed to be dangerous by reason of lunacy, is apprehended and sent to the Magistrate or the Commissioner of Police, or where, on report or information that a person deemed to be a lunatic is not under proper care and control or is cruelly treated or neglected, the Magistrate or the Commissioner of Police sends for him and then determines to proceed as prescribed in section 4 of this Act, the Magistrate or the Commissioner of Police, on the request of the medical officer,

may, by order in writing, authorise the detention of the supposed lunatic for such time, not exceeding ten days, as, in the opinion of the Magistrate or the Commissioner of Police, may be necessary to enable the medical officer to form an opinion on the question whether or not the supposed lunatic is a person with respect to whom a certificate in the form A in the schedule to this Act ought to be signed.

“(2) If the Medical officer certifies further detention than has been authorised under subsection (1) to be necessary to enable him to form his opinion on that question, the Magistrate or the Commissioner of Police may from time to time, by order in writing, authorise such further detention as he deems to be necessary:—

“Provided that a supposed lunatic shall not be detained for the purpose of this section for a longer time than fourteen days from the date on which the first order authorising his detention for that purpose is made.

“(3) The Executive Government may from time to time make rules as to the place of detention, and the care and treatment, of supposed lunatics detained under this section.”

2. To section 9 the words “Subject to the provisions of any enactment for the time being in force,” shall be prefixed.

Amendment of section 9.

New sections to follow section 17.

3. After section 17 the following shall be inserted, namely:—

“17A. When an Executive Government has not established within its limits a public asylum for the reception and detention of lunatics under this Act, the Governor-General in Council may from time to time appoint an asylum established in British India beyond those limits to be an asylum to which a Magistrate or Judge exercising jurisdiction within those limits may send lunatics as to an asylum established under this Act for the division in which his jurisdiction is situate.

“17B. The Governor-General in Council may from time to time, by order, direct, with respect to any part of British India which is not annexed to a presidency or, being annexed to the presidency of Fort William, Fort Saint George or Bombay, is situated at a greater distance than three hundred miles from Calcutta, Madras or Bombay, respectively, that any lunatic asylum in British India named in the order shall be deemed for that part to be a lunatic asylum at the presidency for the purposes of this Act.”

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

The following Report on the Select Committee on the Bill to amend Act XXXVI of 1858 was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 15th September 1886.

LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which the Bill to amend Act XXXVI of 1858 was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

1. The Bill as introduced was approved by the authorities to whom it was referred, but further amendments of the Act were proposed by the Governments of Bengal and the Punjab.

2. The Bill as introduced was approved by the authorities to whom it was referred, but further amendments of the Act were proposed by the Governments of Bengal and the Punjab.

3. The former Government drew attention to the absence of any provision authorising the detention of supposed lunatics for observation, and the latter to the inconvenience ensuing from the provision which requires lunatics who are not natives of the country to be sent in all cases to an asylum at the presidency.

4. It appeared to us that express provision ought to be made for the detention of supposed lunatics. As a matter of practice they are detained, for in many cases the medical officer is not in a position to form an opinion on the question whether or not a person is a lunatic until he has had the person under observation for some days. The detention is probably legal where it is authorised by the Magistrate (L. L. R. 9 Cal. 341), but it is desirable that there should be no room for doubt as to the legality of a practice which is in fact absolutely necessary. We considered it desirable, however, before submitting our Report, to consult Local Governments, and we therefore circulated a draft clause proposing, in accordance with the advice of the Surgeon-General, a period of ten days as the maximum term of detention for purposes of observation. We have now, after considering the replies to our circular, proposed to extend the term to fourteen days, and to authorise Local Governments to make rules as to the place of detention, and the care and treatment, of supposed lunatics.

5. The proposal of the Punjab Government with respect to the establishment of asylums at other places than the presidency-towns for lunatics who are not natives of the country was referred by us to other Local Governments, and has been approved by them. We have provided, therefore, that the Governor-General in Council may, with respect to any part of British India which is not annexed to a presidency, or is more than three hundred miles from a presidency-town, direct that any lunatic asylum named in the order shall be deemed for that part to be a lunatic asylum at the presidency for the purposes of the Act.

6. Section 9 of the Act empowers the visitors of a lunatic asylum to order the discharge of any person detained in the asylum. As the Code of Criminal Procedure, 1882, and the Prisoners Act, 1871, reserve that power in certain cases to other authorities, we have proposed to prefix to that section an express saving of the provisions of other enactments.

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

In English.

<i>Gazette.</i>	<i>Date.</i>
Gazette of India	26th December 1885, and 2nd and 9th January 1886.
Fort Saint George Gazette	13th January 1886
Bombay Government Gazette	7th, 14th and 21st January 1886
Calcutta Gazette	6th January 1886
North-Western Provinces and Oudh Government Gazette.	2nd, 9th and 16th January 1886.
Punjab Government Gazette	7th, 14th and 21st January 1886.
Central Provinces Gazette	2nd, 9th and 16th January 1886.
British Burma Gazette	16th, 23rd and 30th January 1886
Assam Gazette	16th, 23rd and 30th January 1886
Coorg District Gazette	1st February 1886
Sindh Official Gazette	4th February 1886.

In the Vernaculars.

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Bombay	Maráthi	25th January 1886
	Gujaráthi	26th January 1886
	Kanarese	27th January 1886.
	Sindhi	11th February 1886.
Bengal	Bengali	26th January 1886
	Hindi	26th January 1886.
	Uriya	4th February 1886.

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

(Signed) C. P. LIBERT.

(„) S. C. BAYLEY

(„) J. W. QUINTON.

The 10th September 1886.

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

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 22nd October 1886, and is hereby promulgated for general information :—

Act No. XXIV of 1886.

An Act to extend the Glanders and Farcy Act, 1879, to the Bombay Presidency.

* WHEREAS it is expedient that the Glanders and Farcy Act, 1879, should extend to the territories XX of 1879 administered by the Governor of Bombay in Council; It is hereby enacted as follows :—

1 The words "the Governor of Bombay in Council" in section 1 of the Glanders and Farcy XX of 1879 Act, 1879, are hereby repealed.

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

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 14th January, 1887, and was promulgated for general information in the *Gazette of India* on the 15th January, 1887:—

Act No. II. of 1887.

An Act to amend the Sea Customs Act, 1878, the Excise Act, 1881, and the Indian Tariff Act, 1882.

WHEREAS it is expedient to amend the Sea Customs Act, 1878, the Excise Act, 1881, and the Indian Tariff Act, 1882;

It is hereby enacted as follows:—

Sea Customs Act, 1878.

VIII of 1878. 1. (1) In clause (b) of the second paragraph of Section 144 of the Sea Customs Act, 1878, there shall be inserted after

the word "unless" the word "either" and after the word "destination" the following, namely:—

"or the delivery of the spirit into a warehouse appointed in this behalf by the Local Government having authority at that port."

(2) In the third paragraph of the same section of the same Act the following shall be substituted for the word "paid," namely:—

"so paid or the spirit so delivered."

2. In section 146 of the same Act, for the word "shall" in each of the two places where that word occurs, the word "may" shall be substituted.

3. (1) To section 148 of the same Act the following words shall be prefixed, namely:—

"Notwithstanding anything in the Indian Tariff Act, 1882."

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

"Provided that the Local Government may authorise the import of such spirit without the payment of that duty at the port of importation when the spirit is to be delivered into a warehouse appointed by the Local Government in this behalf, and the excise-duty thereon is to be paid on the removal of the spirit from a warehouse so appointed."

4. (1) To section 151 of the same Act the following words shall be prefixed, namely:—

"Notwithstanding anything in the Indian Tariff Act, 1882."

(2) After the same section of the same Act the following shall be added, namely:—

"Provided that the Local Government may authorise the import of such spirit without the

payment of the differential duty at the port of importation when the spirit is to be delivered into a warehouse appointed by the Local Government in this behalf, and the differential duty is to be paid on the removal of the spirit from a warehouse so appointed."

Excise Act, 1881.

5. For section 23 of the Excise Act, 1881, the following shall be substituted, namely:

"23. (1) A person shall not bring into any territory to which this Act extends any spirit manufactured at any place in India beyond the limits of British India, until he has obtained a pass therefor from such officer as the Local Government from time to time appoints in this behalf, and has paid in respect thereof—

(a) if the Local Government has fixed a duty under clause (a) of section 7 for like spirit manufactured in the part of the territory into which the spirit is to be brought, that duty, or

(b) if the Local Government has not fixed a duty under that clause for like spirit manufactured in that part, a duty at such rate as the Local Government from time to time prescribes in this behalf, not exceeding the highest rate leviable, under the law for the time being in force, on spirit imported into British India by sea.

(2) The provisions of sub-section (1) with respect to spirit shall apply to fermented liquor also, with this modification that the duty to be paid in respect of the liquor shall be the duty leviable on like liquor under the Indian Tariff Act, 1882.

(3) If any question arises as to the duty to be charged on any spirit or fermented liquor under this section, the decision of the Local Government thereon shall be final."

6. (1) In clause (c) of section 36 of the same Act the words "or fermented liquor" shall be inserted after the words "any spirit"

(2) In the last paragraph of the same section of the same Act the words "or fermented liquor" shall be inserted between the words "the spirit" and the words "together with."

Indian Tariff Act, 1882.

7. In the preamble to the Indian Tariff Act, 1882, the words "and for fixing a maximum duty of excise on spirit manufactured in British India" are repealed.

8. To section 7 of the same Act the following Addition to section 7. shall be added, namely:—

“Nothing in this section applies to spirit which is exported under bond for excise-duty from one customs-port to another customs-port under the provisions of Chapter XIV of the Sea VIII of 1878, Customs Act, 1878.”

Amendment of Second Schedule. 9 In No. 2 of the Second Schedule to the same Act—

(a) “Rs. 5” shall be substituted for “Rs. 4” in the fifth column as the rate of duty to be levied and collected per Imperial Gallon or six quart bottles of Liqueurs”;

and

(b) for the following, namely:—

No.	Names of Articles	Per	Tariff valuation	Rate of duty.
*	*	*	*	*
	Spirit when so used in a proportion of twenty per cent. and upwards.	Impl. Gallon or six quart bottles of the strength of London proof.	...	Rs. 4, and the duty to be increased in proportion as the strength of the spirit exceeds London proof.
	Spirit, perfumed, in wood, or in bottles containing more than four ounces	Ditto	...	
	Spirit, other sorts,	Ditto ...	...

there shall be substituted the following, namely:—

No.	Names of Articles	Per	Tariff valuation.	Rate of duty.
*	*	*	*	*
	Spirit when so used in a proportion of twenty per cent. and upwards.	Impl. Gallon or six quart bottles of the strength of London proof	...	Rs. 5, and the duty to be increased or reduced in proportion as the strength of the spirit exceeds or is less than London proof.
	Spirit, perfumed, in wood, or in bottles.	Impl. Gallon or six quart bottles.	...	Rs. 7-8-0.
	Spirit, other sorts.	Impl. Gallon or six quart bottles of the strength of London proof	...	Rs. 5, and the duty to be increased or reduced in proportion as the strength of the spirit exceeds or is less than London proof.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 14th January, 1887, and was promulgated for general information in the *Gazette of India* on the 15th January 1887.—

Act No. III of 1887

An Act to amend the Indian Evidence Act, 1872.

WHEREAS it is expedient that Revenue-officers should not be compelled to say whence they obtain information with respect to offences against the public revenue; It is hereby enacted as follows—

1. The following section shall be substituted of 1872. New section substituted for section 125 of the Evidence Act.
- for section 125 of the Indian Evidence Act, 1872, namely—

“125 No Magistrate or Police-officer shall be compelled to say whence he got any information as to the commission of any offence, and no Revenue-officer shall be compelled to say whence he got any information as to the commission of any offence against the public revenue.”

“Explanation.—‘Revenue-officer’ in this section means any officer employed in or about the business of any branch of the public revenue.”

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

The following Report of the Select Committee on the Bill to amend the Indian Evidence Act, 1872, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 7th January, 1887:—

LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which the Bill to amend

- the Indian Evidence Act, 1872, was referred, have considered the Bill and the papers noted on the margin, and have now the honour to submit this our Report.
2. We have so altered the section which it was proposed by the Bill as introduced to substitute for section 125 of the Indian Evidence Act, 1872, as to limit its operation to the purpose stated in the preamble, and, following the plan of the Act, we have made the definition of “Revenue-officer” an *explanation* to the section instead of a sub-section thereof.
3. The publication ordered by the Council has been made as follows:—

In English.

<i>Gazette.</i>	<i>Date.</i>
Gazette of India ...	14th, 21st and 28th August, 1886.
Fort Saint George Gazette ...	3rd September, 1886.
Bombay Government Gazette ...	19th August, 1886
Calcutta Gazette ...	25th August, and 1st and 8th September, 1886.
North-Western Provinces and Oudh Government Gazette ...	21st and 28th August, and 4th September, 1886
Punjab Government Gazette ...	19th and 26th August, and 2nd September, 1886.
Central Provinces Gazette ...	21st and 28th August, and 4th September, 1886.
Burma Gazette ...	4th, 11th and 18th September, 1886.
Assam Gazette ...	4th, 11th and 18th September, 1886.
Coorg District Gazette ...	1st October, 1886.

In the Vernaculars.

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Bombay	Maráthi	16th September, 1886.
	Gujaráthi	23rd September, 1886.
	Kanarese	30th September, 1886.
Bengal	Bengali	21st and 28th September, and 5th October, 1886.
	Hindi	28th September, and 5th and 12th October, 1886.
	Uriya	30th September, and 7th and 14th October, 1886.
North-Western Provinces and Oudh.	Urdu	11th, 18th and 25th September, 1886.
Burma	Burmese	25th September, and 2nd and 9th October, 1886.
Assam	Bengali	2nd October, 1886.

4. We 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) ANDREW R. SCOBLE.

(") J. B. PELLE.

(") W. S. WHITESIDE.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

The 4th January, 1887.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 14th January, 1887, and was promulgated for general information in the *Gazette of India* on the 15th January 1887—

Act No. IV of 1887

An Act to alter the constitution of the body corporate known as the Trustees of the Indian Museum, and to confer certain additional powers on that body

WHEREAS it is expedient to alter the constitution of the body corporate known as the Trustees of the Indian Museum, and to amend the law relating to the powers of the said Trustees, It is hereby enacted as follows:—

Title and commencement. 1 (1) This Act may be called the Indian Museum Act, 1887; and

(2) It shall come into force at once

II of 1876 Repeal of certain sections of Act XXII of 1876. 2 Sections 3, 4 and 5 of the Indian Museum Act, 1876, are repealed.

Substitution of new sections for sections repealed. 3. For those sections the following shall be substituted, namely—

“Incorporation of the Trustees.”

Constitution and incorporation of the Trustees of the Indian Museum. “3 The Trustees of the said Indian Museum shall be—

- (a) the person for the time being holding the office of Accountant General of Bengal;
- (b) five other persons to be appointed by the Governor General in Council;
- (c) five other persons to be appointed by the Lieutenant-Governor of Bengal;
- (d) five other persons to be appointed by the Council of the Asiatic Society of Bengal; and
- (e) five other persons to be appointed by the Trustees;

and the said Trustees shall be a body corporate, by the name of the Trustees of the Indian Museum, and shall have perpetual succession and a common seal.

“4 All the powers of the said body corporate may be exercised so long and so often as there are nine members thereof

“5. If a trustee appointed under section 3 dies, or is absent from the meetings of the Trustees for more than twelve consecutive months, or desires to be discharged, or refuses or becomes incapable to act, or becomes Accountant General of Bengal, then the authority which appointed the trustee may appoint a new trustee in his place.”

4. (1) For the purposes of the Indian Museum Act, 1876, as amended by this Act—

(a) the persons nominated by the Governor General in Council under the Indian Museum Act, 1876, and now holding office as Trustees, shall be deemed to be persons appointed by the Governor General in Council under section 3 of that Act as amended by this Act;

(b) the President of the Asiatic Society of Bengal, and the other members of the Council of that Society nominated by that Council under the Indian Museum Act, 1876, and now holding office as Trustees, shall be deemed to be persons appointed by the Council of the Asiatic Society of Bengal under the said section, and

(c) the persons elected and appointed by the Trustees under the said Act, and now holding office as Trustees, shall be deemed to have been appointed by the Trustees under the said section.

(2) The Secretary to the Government of India and the Superintendent of the Geological Survey of India shall cease to be *ex officio* members of the said body corporate.

Power to Trustees to keep collections not belonging to them. 5. Notwithstanding anything in the Indian Museum Act, 1876,—

(a) the Trustees of the Indian Museum if they think fit, may, with the previous sanction of the Governor General in Council, and subject in each case to such conditions as he may approve and to such rules as he may prescribe, assume the custody and administration of collections which are not the property of the Trustees for the purposes of their trusts in that Act mentioned, and keep and preserve the collections either in the Indian Museum or elsewhere; and

(b) in the event of the trust constituted by that Act being determined, collections of which the Trustees have assumed the custody and administration under the foregoing part of this section shall not by reason of their then being in the Indian Museum become the property of the Government of India

And whereas it is provided in the Indian Museum Act, 1876, that the Trustees of the Indian Museum shall have the exclusive possession, occupation and control, for the purposes of their trusts in that Act mentioned, of the whole of the building called the Indian Museum, except certain portions thereof set apart for other purposes; and whereas the Trustees are by virtue of that provision in possession of the property described in the schedule to this Act; It is hereby enacted as follows:—

6. The Trustees may, with the previous sanction of the Governor General in Council and subject to such conditions

as he may approve, deliver possession of the whole or any part of that property to such person as the Lieutenant-Governor of Bengal may appoint in that behalf.

THE SCHEDULE.

Land bounded on the north by a straight line drawn between the east and the west boundaries parallel to the main south wall of the Museum at a distance of twenty-five feet from the said wall, on the west and south-west by the Chow-

ringhee Road and the walls of the premises known as No. 29, Chowringhee Road; on the south by Kyd Street; and on the east by the walls of the premises known as No. 15, Kyd Street, and No. 4, Chowringhee Lane; measuring in all four acres, three roods and sixteen perches; together with all buildings, roads and tanks existing or erected thereon, and all easements appertaining thereto.

S. HARVEY JAMES,

Offg Secretary to the Government of India.

The following Report of the Select Committee on the Bill to alter the constitution of the body corporate known as the Trustees of the Indian Museum, and to confer certain additional powers on that body, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 7th January, 1887:—

LEGISLATIVE DEPARTMENT.

We, the undersigned, Members of the Select Committee to which the Bill to alter the constitution of the body corporate known as the Trustees of the Indian Museum, and to confer certain additional powers on that body, was referred, have considered the Bill and the papers noted on the margin, and have now the honour to submit this our Report.

2. We have at the instance of the Trustees of the Indian Museum and the Government of Bengal provided that, if a trustee absents himself from the meetings of the Trustees for more than twelve consecutive months, the authority which appointed him may appoint a new trustee in his place.

3. In section 6 of the Bill we have inserted words providing for the contingency of a part only of the scheduled property being required by the Bengal Government.

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

In English.

<i>Gazette.</i>	<i>Date.</i>
Gazette of India	12th, 19th and 26th June, 1886.
Calcutta Gazette	7th July, 1886.

In the Vernacular.

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Bengal	Bengali	27th July, and 3rd and 10th August, 1886.

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) J. B. PEILE.

(") A. COLVIN.

(") ANDREW R. SCOBLE.

The 4th January, 1887.

S. HARVEY JAMES,

Offg Secretary to the Government of India.



Bombay Government Gazette.

Published by Authority.

THURSDAY, 3RD FEBRUARY 1887.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 28th January 1887, and is hereby promulgated for general information:—

Act No. V of 1887.

An Act to amend the Code of Criminal Procedure, 1882.

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882; It is hereby enacted as follows:—

1. In the definition of "Officer in charge of a Police-station" in section 4, clause (a), of the said Code there shall be substituted for the word "therefrom" the words "from the station-house," and for the words "present at the Police-station" the words "present at the station-house."

2. In section 312 of the said Code the word "four" shall be substituted for the word "two."

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

THE



Bombay Government Gazette.

Published by Authority.

SATURDAY, 4TH JUNE 1887.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 26th February 1887, and the assent of His Excellency the Viceroy and Governor General on the 11th May 1887, and is published for general information:—

Bombay Act No. II. of 1887.

An Act to provide for the protection of pilgrims at the ports of Bombay and Karáchi.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 4th June 1887.)

WHEREAS it is expedient to provide for the protection of pilgrims at the ports of Bombay and Karáchi; It is enacted as follows:—

1. This Act may be cited as "The Protection of Pilgrims Act, 1887."

It extends only to the cities and ports of Bombay and Karáchi.

2. In this Act,—

(1) "pilgrim" means a Mahomedan who is about to proceed from the port of Bombay or Karáchi on a pilgrimage to

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the Hedjaz, whether he is going direct to Jeddah, or *via* any other port:

(2) "pilgrim-broker" means a person who buys and resells, or sells on commission, or takes any reward for the purchase or sale of passage-tickets for pilgrims:

(3) "agent" includes a person who has chartered a vessel for the conveyance of pilgrims:

(4) "the Commissioner" means, in Bombay, the Commissioner of Police or his deputy; and in Karáchi such

officer as the Governor in Council may appoint.

3. Any person who, without a license from the Commissioner, acts as a pilgrim-broker shall be liable for each such offence to a fine which may extend to five hundred rupees.

4. Subject to the orders of the Governor in Council the Commissioner may grant to such persons as he thinks fit licenses to act as pilgrim-brokers.

The said licenses shall be granted on such conditions and subject to such restrictions and limitations for the honest and good behaviour of the licensees as Government may from time to time prescribe.

5. Every license so granted shall specify:

- (a) the name and business-address of the licensee;
- (b) the period for which it is to be in force;
- (c) the conditions on which and the restrictions and limitations subject to which it is granted;

and shall be granted on payment of such fee, if any, as Government may from time to time direct.

6. Any licensed pilgrim-broker who shall:

- (a) commit a breach of any of the terms or conditions of his license;
- (b) purchase for or sell to any pilgrim a passage-ticket by any vessel to which the provisions of the Native Passenger Ships Act, 1876, apply, at any time before notice has been given by the master, owner, or agent of such vessel, under section seven of the said Act, of the date on which it is proposed that such vessel shall sail, and unless, in the case of any vessel, the proposed date of sailing is printed on the passage-ticket;
- (c) charge a pilgrim more than the cost price of any passage-ticket, provisions, or other articles purchased for him, or receive from him any fee or commission on account of such ticket;

(d) receive from the master, owner, or agent of a vessel any fee or commission, in respect of the sale of any ticket, exceeding five per centum of the price of such ticket;

(e) purchase for any pilgrim a passage ticket, on which there is not printed the price charged by the master, owner, or agent of the vessel for each class of accommodation;

(f) by fraud or by false representation as to the size of, or accommodation on board, such vessel, or otherwise, or by any false pretence whatever, induce any person to purchase a passage-ticket;

shall be liable for each such offence to a fine which may extend to five hundred rupees.

7. The Commissioner may suspend the license of any pilgrim-broker pending inquiry into any accusation against him of misconduct for which, if proved, he would be liable to a penalty under the last preceding section, and may cancel any license granted by him, if the licensee is convicted of any offence under the said section or of any criminal offence.

8. Government may from time to time appoint persons, being Mahomedans, to be Protectors of Pilgrims for the ports of Bombay and Karáchi.

The persons so appointed shall, for the purposes of this Act, be subordinate to the Commissioner in Bombay and Karáchi respectively and shall, with the co-operation of the police, aid the Commissioner in giving effect to the provisions of this Act. They shall also advise and generally assist pilgrims during their stay in Bombay or Karáchi whilst proceeding to or returning from the Hedjaz, and exercise supervision over the proceedings of licensed pilgrim-brokers.

9. The Protectors of Pilgrims, or any persons authorized by the Commissioner in this behalf, shall be at liberty at all times to enter and inspect any vessel advertised or offering to convey pilgrims from the port of Bombay or Karáchi.

10. The master or any officer of any such vessel who does not afford every facility for such inspection shall be liable to a fine which may extend to five hundred rupees.

Penalty for not facilitating inspection.

11. The master, owner, or agent of every vessel advertised or offering to convey pilgrims shall be bound to supply the Protector of Pilgrims, on demand, with full particulars as to the class, tonnage, and age of the vessel, the number of tickets of each class to be issued, the price of each ticket, the accommodation to be provided, the latest date of sailing, the ports, if any, to be touched at, and the probable date of arriving at Jeddah.

12. Any such master, owner, or agent, who refuses, or without lawful excuse omits, to give such information, on demand, or furnishes false information, shall be liable to a fine which may extend to five hundred rupees.

Penalty for refusal or omission to give such information.

13. Any master, owner, or agent of any vessel carrying pilgrims, who shall issue any passage-

Penalty for issue of tickets in excess.

ticket in excess of the number allowed by the certificate granted under section ten of the Native Passenger Ships Act, 1876, shall for every passage-ticket so issued be liable to a fine not exceeding four times the cost price of such ticket.

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14. All passage-tickets shall be numbered consecutively according to the order of issue; and any master, owner, or agent, who shall issue two or more tickets bearing the same number, shall be liable to a fine not exceeding one thousand rupees.

Passage-tickets how to be numbered.

Penalty for issue of ticket bearing same number.

15. The provisions of sections thirty-nine, forty and forty-two of the Native Passenger Ships Act, 1876, shall apply to all offences punishable, and to all penalties leviable, under this Act.

Provisions of Native Passenger Ships Act, 1876, to apply to offences and penalties.

VIII of 1876.

16. The penalties to which masters and owners of vessels are made liable by this Act shall be enforced only by information laid at the instance of the Commissioner.

Penalties to be enforced only at the instance of the Commissioner

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

A. SHEWAN,

Acting Under Secretary to Government.

Bombay Castle, 31st May 1887.



Bombay Government Gazette

Published by Authority.

THURSDAY, 27TH OCTOBER 1887.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 21st October, 1887, and is hereby promulgated for general information

Act No. XX of 1887.

An Act for the Protection of Wild Birds and Game

WHEREAS municipal authorities in different parts of British India have from time to time made rules for the protection of birds and other game ;

And whereas it is expedient that Local Governments and cantonment authorities as well as municipal authorities should be empowered to make such rules ;

It is hereby enacted as follows :—

1 (1) This Act may be called the Wild Birds Protection Act, 1887.

Title, extent, and commencement

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

and

(3) It shall come into force at once.

Definitions.

2. In this Act—

(1) "municipal authority" means the corporation, commissioner, committee, board, council or person having authority over a municipality under any enactment for the time being in force ;

(2) "cantonment authority" 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 : and

(3) "wild bird" includes a peacock and every bird of game.

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3 (1) The Local Government with respect to any municipality or cantonment within the territories under its administration, or the municipal authority or cantonment authority of any municipality or cantonment, may from time to time make rules—

- (a) defining the expression "wild bird" for the purposes of this Act in its application to the municipality or cantonment,
- (b) defining for those purposes the breeding season of any kind of wild bird, and
- (c) prohibiting, subject to such exceptions and conditions as may be prescribed by the rules, the possession or sale during its breeding season within the municipality or cantonment of any kind of wild bird recently killed or taken, or the importation into the municipality or cantonment of the plumage of any kind of wild bird during such season.

(2) The authority making a rule under clause (c) of sub-section (1) may direct that a breach of it shall be punishable with fine which may extend, in the case of a first offence, to five rupees for every wild bird in respect of which or of the plumage whereof the breach of the rule has been committed, and, in the case of a subsequent offence, to ten rupees in respect of every such bird or plumage.

(3) A Court convicting any person of a breach of any such rule may order the confiscation of any wild bird or plumage in respect of which the breach was committed.

(4) The power to make rules under this section is subject to the condition of the rules being made after previous publication and, in the case of rules made by a municipal authority or can-

tonment authority, to the further condition of the rules being confirmed by the Local Government before they are published in the official Gazette under clause (5) of section 6 of the General Clauses Act, 1887.

4. The Local Government, of its own motion or on the application of any municipal authority or cantonment authority, Power to apply Act to any animals of game.

may, by notification in the official Gazette, declare the provisions of the last foregoing section with respect to wild birds to apply to any animals of game other than birds, and thereupon those provisions shall apply to such animals and their furs in like manner as they apply to wild birds and their plumage.

J. M. MACPHERSON,

Offg Secretary to the Government of India.

The following Report of the Select Committee on the Bill for the Protection of Wild Birds and Game was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 6th October, 1887 —

We, the undersigned, Members of the Select Committee to which the Bill for the Protection of Game was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

Memorandum by Mr P R. Desai, Pleader, District Court, Thána, dated 25th June, 1887 [Paper No. 1]

From Registrar, High Court, Calcutta, No. 1470, dated 9th July, 1887 [Paper No. 2]

From Chief Commissioner, Ajmere-Merwára, No. 873-690, dated 27th July, 1887 [Paper No. 3]

From Secretary to Chief Commissioner, Coorg, No. 1308-1307, dated 29th July, 1887 [Paper No. 4]

From Secretary for Berar to Resident, Hyderabad, No. 232 G., dated 26th July, 1887, and enclosures [Papers No. 5]

From Secretary to Government, North-Western Provinces and Oudh, No. 951-XII-356 A, dated 29th July, 1887, and enclosures [Papers No. 6]

From Acting Under-Secretary to Government, Bombay, No. 4408, dated 30th July, 1887, and enclosures [Papers No. 7]

Note by the Hon'ble Rana Sir Shankar Baksh Singh, Bahadur, K O I K., dated 7th July, 1887 [Paper No. 8].

From Officiating Under-Secretary to Chief Commissioner, Central Provinces, No. 3930-176, dated 6th August, 1887 [Paper No. 9]

From Officiating Secretary to Government, Bengal, No. 2372-425 For, dated 5th August, 1887, and enclosures [Papers No. 10]

From Chief Secretary to Government, Madras, No. 1709, dated 3rd August, 1887, and enclosures [Papers No. 11]

From Secretary to Chief Commissioner, Burma, No. 343-18 L., dated 16th August, 1887 [Paper No. 12]

From Secretary to Chief Commissioner, Assam, No. 1851, dated 7th September, 1887, and enclosures [Papers No. 13].

From Secretary to Government, Punjab, No. 246 S., dated 8th September, 1887, and enclosures [Papers No. 14].

2. We propose that the title of the proposed Act be the Wild Birds Protection Act, but we have empowered Local Governments to apply its provisions to animals of game other than birds.

3. We have proposed that an enhanced penalty may be imposed on any second or subsequent conviction for a breach of rules under the Act, and that any animal in respect of which a breach of those rules has been committed may be confiscated.

4. We have also required proposed rules to be published before they are made.

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

In English.

<i>Gazette</i>	<i>Date</i>
Gazette of India	11th June, 1887.
Fort Saint George Gazette	5th July, 1887.
Bombay Government Gazette	16th June, 1887.
Calcutta Gazette	22nd June, 1887
North-Western Provinces and Oudh Government Gazette	18th June, 1887
Punjab Government Gazette	16th June, 1887
Central Provinces Gazette	25th June, 1887.
Burma Gazette	2nd July, 1887
Assam Gazette	2nd July, 1887
Coorg District Gazette	1st July, 1887

In the Vernaculars.

<i>Province</i>	<i>Language</i>	<i>Date</i>
Bombay	Maráthi	21st July, 1887
	Gujaráthi	14th July, 1887.
	Kanarese	21st July, 1887.
Bengal	Bengali	5th July, 1887.
	Hindi	5th July, 1887
	Uríya	7th July, 1887.
	Urdu	9th July, 1887
North-Western Provinces and Oudh	Urdu	7th July, 1887.
Punjab	Urdu	7th July, 1887.
Burma	Burmese	16th July, 1887.

6. 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) J. B. PEILE.

(„) G. CHESNEY.

(„) ANDREW R. SCOBLE.

(„) J. W. QUINTON.

The 6th October, 1887.

J. M. MACPHERSON,

Officiating Secretary to the Government of India.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 21st October, 1887, and is hereby promulgated for general information.

Act No. XXI of 1887.

An Act to provide for the establishment of bonded warehouses at places other than customs-ports.

WHEREAS it is expedient to provide for the establishment of bonded warehouses at places other than customs-ports; It is hereby enacted as follows:—

1. (1) This Act may be called the Inland Bonded Warehouses Act, 1887

Title, construction and commencement.

(2) It shall be read with, and taken as part of, the Sea Customs Act, 1878 and

(3) It shall come into force at once.

2 (1) Notwithstanding anything in the Sea Customs Act, 1878, the VIII of 1878.

Inland bonded warehouses and law applicable thereto. Chief Customs-authority may from time to time,

with the previous sanction of the Local Government, appoint a public or license a private warehouse at any place which is not a warehousing port, and may with the like sanction cancel such appointment or license.

(2) In reference to such a place and the warehouse appointed or licensed thereat the provisions of the said Act with respect to the levy of customs-duties on goods brought in bond from one customs-port to another, and with respect to warehousing, shall be construed as if the place were a customs-port and a warehousing port, and the warehouse a public or a private warehouse, as the case may be, appointed or licensed thereat under that Act.

J. M. MACPHERSON,

Offg. Secretary to the Government of India

The following Report of the Select Committee on the Bill to provide for the establishment of bonded warehouses at places other than customs-ports was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 6th October, 1887.

WE, the undersigned, Members of the Select Committee to which the Bill to provide for the establishment of bonded warehouses at places other than customs-ports was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

From Secretary to Chief Commissioner, Burma, Nos 365—25 C, dated 16th August, 1887 [Paper No 1]

From Acting Chief Secretary to Government, Bombay, No 5958, dated 3rd September, 1887 [Paper No 2]

From Acting Chief Secretary to Government, Madras, No 1981, dated 31st August, 1887, and enclosures [Papers No. 3]

From Secretary to Government, Bengal, No 3427, dated 9th September, 1887, and enclosures [Papers No 4]

Endorsement by Government, Madras, No 2115, dated 14th September, 1887, and enclosures [Papers No 5]

2. The Bill is approved by the authorities to whom it was referred for opinion and we recommend that it be passed.

3. The publication ordered by the Council has been made as follows

In English.

Gazette	Date
Gazette of India	16th July, 1887
Fort Saint George Gazette	16th August, 1887
Bombay Government Gazette	4th August, 1887
Calcutta Gazette	27th July, 1887
Burma Gazette	6th August, 1887

In the Vernaculars.

Province	Language	Date
Bombay	Maráthi	25th August, 1887.
	Gujaráthi	18th August, 1887
	Kanareese	25th August, 1887
	Sindhi	18th August, 1887
Bengal	Bengali	9th August, 1887
	Hindi	23rd August, 1887
	Uríya	11th August, 1887

(Signed) J. WESTLAND.

(„) ANDREW R. SCOBLE.

(„) J. B. PRILE.

The 6th October, 1887

J. M. MACPHERSON,

Offg. Secretary to the Government of India.

THE



Bombay Government Gazette.

Published by Authority.

MONDAY, 31ST OCTOBER 1887.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 13th August 1887, and the assent of His Excellency the Viceroy and Governor General on the 4th October 1887, and is published for general information :—

Bombay Act No. III. of 1887.

An Act to amend the Law for the periodical inspection and the management by competent Engineers of Boilers and Prime Movers in the Presidency of Bombay.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 31st October 1887.)

Whereas it is expedient to amend the law for the inspection and management of steam-boilers, and of prime movers; It is enacted as follows :—

Preamble.

Preliminary.

1. This Act may be cited as "The Bombay Boiler Inspection Act, 1887."

Short Title.

It shall come into force at once in the city of Bombay and in the districts and places in which the

Commencement and extent of Act.

1873. Boiler Inspection Act, 1873, is at present in force, and may be extended from time to time by the Governor in Council, by notification in the *Bombay Government*
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Gazette, to any other district or place in the presidency of Bombay that he shall deem fit.

But nothing in this Act shall be deemed to apply to any boiler or prime mover in any steam-vessel, or to any locomotive engine used upon any railway, or to any boiler or prime mover appertaining to a railway, or used exclusively for domestic purposes.

Limitation of application of Act.

Repeal of Bombay Act V of 1873.

2. The Boiler Inspection Act, 1873, is hereby repealed :—

Provided that nothing in this Act shall affect the validity, according to its tenor, of any certificate granted under the said

Proviso.

Boiler Inspection Act, 1873. Every such certificate shall, for all the purposes of this Act, be deemed to have been granted, and to be in force, under the corresponding provisions of this Act.

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

Definition of terms.

(1) "boiler" includes any cylinder or vessel for generating steam under pressure;

(2) "prime mover" includes any steam-engine, steam-hammer, fly-wheel, first driving-shaft or pulley attached to any such engine, and every appurtenance necessary for the safe and efficient working of a prime mover;

(3) "owner" includes any agent or hirer using any boiler.

Inspection of Boilers.

4. Government may from time to time appoint one or more inspectors for the purposes of this Act, who shall be removeable at the pleasure of Government.

The local extent of each such inspector's duties shall be fixed from time to time by Government.

Subject to such rules as may from time to time be framed by Government under section 31, the inspectors shall be under the control of the Collector of the place or district in which the boilers to be inspected by such inspectors are respectively situated.

5. Government shall, as occasion may require, appoint commissions for hearing appeals preferred by owners under section 10, and for determining questions submitted to them under section 13. Such commissions shall consist of such person or persons as the Government shall deem fit to nominate, and their appointment shall endure for such term as shall be prescribed by Government.

6. It shall not be lawful for the owner of any boiler:

(a) to use the same, or to permit the same to be used, unless a certificate shall have been duly granted in respect thereof in the manner hereinafter provided; or

(b) to continue to use the same, or to permit the use thereof to be continued, after the period for which any such certificate shall have been granted has expired; or

(c) to work the same, or to permit the same to be worked, at a higher pressure than that allowed by such certificate;

Provided that the owner of a boiler who holds in respect thereof a certificate as aforesaid, and who, before the expiry of the period of such certificate, gives notice under the next following section of his intention to continue to use the same after the expiry of the said period, may continue to use the same or to permit the use thereof until it is inspected in pursuance of such notice.

7. The owner of any boiler who does not hold in respect thereof a certificate as aforesaid which is at the time in force, shall, if such boiler be situate in the city of Bombay, before using or continuing the use of the same, give notice to an inspector appointed under this Act for the said city of his intention to use or to continue to use the same.

The inspector to whom such notice is given shall appoint a time between sunrise and sunset and within four days after the receipt of such notice, for the inspection of such boiler, and at such time shall carefully examine such boiler and every appurtenance thereof.

If such boiler be situate elsewhere than in the city of Bombay, the owner shall, before using or continuing the use of the same, give notice to the Collector of his intention to use or to continue to use the same, and the Collector shall cause an inspection and examination as aforesaid to be made by an inspector within ten days after the receipt of such notice, and shall inform the owner of the date on which the said inspection will take place.

If any notice given under this section relates to two or more boilers used for working one engine, the inspection of each such boiler shall be fixed to take place on a separate date.

Every person giving a notice under this section shall simultaneously pay the fees prescribed for the inspection by a rule made under section 31.

Necessary information must be furnished by owner, and necessary dispositions made for facilitating examination.

8. The owner or person in charge of any boiler so examined shall :

(1) afford to the inspector all reasonable facilities for such examination, and all such information as may reasonably be required by him ;

(2) previously arrange that,

(a) the boilers shall be empty and cool, and shall be cleaned inside and outside,

(b) fire-flues shall be swept,

(c) fire-bars and fire-bridges shall be removed,

(d) blow-off and other cocks shall be cleared for the purpose of inspection and examination ; and

(3) if required by the inspector, cause any brick-work or masonry in contact with the boiler to be removed.

9. If the Inspector is satisfied that the boiler and all its appurtenances are in good condition, and if the requirements of section 24 are fulfilled in respect thereof, he shall give to the owner a certificate to that effect.

Every certificate so granted shall be renewed by the inspector from time to time, if he is satisfied, after re-inspecting the boiler and all its appurtenances under the provisions of section 7, that the same are in good condition, and if the requirements of section 24 are fulfilled in respect thereof.

Every original or renewed certificate granted under this section shall be in the form of, and contain the particulars specified in, schedule A. Every such certificate shall be granted for such period not exceeding twelve months as the owner of the boiler shall desire, unless it shall appear to the inspector improbable that the boiler and its appurtenances will remain in good condition for so long a period, in which case the certificate shall be granted for such shorter period as the inspector in his discretion deems fit.

10. If an inspector refuse to give a certificate or a renewed certificate to the owner of any boiler, or refuse to give the same for the full period applied for, he shall be bound to give to such owner, within twenty-four hours, his reasons for such refusal, in writing ; and any owner aggrieved by the decision of the inspector, may, within one month from the date of the said refusal, lodge with the Collector an appeal to be heard by a commission appointed under section 5.

11. The owner's petition of appeal shall be forthwith forwarded by the Collector to the commission, and the said commission shall, within four days after the date of the receipt of the same, if the boiler be situated in the city of Bombay, and within ten days after the date of its receipt, if the boiler be situated elsewhere, inquire into and determine such appeal.

The commission may either reject the appeal or grant the owner a certificate for such period not exceeding twelve months as it thinks fit.

The inquiry shall be held in public, and the decision of the commission shall be final.

12. If the commission is of opinion that the appeal is unfounded or frivolous, it may award any sum not exceeding one hundred and fifty rupees, to be paid by the owner as costs.

Any sum so awarded by the commission shall be recoverable by the Collector from the owner, as an arrear of land-revenue.

13. Any commission appointed under section 5 may revoke any certificate granted under section 9 or 11 :

(a) if any fee, lawfully due under this Act, shall not be paid after the same has been duly demanded, or

(b) if there shall be reason to believe that such certificate has been fraudulently obtained or erroneously granted, or has been granted without sufficient inspection, or

(c) if there shall be reason to believe that, since the granting of such certifi-

cate, the boiler in respect whereof it was granted has sustained injury or has ceased to be in good condition.

After such revocation, the boiler in respect whereof the certificate has been revoked, shall not again be used until a further inspection shall have been made and a certificate granted by the inspector with the countersignature of the said commission, or, if the commission consists of more than two persons, of a majority thereof.

14. It shall be lawful for an inspector, at any time between sunrise and sunset on any day during the period for which a certificate may have been granted under section 9, 11, or 13, to examine any boiler for which such certificate has been granted, in order to ascertain whether such boiler is still in good condition, and whether any cause exists for revoking the said certificate:

It shall be the duty of every owner or person in charge of a boiler to report to the inspector, within twelve hours of its occurrence, every accident to the boiler or to the machinery attached thereto, which is calculated to weaken the strength of such boiler or to render it liable to explode.

15. The owner of any boiler who shall have obtained a certificate therefor, shall at all reasonable times during the period for which such certificate is in force, be bound to produce the same when called upon to do so by any Presidency Magistrate in the city of Bombay, or by the Collector elsewhere, or by any person authorized in writing by such Presidency Magistrate or Collector to demand its production.

Engineers' Certificates.

16. Examinations shall be held periodically, at such intervals and on such dates as Government shall determine, of persons who desire to qualify as engineers for the management of boilers.

17. The Governor in Council shall from time to time nominate one or more competent persons to be members of the board of examiners for the said examinations. In no case shall an inspector appointed under this Act be a member of such board.

18. Every applicant for examination who is reported by the said board to have passed an examination shall receive a certificate of competency in accordance with the board's report as to his qualifications, which shall be signed by the member or members of the board and by a Secretary to Government.

Certificates of competency shall be of different classes, and a certificate of each class shall qualify the holder thereof to manage or be in charge of a boiler of such capacity or kind as the Governor in Council may from time to time direct in the rules to be framed under section 31.

19. If any engineer is in possession of a certificate of competency granted by any competent authority in any other part of British India, or in the United Kingdom, or in any British colony, he shall be entitled to receive a certificate of competency as aforesaid without undergoing examination.

Government may from time to time determine what authorities shall be deemed competent for the purpose of this section.

The certificate granted under this section shall be of such class as the board of examiners, or a majority of the members of the said board, on a consideration of the nature of the certificate in the engineer's possession, shall recommend.

20. If by means of any inquiry conducted under the provisions of this Act, it shall be established to the satisfaction of the Governor in Council that any engineer possessing a certificate of competency granted under section 18 or 19 is incompetent, or is addicted to drunkenness, or has been guilty of any serious misconduct or negligence, the Governor in Council may cancel such certificate, or suspend the same for such time as he shall deem fit.

21. A duplicate of every certificate of competency granted under this Act shall be kept and recorded in such manner as the Governor in Council shall direct; and all orders made under the last preceding section for cancelling or suspending any certificate shall be from time to time entered on the record containing such duplicates.

22. Whenever any engineer proves to the satisfaction of the Governor in Council that he has, without fault on his part, lost or been deprived of any certificate granted to him under this Act, a duplicate of the certificate to which by the record so kept as aforesaid he appears to be entitled, shall be furnished to him, which shall have for all purposes the same validity as the original certificate.

23. No person who does not possess a certificate of competency granted under section 18, 19, or 22, shall be deemed a fit and proper person to manage or be in charge of a boiler; and no holder of any such certificate shall be deemed a fit and proper person to manage or be in charge of any boiler except to the extent of his qualification indicated by his said certificate.

24. No certificate shall be granted under section 9, 11, or 13 for any boiler, unless the owner of the same shall have in his employ as engineer in direct and immediate supervision thereof, a person who is a fit and proper person to manage or be in charge of the same.

Penalties.

25. Any owner or person in charge of a boiler who fails to report to the inspector, as required by section 14, any accident of the kind mentioned in that section to such boiler or to the machinery attached thereto, and

any owner of a boiler who refuses or neglects to produce the certificate which he has obtained therefor, when duly called upon so to do under section 15,

shall, for every such omission, refusal or neglect, be punished with fine which may extend to one hundred rupees.

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26. The owner of any boiler who shall use the same or permit it to be used, at a higher pressure than that allowed by certificate, without a certificate duly obtained and in force in respect thereof,

and any such owner or any engineer who shall work the same, or permit it to be worked, at a higher pressure than that allowed by any certificate duly obtained and in force in respect thereof,

shall be punished with fine which may extend to one hundred rupees for every day or part of a day that he shall so use or work the said boiler, or permit the same to be so used or worked;

and if the said owner or engineer shall continue so to use or work the boiler, or to permit the same to be so used or worked after such fine shall have been imposed, he shall be held to have committed a separate offence, and shall be punished with a further fine which may extend to one hundred rupees for each day or part of a day after the first conviction during which the offence is continued, and in like manner after each subsequent conviction.

27. Any owner of a boiler who knowingly places or permits to be placed in management or charge of such boiler any person who is not a fit and proper person for the management or charge of the same, shall be punished with fine which may extend to five hundred rupees.

28. All offences against this Act shall be cognizable in the city of Bombay by a Presidency Magistrate, and elsewhere by a Magistrate of the First Class.

29. No charge shall be brought against any person of any offence punishable under this Act, except within six months after the commission of the offence, nor shall any such charge be brought except with the sanction or under the direction of the Collector.

30. No proceeding shall be taken to enforce the penalties mentioned in sections 26 and 27, nor shall section 24 take effect in any district or place in which the Boiler Inspection Act, 1873, is not now in force, before such day after this Act shall

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been extended to such district or place as Government shall fix by notification in the *Bombay Government Gazette*.

Miscellaneous.

31. Government may from time to time frame rules not inconsistent with this Act, for

(a) settling the duties and emoluments of commissions, inspectors and examiners appointed under this Act, and regulating the control to be exercised by Collectors over inspectors;

(b) fixing the fees to be levied for inspection of boilers under section 7 at such rates not exceeding those prescribed in schedule B as Government thinks fit;

(c) regulating the conduct of the examinations to be held under section 16;

(d) prescribing the qualifications to be required of candidates at the said examinations, the fees to be paid by them, the forms of the certificates to be granted to them, and the capacity or kind of boiler of which each such certificate shall qualify the holder thereof to be in charge

All rules so framed may from time to time be varied, or cancelled, by Government, and shall be published in the *Bombay Government Gazette*, and when so published shall, until cancelled or varied, have the force of law.

32. All fees, costs and penalties levied under this Act shall be disposed of in such manner as Government shall from time to time direct.

33. The Governor in Council may, from time to time, by notification in the *Bombay Government Gazette*:

Certain provisions of this Act may be applied to prime movers

(a) apply so much of this Act as relates to the taking out and grant of certificates for and the inspection of boilers, to prime movers generally, or to prime movers of any particular class, in any place or district in which this Act is at the time in force, and

(b) cancel any such notification.

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

J. J. HEATON,

Acting Under Secretary to Government.

Bombay Castle, 25th October 1887.

BOMBAY PRINTED AT THE GOVERNMENT CENTRAL PRESS.

During such period as any notification under the above clause (a) is in force in any place or district, the provisions of this Act thereby made applicable to prime movers shall be read and understood in such place or district as if the word "boiler" included the words "prime mover" wherever used therein.

SCHEDULE A. (see Section 9).

Form of Inspector's Certificate.

Name of owner	Description of boiler and age	Power	When and where made	When and where last repaired	Time for which boiler is to be used and certificate to be in force, and maximum pressure at which the boiler may be worked	Remarks

I, the undersigned, certify that I have examined the above-named boiler, and to the best of my judgment the boiler, as shown in the above statement, and all its necessary appurtenances, are in good condition.

A. B., Inspector.

SCHEDULE B. (see Section 31).

Maximum Rates of Fees leviable for Inspections of Boilers under section 7.

- (1) For the inspection of each boiler attached to a prime mover not exceeding 10 horse power nominal Rs. 15
- (2) Ditto ditto exceeding 10 but not exceeding 20 ditto " 20
- (3) Ditto ditto exceeding 20 but not exceeding 30 ditto " 30
- (4) Ditto ditto exceeding 30 but not exceeding 50 ditto " 40
- (5) Ditto ditto exceeding 50 ditto ditto " 50

THE



Bombay Government Gazette.

1888.

PART IV.

ACTS

PASSED BY THE

GOVERNMENT OF INDIA

AND BY THE

GOVERNMENT OF BOMBAY

Bombay:

PRINTED AT THE GOVERNMENT CENTRAL PRESS.

MDCCCLXXXIX.

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for the use of the instruments of gaming or of the house, room, or place or otherwise howsoever.

Keeping common gaming-house.

4. Whoever :

(a) being the owner or occupier or having the use of any house, room, or place, opens, keeps or uses the same for the purpose of a common gaming-house,

(b) being the owner or occupier of any such house, room, or place, knowingly or wilfully permits the same to be opened, occupied, kept or used by any other person for the purpose aforesaid,

(c) has the care or management of, or in any manner assists in conducting, the business of any such house, room, or place, opened, occupied, kept or used for the purpose aforesaid,

(d) advances or furnishes money for the purpose of gaming with persons frequenting any such house, room, or place, shall be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to three months.

5. Whoever is found in any common gaming-house, playing or gaming with cards, dice, counters or other instruments of gaming, or is found there present for the purpose of gaming, whether by playing for any money, wager, stake or otherwise, shall be punished with fine which may extend to two hundred rupees, or with imprisonment which may extend to one month.

Any person found in any common gaming-house during any gaming or playing therein, shall be presumed, until the contrary be made to appear, to have been there for the purpose of gaming.

6. It shall be lawful for the Commissioner of Police in the city of Bombay, and elsewhere for any Magistrate of the first class or any District Superintendent of Police or for any Assistant Superintendent empowered by Government in this behalf, upon any complaint made before him on oath that there is reason to suspect any house, room, or place to be used as a common gaming-house, and upon satisfying himself after such enquiry as he may think necessary that there are good grounds for such suspicion, to give authority, by special warrant under his hand, when in

his discretion he shall think fit, to any inspector, or other superior officer of Police of not less rank than a chief constable,

(a) to enter, with the assistance of such persons as may be found necessary, by night or by day, and by force if necessary, any such house, room, or place, and

(b) to take into custody and bring before a Magistrate all persons whom he finds therein, whether they are then actually gaming or not, and

(c) to seize all instruments of gaming, and all moneys and securities for money, and articles of value reasonably suspected to have been used or intended to be used for the purpose of gaming, which are found therein, and

(d) to search all parts of the house, room, or place, which he shall have so entered, when he shall have reason to believe that any instruments of gaming are concealed therein, and also the persons, of those whom he shall so find therein or take into custody, and to seize and take possession of all instruments of gaming found upon such search.

7. When any cards, dice, gaming-table, counters, cloth, board or other instruments of gaming used in playing any game, not being a game of mere skill, are found in any house, room, or place entered under warrant issued under the provisions of the last preceding section or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, room, or place is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Magistrate or Police officer or by any person acting under the authority of either of them.

8. On conviction of any person for opening, keeping or using a common gaming-house, or playing or gaming therein, or being present therein for the purpose of gaming, the convicting Magistrate may order all the instruments of gaming found therein, or on the persons of those who were found therein, to be forthwith destroyed;

and may also order all or any of the securities for money and other articles seized, not being instruments of gaming, to be sold and the proceeds thereof, with all moneys seized therein to be forfeited; or, in his discretion, may order any part of such proceeds and other moneys to be paid to any person appearing to be entitled thereto.

9. It shall not be necessary, in order to convict a person of any offence against any of the provisions of sections 4 and 5, to prove that any person found playing at any game was playing for any money, wager or stake.

10. Every person who shall have been concerned in any gaming contrary to this Act, and who shall be examined as a witness by or before a Magistrate on the trial of any charge against the owner, keeper or occupier or other person having the care or management of any common gaming-house, touching such gaming, and who upon such examination shall make true and faithful discovery to the best of his knowledge of all things as to which he shall be so examined, and who shall thereupon receive from the said Magistrate a certificate in writing to that effect, shall be freed from all prosecutions under this Act for anything done before that time in respect of such gaming.

11. The Magistrate trying any case under the provisions of sections 4 and 5 may direct any portion, not exceeding one-fourth of any fine

which may be levied under either of the said sections, or any part of the proceeds of articles or moneys seized and ordered to be forfeited under section 8, to be paid to an informer.

12. A Police-officer may apprehend without warrant

Power to arrest without warrant for gaming, and setting birds and animals to fight, in public streets.

(a) any person found playing for money or other valuable thing with cards, dice, counters or other instruments of gaming used in playing any game, not being a game of mere skill, in any public street, place or thoroughfare;

(b) any person setting any birds or animals to fight in any public street, place or thoroughfare;

(c) any person there present aiding and abetting such public fighting of birds and animals.

Any such person shall, on conviction, be punished with fine which may extend to fifty rupees, or with imprisonment which may extend to one month.

And such Police-officer may seize all birds and animals and instruments of gaming found in such public street, place or thoroughfare or on the person of those whom he shall so arrest, and the Magistrate may, on conviction of the offender, order such instruments to be forthwith destroyed, and such birds and animals to be sold and the proceeds forfeited.

13. Nothing in this Act shall be held to apply to any game of mere skill wherever played.

Saving of games of mere skill.

SCHEDULE—(see Section 2.)

Enactments repealed

Enactments	Subject.	Extent of repeal
Act XIII of 1856 ...	For regulating the Police of the towns of Calcutta, Madras and Bombay.	Sections 56, 57, 58, 60, 61, 62, 63, 65, and 66.
Act XLVIII of 1860 ..	To amend Act XIII of 1856.	Section 15.
Bombay Act III of 1866 ...	For the prevention of gambling.	The whole Act, so far as the same has not been already repealed.

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

J. J. HEATON,

Acting Under Secretary to Government.

Bombay Castle, 3rd January 1888.

THE



Bombay Government Gazette

Published by Authority.

MONDAY, 30TH JANUARY 1888.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 17th August 1887, and the assent of His Excellency the Viceroy and Governor General on the 14th January 1888, and is published for general information:—

BOMBAY ACT No. VI OF 1887.

An Act to amend the Bombay Hereditary Offices Act so far as it relates to Matádárs.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 30th January 1888)

III
4. WHEREAS some portions of the Bombay Hereditary Offices Act are found to be unsuited to matádárs, and it is therefore expedient to amend the said Act and to enact special provisions for the regulation of the service of matádárs: It is enacted as follows:—

Short title. 1. This Act may be cited as "The Matádárs Act, 1887."

Extent. It extends to the districts of Ahmedabad, Kaira, Broach and Surat; but the Governor in Council may, from time to time, by notification in the *Bombay Government Gazette*, extend its provisions to any village in the Panch Maháls district.

It shall come into force at once: Pro-
Commencement. vided that every appointment to any patel's office to which this Act applies, made under the provisions of the Bombay Hereditary Offices Act, or of Act No. XI Bo. III of 1843 (*an Act for regulating the service of hereditary officers under the Presidency of Bombay*), and still in force, shall hold good: 1874.

(a) until the time when, if this Act had not been passed, such appointment would become vacant, or until the expiry of two years from the coming of this Act into force, whichever first occurs, or

(b) in the case of an appointment which has been made to have effect pending

further orders, until such time as the Collector directs;

and a fresh appointment under this Act in lieu of any such appointment as aforesaid shall only be made to have effect from the time when the latter appointment ceases to hold good.

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

Interpretation.

(1) "matádár family" means a family to which the office of village patel, or some share in the discharge of the duties or in the exercise of the powers ordinarily appertaining to that office, belongs hereditarily;

(2) "mata" means the aggregate of the rights, privileges and responsibilities vesting in a matádár family as such;

(3) "Member of a matádár family" does not include a female, or a person claiming through a female, whilst such female or person is, under section two of Act No. V of 1886 (*an Act to amend Bombay Act III of 1874*), postponed in the order of succession to the mata, or part thereof or interest therein, to a male member of the family;

(4) "matádár" means a member of a matádár family whose name is entered in the register kept under section 5, and includes a representative matádár;

(5) "representative matádár" means a member of a matádár family whose name is entered as a representative matádár in the said register;

(6) "senior heir" means the heir who first acquired the right of inheritance, whether by birth, marriage or otherwise;

(7) any word or expression which is defined in the Bombay Land Revenue Code, 1879, and is not hereinbefore defined, shall have the meaning given to it by that Code.

Bo. V of 1879. Expressions defined in the Bombay Land Revenue Code.

Bo. III of 1874. 3. In applying the Bombay Hereditary Offices Act as amended by Bombay Act No. V of 1886 (*an Act*

to amend Bombay Act III of 1874), and section two of the last mentioned Act to matádárs, the term "watan" shall be deemed to mean all and each of the matas of a village, and a member of a matádár family shall be deemed to be a watandár, and the said Act, as so amended, shall be read subject to the following modifications (namely):

(1) sections 24 to 31, both inclusive, 36 to 59, both inclusive, 61, 62, 67, 69, 71 and clause (2) of section 73, and so much of section 73 as relates to orders passed under Part VI or Part VII or section 58 of the said Act, and in section 4 the definitions of "watandár" and "representative watandár", shall be deemed to be repealed;

(2) in sections 33 and 34, the words "the coming into force of this Act" shall be taken to mean the coming into force of this present Act, and the word "matádár" shall be substituted for the words "registered representative watandár" and "watandár," wherever they respectively occur;

(3) For the first four words of section 60, the words "when any person elected to officiate or a representative matádár" shall be deemed to be substituted.

4. Subject to the provisions of the last preceding section, this Act shall be read as one with the Bombay Hereditary Offices Act. Bo. III 1874.

Of the Register.

5. In the register of lands and allowances in consideration of which liability to perform service still exists, kept under section 65 of the Bombay Hereditary Offices Act, the Collector shall specify for every village in which there are matádárs:

- the number of distinct matádár families in the village separately recognized in the Collector's records;
- the name of the representative matádár of each matádár family to which a right to hold the office of patel appertains;
- the name of every other person directed by the Collector to be entered in the register under section 7 or 9;
- where there are more representative matádárs than one, the order of rotation in which, failing the appointment

Matádárs' service-register what to contain.

Bo. III 1874.

of an officiator by election, the right to the patel's office is to vest in the said representative matádárs ;

- (e) the number of persons required to officiate as patels contemporaneously ;
- (f) a description of the service lands held by each matádár family, showing the area, survey numbers and the assessment thereof, together with the quit-rent, if any, payable, and the net amount of revenue alienated by Government ;
- (g) the amount and nature of the cash or other allowances, if any, held by each matádár family ;
- (h) the watan property or profits assigned under section 23 of the Bombay Hereditary Offices Act for the emoluments of officiators ;
- (i) such other particulars as Government from time to time direct.

Bo. III of
1874.

The said register shall be amended from time to time whenever any change is made in any of the particulars therein specified in accordance with the provisions of this Act or of the Bombay Hereditary Offices Act.

Bo. III of
1874.

6. In every village in which there are two or more distinct matádár families separately recognized in the Collector's records, a right to hold the office of patel shall ordinarily be deemed to appertain to each of the said families :

Provided that it shall be competent to the Governor in Council to declare, if, upon consideration of the past history of the tenure of the office

exclusive right may be declared by Government to appertain to one matádár family.

in any village, and of the circumstances, so far as known, under which the village was founded, it shall appear to him equitable so to do, that the right to the patel's office in such village appertains exclusively to one matádár family, and every such declaration shall be conclusive evidence of the exclusive right thereby affirmed.

7. In the register prepared under section 5 the Collector shall enter the name of every member of a matádár family contained in any list of matádárs made under the orders of Gov-

ernment subsequent to the year 1866: Provided that—

- (a) if, for any village, no such list exists, or if, in respect of any matádár family, no person's name has been entered in any such list, or if, at the time when this Act comes into force, there is any dispute pending as to the completeness or correctness of any such entry, the Collector shall hold a summary inquiry, and shall enter in the register the name of each member of a matádár family who shall appear to him to have been recognized in the records previous to the year 1867 as a matádár of the family for which such list or entry is wanting, or to which such dispute relates ;
- (b) If any person whose name should be entered in the register in accordance with any of the foregoing provisions is dead, the name of the heir next in succession, or, if there are two or more heirs of equal degree, the name of the senior heir, shall, subject to the provisions of section two of Bombay Act No. V of 1886 (*an Act to amend Bombay Act III of 1874*), be entered in the register instead of his.

8. (1) The name of one matádár shall be entered in the said register as the representative matádár of each matádár family to which a right to hold the office of patel appertains.

(2) For every such matádár family of which there is only one matádár, the said matádár shall be the representative matádár.

(3) If there are two or more matádárs of any such matádár family, the Collector shall, as soon as may be after the passing of this Act, enter in the said register as representative matádár of the matádár family, such one of the said matádárs as shall appear to him to be the head of the matádár family.

9. On the death of a representative or other matádár, the fact shall be reported by the village officers to the Collector, and the name of the heir next in succession, or, if there are two or more heirs of equal degree, the name of the senior heir, shall, subject to the provisions of section two of Bombay Act No. V of 1886 (*an Act to*

Name of heir to be registered when a matádár dies.

amend Bombay Act III of 1874), be registered in his stead.

10. If at any time any person shall by production of a certificate of heirship, or of a decree or order of a competent court, satisfy the Collector that he is entitled to have his name registered under section 7 (b) or section 9 in preference to the person whose name the Collector has ordered to be registered, the Collector shall cause the entry in the register to be amended accordingly.

Of Service.

11. Every matádár shall be bound, when so required by the Collector, to perform the duties customarily discharged by matádárs, and shall have the privilege of signing the abstract of village-lands and revenues, and such other village records as it may be customary for matádárs to sign.

12. If within the limits of any village in which there are matádárs a new village or hamlet has been, or shall hereafter at any time be, formed, it shall be competent to the Collector, with the previous sanction of Government, to exclude the limits of such new village or hamlet from the area to which the functions of the said matádárs extend.

13. The Collector may fix at his discretion, from time to time, the number of officiators requisite for the due discharge of the duties of every patel's office.

14. In every village in which the Governor in Council declares, under section 6, that the right to the patel's office appertains exclusively to one matádár family, the said right shall vest in the representative matádár of that matádár family alone.

15. In every other village, the right to the patel's office shall vest in each of the matádár families entitled thereto in rotation.

16. For the purpose of determining the order in which the said right shall vest in the said families, the Collector shall, as soon as may be after this Act comes into force, by written notice, require the matádárs of the village to assemble in his presence.

If a majority of the matádárs present in accordance with the said notice do not agree to some order of rotation, the order shall be forthwith determined by the Collector by lot, in the presence of the assembled matádárs, in such manner as he shall think fit:

Provided that if in the course of any proceeding held under the Bombay Hereditary Offices Act, an order of rotation for service of the representative watandárs of the same families has been already settled by lot or by agreement of the parties, the order so settled shall hold good for the purpose of the last preceding section.

17. On or in anticipation of the occurrence of a vacancy in the office of patel, in any village to which section 15 applies, the matádárs of the village may elect some member of the matádár family whose turn it is to enjoy the right of office to fill the vacancy.

If a majority of the said matádárs fail, within such reasonable period as shall be prescribed by the Collector in this behalf, to nominate some member of the matádár family aforesaid for the vacancy, or if the person nominated is disqualified for office, the right of office shall vest in the representative matádár of the said family.

18. Elections under the last preceding section shall be held in accordance with such rules as the Governor in Council, by notification in the *Bombay Government Gazette*, from time to time, prescribes in this behalf.

19. Every representative matádár in whom the right of office vests under section 14 or 17, shall ordinarily be required to officiate in person.

Bo. III of 1874.

ed by the Collector, if he is not disqualified for office, to officiate in person, but the Collector may, if he thinks fit, dispense with his personal service.

If in any village to which section 15 applies, the representative matádár of the family whose turn it is to enjoy the right of office declines, when so required by the Collector, to officiate in person, the turn to enjoy the said right shall pass to the matádár family next in the settled order of rotation.

A representative matádár who declines, whilst officiating, to forsake some other employment which, in the opinion of the Collector, is incompatible with the due discharge of the duties of the patel's office, or fails when so required by the Collector to reside in the village for which he is appointed, shall be deemed to decline to officiate in person.

When a deputy may be appointed by a representative matádár. 20. A deputy may be appointed at any time :

- (a) by a representative matádár who is, or who whilst officiating in person becomes, disqualified for office; and
- (b) with the Collector's permission, by a representative matádár who does not wish to officiate or to continue to officiate in person, although not disqualified for office; and
- (c) by a sole representative matádár, who proposes to officiate or is already officiating in person, when one or more other officiators are necessary.

A deputy appointed by a representative matádár may at any time be removed from office by the Collector at the request of the representative matádár, if in the opinion of the Collector there are good reasons for such request.

21. When an appointment of a deputy has to be made by a representative matádár, the Collector shall, by written notice, require him to nominate a fit person to be his deputy within twenty days from the date of service of the said notice.

iv.—4

Should the representative matádár fail, within the said period, to nominate any person, or if the person he nominates is not a member of a matádár family of the same village, or is disqualified for office, the Collector may, in his discretion, extend the period of nomination for a further term of ten days.

If within the prescribed period of twenty days, or, when the Collector extends the period, within the extended term, no person is nominated by the representative matádár, or the person nominated by him is not a member of a matádár family of the same village, or is disqualified for office, the turn to enjoy the right of office shall, in a village to which section 15 applies, pass to the matádár family next in the settled order of rotation.

22. If a sole representative matádár declines, when so required by the Collector, to officiate in person, or fails to appoint a fit person to be his deputy in accordance with the provisions of the last preceding section, the Collector shall appoint a deputy.

A deputy so appointed by the Collector shall ordinarily be a member of a matádár family of the village for which he is appointed, but, with the previous sanction of Government, may be any other person.

23. If a matádár is under eighteen years of age, or is disabled by lunacy or imbecility of mind, the guardian or other legal curator of his person may act in his behalf in any of the matters provided for in sections 16, 17, 20 and 21.

24. The term of office of a sole representative matádár, and shall be for life, if the representative matádár shall not in the meantime become disqualified for office.

The term of office of a person elected under section 17 shall be for five years, or for such longer period as a majority of the matádárs shall, at the time of election, desire, if the

person elected shall not in the meantime die or become disqualified for office.

The desire of the matádárs as to the duration of the term of office of any person elected by them under section 17, shall be ascertained in accordance with the rules prescribed under section 18 for determining nominations.

25. The term of office of a representative matádár in whom the right of office vests on failure of an election under section 17, shall be :—

Term of office of a representative matádár entitled to office on failure of election.

- (a) five years, when the number of representative matádárs exceeds nine;
- (b) seven years, when the number of representative matádárs exceeds four but does not exceed nine;
- (c) ten years, when the number of representative matádárs does not exceed four.

26. A deputy appointed by a representative matádár, or by the Collector in his stead, shall be appointed for the term, or for the residue of the term, of office of the representative matádár by or for whom he is so appointed; and if a deputy dies or resigns or becomes disqualified for office during the said term, another deputy may be appointed for the residue of the said term in accordance with the provisions of sections 21 and 22:

Deputies to be appointed for the period of their principals' term of office.

Provided that—

- (a) if a representative matádár who has appointed a deputy because he himself was disqualified for office, or because he did not wish to officiate in person, subsequently at any time during his term of office wishes to officiate in person, he may, if he is not then disqualified for office, be permitted so to do by the Collector;
- (b) if a representative matádár dies during his term of office, the deputy, if any, officiating in his stead shall cease to officiate, and the successor of the representative matádár shall, subject to the provisions of section 19, officiate in person for the residue of the said term, or a deputy shall be appointed by him or by the Collector in his stead for the said period, according to the provisions of sections 20, 21 and 22.

27. Notwithstanding anything hereinbefore contained to the contrary, no representative matádár in any village to which section 15 applies shall be permitted to commence to officiate in person, and no new deputy shall be appointed by or for a representative matádár in any such village during the last year of the term of office of such representative matádár.

No change of officiator to be permitted during the last year of a representative matádár's term of office.

If occasion arises during any such year for any change of an officiator in any such village, there shall be deemed to be a vacancy in the office.

If occasion arises for any such change, office to be deemed vacant.

28. During any interval between the occurrence of a vacancy in a patel's office and its being filled up in accordance with the foregoing provisions, and during the time that any officiator is suspended, the Collector may appoint such person as he thinks fit, whether a member of a matádár family of the village or not, to officiate temporarily.

Appointment of temporary officiators by the Collector.

29. If an officiator is temporarily absent from his village, or is temporarily prevented by illness from discharging the duties of his office, he may depute some other fit person, whether a member of a matádár family of the village or not, to perform the said duties, but shall be responsible for the acts and omissions of the person so deputed as if they were his own acts and omissions.

Officiators to retain substitutes during their absence or illness

Of the Disqualifications for the Patel's Office.

30. The following persons shall be deemed to be disqualified for the patel's office (namely):

What persons are to be deemed disqualified for office

- (a) females;
- (b) persons under eighteen years of age;
- (c) any person who has not passed such educational test, if any, as Government think fit, from time to time, to prescribe in this behalf;
- (d) any person who has attained sixty years of age, except when such person's appointment or further continu-

ance in office is specially permitted by the Collector;

(e) any person who, in the opinion of the Collector, is disabled by lunacy or imbecility of mind, or by deafness, blindness, or other permanent infirmity of body:

(f) any person who, at the time when he would otherwise be entitled to officiate, is adjudged by the Collector, after a summary inquiry, to be of general bad character;

(g) any person who has been sentenced by a criminal court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence not having subsequently been reversed or quashed, and whose disqualification on account of such sentence has not been removed by an order which the Governor in Council is hereby empowered to make, if he shall think fit, in this behalf.

(h) any person removed from office under section 31, except when such person's re-employment is expressly sanctioned by Government.

Any officiator who during his term of office becomes disqualified for any of the above reasons shall cease to officiate.

Of Penalties.

31. Any matádár who shall neglect or refuse to comply with any order made by the Collector under section 11, and any matádár or officiator who shall be careless or negligent in the discharge of his duties, may be punished by the Collector, for each such offence, by fine which may extend to one-fourth part of the annual emoluments of such matádár or officiator.

If an officiator shall be accused of any misconduct which shall seem to the Collector to require a severer punishment than that aforesaid, the

Collector may suspend him from office during investigation into such accusation, and, after holding a summary inquiry, may, if he consider the officiator guilty of misconduct meriting such punishment, suspend him from office for a further period not exceeding six months, or, if fraud or wilful framing of incorrect records or other grave misconduct or offence is proved against him, may, with the previous sanction of Government, remove him from office.

When a representative matádár has been so removed from office, he shall, if Government so direct, be deprived for the rest of his life of any right which he would otherwise have of voting at an election of an officiator, or of appointing a deputy to officiate; and if any representative matádár so deprived is a sole representative matádár, a deputy shall be appointed by the Collector, subject to the provisions of paragraph two of section 22, to officiate in his stead during his lifetime.

If any representative matádár or deputy is removed from office under this section, the Governor in Council may direct the forfeiture of the life interest in the mata of the representative matádár so removed from office, or of the representative matádár by whom the deputy so removed from office was appointed, as the case may be.

32. Nothing in the last preceding section shall affect the liability of an officiator to a criminal prosecution for any offence which he may be accused of having committed; and the Collector may suspend any officiator subjected to any such prosecution pending the inquiry and trial, and at its close may take the proceedings and the finding of the criminal court into his consideration for the purpose of dealing with the case under the last preceding section.

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

J. J. HEATON,

Acting Under Secretary to Government.

Bombay Castle, 28th January 1888.



Bombay Government Gazette.

Published by Authority.

THURSDAY, 9TH FEBRUARY 1888.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

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

Act No. I of 1888.

An Act to amend the Indian Stamp Act, 1879.

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

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

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

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

2. For article 49 of the first schedule to that Act the following shall be substituted, namely:—

New article substituted for article 49 of Schedule I.

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

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

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

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

LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which the Bill to

amend the Indian Stamp Act, 1879, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

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

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

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

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

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

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

<i>Gazette.</i>	<i>In English.</i>	<i>Date</i>
Gazette of India	28th May 1887
Fort Saint George Gazette .	..	21st June 1887.
Bombay Government Gazette	..	2nd June 1887
Calcutta Gazette	...	8th June 1887.
North-Western Provinces and Oudh Government Gazette	..	4th June 1887.
Punjab Government Gazette	..	2nd June 1887
Central Provinces Gazette .	..	11th June 1887
Burma Gazette	18th June 1887.
Assam Gazette	18th June 1887.
Coorg District Gazette	...	1st July 1887.

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Bombay	Maráthi	7th July 1887.
	Gujaráthi	7th July 1887.
	Kanarese	14th July 1887
Bengal	Bengali	26th July 1887.
	Hindi...	9th August 1887.
	Uriya	23rd June 1887.
North-Western Provinces and Oudh	Urdu	4th June 1887
	Urdu ...	14th July 1887
Punjab	Urdu ...	13th, 20th and 27th July 1887.
Central Provinces	Maráthi	...

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

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

The 18th January 1888

S HARVEY JAMES,
 Secretary to the Government of India.

THE



Bombay Government Gazette.

Published by Authority.

THURSDAY, 16TH FEBRUARY 1888.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

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

Act No II of 1888.

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

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

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

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

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

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

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

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

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

LEGISLATIVE DEPARTMENT.

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

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

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

(Signed) J. WESTLAND.

„ ANDREW R. SCOBLE.

„ W. S. WHITESIDE.

„ ROBERT STEEL.

„ F. M. HALLIDAY.

S. HARVEY JAMES,

Secretary to the Government of India.

The 10th February 1888.



Bombay. Government Gazette

Published by Authority.

THURSDAY, 23RD FEBRUARY 1888.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

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

Act No. III of 1888

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

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

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

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

(3) It shall come into force at once.

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

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

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

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

ms Act
II of 1867.

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

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

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

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

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

3. Notwithstanding anything in any of the Acts mentioned or referred to in the last foregoing section, but subject to any orders which the Governor General in Council may make in this behalf, a member of the police-establishment of any presidency, province or place may discharge the functions of a police-officer in any part of British India beyond the limits of the presidency, province or place, and shall, while so discharging such functions, be deemed to be a member of the police-establishment of that part and be vested with the powers, functions and privileges, and be subject to the liabilities, of a police-officer belonging to that establishment.

S. HARVEY JAMES,

Secretary to the Government of India.

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

LEGISLATIVE DEPARTMENT.

We, the undersigned Members of the Select Committee to which the Bill to amend the law relating to the Regulation of Police was referred, have considered the Bill and the papers noted on the margin, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

From Secretary to Chief Commissioner, Coorg, No. 2149—2477, dated 22nd November, 1887, and enclosures [Papers No. 1].
 From Secretary to Chief Commissioner, Assam, No. 2760, dated 26th November, 1887 [Paper No. 2].
 From Chief Commissioner, Ajmere-Merwara, No. 1434, dated 28th November, 1887 [Paper No. 3].
 From Chief Secretary to Government, Madras, No. 2764, dated 7th December 1887, and enclosures [Papers No. 4].
 From Secretary for Berar to Resident, Hyderabad, No. 524 G., dated 27th December, 1887, and enclosures [Papers No. 5].
 From Officiating Under Secretary to Chief Commissioner, Central Provinces, No. 28—3, dated 3rd January, 1888 [Paper No. 6].
 From Chief Secretary to Government, North-Western Provinces and Oudh, No. 14—VIII-562-II, dated 6th January, 1888, and enclosures [Papers No. 7].
 From Officiating Chief Secretary to Chief Commissioner, Burma, No. 79 I.N., dated 6th January, 1888 [Paper No. 8].
 From Chief Secretary to Government, Bengal, No. 49 J, dated 9th January, 1888, and enclosures [Papers No. 9].
 From Officiating Secretary to Government, Punjab, No. 30, dated 11th January, 1888, and enclosures [Papers No. 10].
 From Registrar, High Court, Calcutta, No. 94, dated 13th January, 1888 [Paper No. 11].
 From Acting Under Secretary to Government, Bombay, No. 213, dated 12th January, 1888, and enclosures [Papers No. 12].

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

3. By sub-section (2) of the same section we have proposed to enable the authority controlling the police-force enrolled for service in such a district to discharge certain functions which the Code of Criminal Procedure assigns to the Local Government.

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

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

In English.

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

In the Vernaculars.

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

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

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

The 9th February 1888.

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

THE



Bombay Government Gazette.

Published by Authority.

THURSDAY, 8TH MARCH 1888.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

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

Act No. IV of 1888:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



Bombay Government Gazette.

Published by Authority.

THURSDAY, 22ND MARCH 1888.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA

LEGISLATIVE DEPARTMENT.

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

Act No. V of 1888.

THE INVENTIONS AND DESIGNS ACT, 1888.

CONTENTS.

SECTION.

1. Title, extent and commencement
2. Repeal.
3. Division of Act into Parts

PART I.

INVENTIONS

4. Definitions.
5. Application for leave to file specification.
6. Order to file specification.
7. Applications in respect of contemporaneous inventions.
8. Acquisition and continuance of exclusive privilege
9. Form and contents of specification.
10. Mode of filing application and specification.
11. Delivery and distribution of copies of specification.
12. Register of inventions.
13. Address-book
14. Provisions with respect to the register and book.

IV—9

SECTION.

15. Extension of exclusive privilege
16. Imposition of conditions with respect to exclusive privilege
17. Exclusive privilege to bind the Government.
18. Application for leave to file memorandum or amended specification
19. Effect of amended specification
20. Bar to exclusive privilege in certain cases.
21. Novelty of invention dependent on public use or knowledge thereof before application to file specification.
22. Effect of public use or knowledge of invention in fraud of inventor
23. Effect of temporary use of invention in public by inventor or by his leave.
24. Effect of public use or knowledge of patented invention between application for patent and application to file specification
25. Effect of like public use or knowledge of unpatented invention
26. Effect of public use or knowledge of invention after admission to an exhibition
27. Cessation of exclusive privilege by order of the Government.
28. Cessation of exclusive privilege on revocation or expiration of patent
29. Suit for infringement of exclusive privilege.
30. Application to declare exclusive privilege in respect of an invention not to have been acquired.
31. Like application as to part of an invention
32. Security for costs of application under either of the two last foregoing sections
33. Application on breach of condition.
34. Notice of proceedings to persons interested
35. Framing issue for trial before other Court
36. Order on application.
37. Delivery of particulars.

The Inventions and Designs Act, 1888.

(Part I.—Inventions.—Sections 1-4.)

SECTION.

38. Title of actual inventor to exclusive privilege in case of fraud.
 39. Transmission of copies of decrees and orders to Secretary.
 40. Registration of cessation of exclusive privilege
 41. Rectification of register of inventions or address-book.
 42. Power to High Court to stay proceedings on or dismiss certain applications.
 43. Power for Governor General in Council to require grant of licenses.
 44. Assignment for particular places.
 45. Subscription of specifications and applications.
 46. Verification of applications.
 47. Agents.
 48. Fees
 49. Rules and forms.

PART II.

DESIGNS.

50. Definitions.
 51. Application for order for registration of design.
 52. Registration in register of designs.
 53. Acquisition of copyright.

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

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

1. (1) This Act may be called the Inventions and Designs Act, 1888.

Title, extent and commencement (2) It shall extend to the whole of British India, and

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

2 (1) The enactments described in the first schedule are hereby repealed to the extent specified in the third column thereof.

(2) But this repeal of enactments shall not affect any exclusive privilege acquired, or any conditions or restrictions imposed with respect to any such privilege, or any right or liability accrued or incurred, under any of those enactments before the commencement of this Act, or any relief in respect of any such privilege, right or liability.

(3) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof.

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

PART I.—INVENTIONS.

PART II.—DESIGNS.

SECTION.

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

THE FIRST SCHEDULE.—ENACTMENTS REPEALED.

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

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

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

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

THE SIXTH SCHEDULE.—FEES (*Designs*)

PART I.

INVENTIONS.

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

(1) "invention" includes an improvement:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*The Inventions and Designs Act, 1888.**(Part I.—Inventions.—Sections 16-20.)*

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

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

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

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

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

16. An order under section 6, sub-section (1), authorizing the filing of a specification, or under section 15, sub-section (5), extending the term of an exclusive privilege, may be made subject to such conditions as the Governor General in Council thinks expedient.

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

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

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

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

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

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

18. (1) If, after the filing of the specification, Application for leave to the applicant has reason to believe that through mistake or inadvertence

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

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

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

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

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

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

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

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

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

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

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

*The Inventions and Designs Act, 1888.**(Part I.—Inventions.—Sections 21-28.)*

(e) if the original or any subsequent application relating to the invention or the original or any amended specification contains a wilful or fraudulent misstatement, or

(f) if the application for leave to file the specification of the invention was made under this Part after the expiration of one year from the date of the acquisition of an exclusive privilege in respect of the invention in any place beyond the limits of British India and the United Kingdom.

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

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

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

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

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

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

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

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

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

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

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

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

*The Inventions and Designs Act, 1883.**(Part I.—Inventions.—Sections 29-33.)*

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

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

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

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

30. Any person may apply to a High Court

Application to declare exclusive privilege in respect of an invention not to have been acquired.

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

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

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

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

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

(a) that that part of the invention is wholly distinct from the other parts thereof and is of no utility, or

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

(c) that the applicant was not the inventor of that part of the invention, or

(d) that that part of the invention, or the manner in which it is to be made and used, is not sufficiently described in the original or any amended specification, and that this insufficiency is injurious to the public

32. The High Court may, irrespective of any

Security for costs of application, under either of the two last foregoing sections, provisions of the Code of Civil Procedure in this XIV of 1882. behalf, require a person applying for a rule under

either of the two last foregoing sections to give security for the payment of all costs incurred or likely to be incurred by any person appearing to show cause against the rule.

33. (1) Any person authorized by the Gov-

ernor General in Council in this behalf may apply to a High Court for a

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Registration of cessation of exclusive privilege. 40. In the following cases, namely—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PART II.

DESIGNS.

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

Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) section 11, with respect to copies of specifications,
(b) section 14, with respect to the register of inventions and the matters entered therein, and
(c) section 47, with respect to the performance by an agent of any act required or authorised by that Part to be done by a principal,

shall, so far as they can be made applicable, apply, respectively, to—
(a) copies of drawings, photographs or tracings accompanying an application for an order for the registration of a design in respect of which such an order has been made,

(b) the register of designs and the matters entered and documents referred to therein, and

(c) the performance by an agent of any act required or authorised by this Part to be done by a principal.

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

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

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

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

The Inventions and Designs Act, 1888.

(Part II.—Designs.—Section 63. The First Schedule—Enactments repealed.

The Second Schedule.—Application where Patent has not been obtained.

The Third Schedule.—Application where Patent has been obtained.

The Fourth Schedule—Fees. (Inventions).)

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

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

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

THE SECOND SCHEDULE.

APPLICATION WHERE PATENT HAS NOT BEEN OBTAINED.

(See sections 5 and 49.)

TO THE GOVERNOR GENERAL IN COUNCIL.

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

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

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

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

(Signature and verification.)

THE THIRD SCHEDULE.

APPLICATION WHERE PATENT HAS BEEN OBTAINED.

(See sections 5 and 49.)

TO THE GOVERNOR GENERAL IN COUNCIL.

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

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

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

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

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

(Signature and verification.)

THE FOURTH SCHEDULE.

FEES (Inventions).

(See sections 8, 15 and 48.)

	Rs.	a.	p.
(1) in respect of an application for leave to file a specification (section 5) ..	10	0	0
(2) in respect of the filing of a specification (section 5) ..	30	0	0
(3) in respect of an extension of the time for filing a specification (section 8)	20	0	0
(4) in respect of the continuance of an exclusive privilege (section 8)—			
(a) after the filing of the specification and before the expiration of the fourth year from the date of the filing thereof ..	50	0	0
(b) after the expiration of the fourth year and before the expiration of the fifth year from that date ..	50	0	0
(c) after the expiration of the fifth year and before the expiration of the sixth year from that date ..	50	0	0
(d) after the expiration of the sixth year and before the expiration of the seventh year from that date ..	50	0	0
(e) after the expiration of the seventh year and before the expiration of the eighth year from that date ..	50	0	0
(f) after the expiration of the eighth year and before the expiration of the ninth year from that date ..	100	0	0
(g) after the expiration of the ninth year and before the expiration of the tenth year from that date ..	100	0	0
(h) after the expiration of the tenth year and before the expiration of the eleventh year from that date ..	100	0	0

The Inventions and Designs Act, 1888.

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

THE FOURTH SCHEDULE—continued.

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

THE FIFTH SCHEDULE.

APPLICATION FOR ORDER FOR REGISTRATION OF DESIGN.

(See sections 51 and 63.)

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

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

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

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

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

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

(Signature)

THE SIXTH SCHEDULE.

FEES (Designs).

(See section 62)

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

S. HARVEY JAMES,

Secretary to the Government of India.

THE



Bombay Government Gazette.

Published by Authority.

THURSDAY, 29TH MARCH 1888.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

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

Act No. VI of 1888.

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

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

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

(2) It shall come into force at once.

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

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

Procedure the following sections shall be inserted, namely:—

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

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

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

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

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

“subject to the provisions of sections 245A and 245B.”

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

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

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

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

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

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

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

Addition to section 380 of the Code.

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

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

6 In section 640 of the said Code, after the words "from arrest in execution of civil process" the words "in any case in which the arrest of women is not prohibited by this Code" shall be added.

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

Amendment of section 642 of the Code.

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

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

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

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

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

(a) by the Local Government, on the ground of his suffering from any infectious or contagious disease; or

(b) by the committing Court, or any Court to which that Court is subordinate, on the ground of his suffering from any serious illness.

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

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

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

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

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

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

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

LEGISLATIVE DEPARTMENT.

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

ACT No. VII OF 1888.

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

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

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

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

2. (1) In this Act, unless there is something repugnant in the subject or context, "section" means a section, "schedule" a schedule, and "Chapter" a Chapter, of the Code of Civil Procedure.

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

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

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

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

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

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

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

Addition of new section after section 16.

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

Place for institution of suit where local limits of jurisdiction of Courts are uncertain.

6. The following shall be inserted after section 16, namely:—

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

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

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

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

- (i) the place where the contract was made;
- (ii) the place where the contract was to be performed or performance thereof completed;
- (iii) the place where in performance of the contract any money to which the suit relates was expressly or impliedly payable."

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

Substitution of new section for section 53.

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

9. For section 53 the following shall be substituted, namely:—
- "53. The plaint may at the discretion of the Court,—
- (a) at, or at any time before, the settlement of issues be rejected if it does not disclose a cause of action;
 - (b) at, or at any time before, the settlement of issues be returned for amendment within a time to be fixed by the Court, and upon such terms as to the payment of costs occasioned by such amendment as the Court thinks fit, if it—
 - (1) is not signed and verified as hereinbefore required,

of 1892
of 1877
of 1877.

of 1882.

(ii) does not state correctly and without prolixity the several particulars hereinbefore required, or contains particulars other than those so required,

(iii) is wrongly framed by reason of nonjoinder or misjoinder of parties, or joins causes of action which ought not to be joined in the same suit, or

(iv) is not framed in accordance with the provisions of section 42;

(c) at any time before judgment be amended by the Court upon such terms as to the payment of costs as the Court thinks fit:

“Provided that a plaint shall not be amended either by the party to whom it is returned for amendment, or by the Court, so as to convert a suit of one character into a suit of another and inconsistent character.

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

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

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

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

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

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

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

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

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

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

Substitution of new sections for sections 141 and 142.

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

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

in evidence in the suit the following particulars, namely:

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

and the endorsement shall be signed by the Judge.

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

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

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

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

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

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

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

Endorsements on documents rejected as inadmissible in evidence

Recording of admitted and return of rejected documents

Substitution of new section for section 72.

Delivery or transmission of summons for service.

Substitution of new section for section 90.

Service in foreign territory through British Resident or Court.

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

14. In section 143, for the words and figures Amendment of sec- "sections 62, 141 and tion 143. 142" there shall be

substituted the following, namely:—
"section 62, section 141A, sub-section (3), or section 142A, sub-section (2)."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Where such a decree is silent with respect to the payment of further interest on such aggregate sum as aforesaid from the date of the decree to the date of payment or other earlier date, the Court shall be deemed to have refused such interest, and a separate suit therefor shall not lie."

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

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

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

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

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

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

23 In section 229, after the word "estab- Amendment of section lished" the words "or 229. continued" shall be inserted.

24. After section 229 the following shall be Addition of new section inserted, namely:— after section 229.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Insertion of new section 434. **40.** After section 433 the following section shall be inserted, namely:—
"434. A Sovereign Prince or ruling Chief may sue, and shall be sued, in the name of his State:

"Provided that in giving the consent referred to in the last foregoing section the Governor General in Council or Local Government, as the case may be, may direct that any such Prince or Chief shall be sued in the name of an agent or in any other name"

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

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

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

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

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

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

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

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

Substitution of new section for section 551. **47.** (1) For section 551 the following shall be substituted, namely:—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

III of 1877. Amendment of the Indian Registration Act, 1877.
VII of 1886. 1886, the following clause shall be added, namely:

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

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

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

Fort William: }
The 10th March 1888. }

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

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

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

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

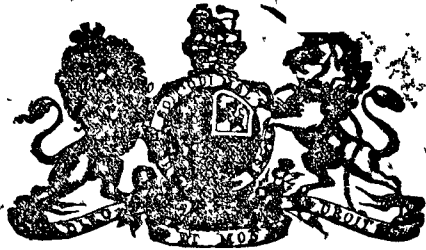
Description of Application.	Period of Limitation	Time from which period begins to run.
171. Under section 371 of the Code of Civil Procedure, or under that section and section 582 of the same Code, for an order to set aside an order for abatement or dismissal.	Sixty days.	The date of the order for abatement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

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

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

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

THE



Bombay Government Gazette.

Published by Authority.

FRIDAY, 13TH APRIL 1888.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 9th March 1888, and the assent of His Excellency the Viceroy and Governor General on the 5th April 1888, and is published for general information:—

Bombay Act No. I of 1888.

An Act to further amend the Bombay Local Boards Act, 1884, and the Bombay District Municipal Act Amendment Act, 1884.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 13th April 1888.)

WHEREAS it is expedient to further amend the Bombay Local Boards Act, 1884, and the Bombay District Municipal Act Amendment Act, 1884, in manner hereinafter appearing; It is enacted as follows:—

1. To section 14 of the Bombay Local Boards Act, 1884, and to section 18 of the Bombay District Municipal Act Amendment Act, 1884, the following words shall be added, viz.:—

“extensible, by order of the Governor in Council, to a term not exceeding in the aggregate three years and six months, if on any occasion the Governor in Council shall think fit, for

reasons which shall be notified, together with the order, in the *Bombay Government Gazette*, so to extend the same.”

2. Any order made by the Governor in Council before this Act comes into force made by the Governor in Council before the Act comes into force. Validation of orders made by the Governor in Council before the Act comes into force. for extending the term of office of the members of any local board or of the commissioners of any municipality, which would have been valid if this Act had been in force at the time it was made, shall have and be deemed to have had, from the date of the notification thereof in the *Bombay Government Gazette*, the same validity as if this Act had been then in force.

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

J. J. HEATON,
Acting Under Secretary to Government.

Bombay Castle, 11th April 1888.

IV.—16



Bombay Government Gazette.

Published by Authority.

SATURDAY, 28TH APRIL 1888.

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

PART IV. ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

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

Bombay Act No. VII of 1887.

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

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

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

1. This Act may be called "The Toda Girás Allowances Act, 1887."
Short title
2. In this Act, "toda girás allowance" means a cash payment made periodically to any person on the part of Government, or by or on the part of a holder of alienated land, under the name of *girás*, *wol*, *tora girás*, or *toda girás*:
"Toda girás allowance" defined.
3. Every toda girás allowance is continuable hereditarily to the lineal male heirs in male descent of the first recipient thereof under British rule:
Toda girás allowances to be held hereditarily in male descent.
4. No mortgage, charge or alienation of a toda girás allowance, or of any part thereof, or of any interest therein, by any recipient of the same, shall be valid as to any time beyond such recipient's natural life.
Mortgage, &c., of toda girás allowance by any recipient thereof valid only for his life.
5. No toda girás allowance shall be liable to attachment or sale in execution of a decree:
Exemption of toda girás allowances from attachment and sale in execution of decrees.

Provided that, on failure of such heirs, the allowance, or some portion thereof, shall whenever the Governor in Council has already so directed, or shall hereafter so direct, be continuable hereditarily to the lineal male heirs in male descent of a brother of the first recipient of such allowance under British rule.

Provided.

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

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

- (a) If the instrument purporting or operating to effect such alienation has before the date on which this Act comes into force been registered under any law for the time being in force relating to the registration of documents; or
- (b) If the said instrument, not being compulsorily registrable, and not having been registered under any such law as aforesaid, has been executed before the date on which this Act

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

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

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

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

J. J. HEATON,

Acting Under Secretary to Government.

Bombay Castle, 24th April 1888.



Bombay Government Gazette.

Published by Authority,

FRIDAY, 29TH JUNE 1888.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

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

Bombay Act No. II of 1888.

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

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

Bo. IV
1881. of Sind Village Officers Act, 1881, in manner hereinafter appearing; It is enacted as follows:—

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

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

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

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

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

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

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

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

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

J. J. HEATON,

Acting Under Secretary to Government.

Bombay Castle, 27th June 1888.

IV.—18



Bombay Government Gazette

Published by Authority.

THURSDAY, 13TH SEPTEMBER 1888.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

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

Act No. VIII of 1888.

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

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

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

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

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

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

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

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

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

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

LEGISLATIVE DEPARTMENT.

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

Act No. IX. of 1888.

An Act to repeal certain enactments relating to Contagious Diseases.

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

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

Repeal.

THE SCHEDULE.
ENACTMENTS REPEALED.

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

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

THE



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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

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

Bombay Act No. III of 1888.

The City of Bombay Municipal Act, 1888.

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

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The City of Bombay Municipal Act, 1888.

[Ch. I.—Preliminary, Sects. 1—3 (k).]

Bombay Act No. III of 1888.

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

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

CHAPTER I.

PRELIMINARY.

1. This Act may be cited as "The City of Bombay Municipal Act, 1888."
 Short title.
- Except as is herein otherwise expressly provided, it extends only to the city of Bombay.
 Extent.
2. The enactments mentioned in schedule A. are repealed to the extent specified in the third column of the said schedule :
 Repeal of enactments

Provided that :

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

as a plumber or surveyor, under section 355;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The City of Bombay Municipal Act, 1888.

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

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

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

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

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

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

CHAPTER II

THE MUNICIPAL CONSTITUTION.

Municipal Authorities.

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

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

(A). *The Municipal Corporation.*

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

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

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

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

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

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

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

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

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

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

Qualifications and Disqualifications of Voters and Councillors.

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

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

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

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

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

and unless such person, either:

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

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

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

12. (1) A person shall not be entitled

Qualification of voters at justices' elections.

to vote at a justices' election, unless he is at the time of such election a justice and is enrolled as a justice in the municipal election roll.

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

13. (1) A person shall not be entitled

Qualification of voters at fellows' elections.

to vote at a fellows' election, unless he is at the time of such election a fellow and is enrolled as a fellow in the municipal election roll.

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

14. (1) A person shall not be qualified

Qualification for election as a councillor at ward-elections.

to be elected at a ward-election to be a councillor, unless he is enrolled in the municipal election roll as a voter of some ward; or unless he is at the time of the election a justice or a fellow and is enrolled as a justice or as a fellow in the municipal election roll.

(2) Provided that:

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

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

15. A person shall not be qualified

Qualification for election as a councillor at an election by justices, or by fellows or by the chamber of commerce.

to be elected to be a councillor at a justices' election or a fellows' election, or an election by the Bombay Chamber of Commerce, unless he is at the time of the election, a justice, or a fellow, or a member of the said chamber, as the case may be, and unless, in the case of a justice or a fellow, he is enrolled as such in the municipal election roll.

16. (1) A person shall be disqualified

Disqualifications for being a councillor.

for being elected or appointed and for being a councillor if such person:

(a) is of the female sex; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18. Whenever it is alleged that any

Questions as to disqualifications to be determined by chief judge of the small cause court

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

Municipal Election Roll.

Preparation and revision of list of persons qualified to vote

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

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

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

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

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

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

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

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

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

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[Ch. II.—Municipal Constitution, Sects. 19 (9)—(21)]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The City of Bombay Municipal Act, 1888.

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

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

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

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

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

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

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

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

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

Elections of Councillors.

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

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

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

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

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

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

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

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

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

Division of the city into wards for purposes of elections.

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

ward-elections shall be apportioned over the said wards.

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

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

25. Fifteen days at least before the day fixed for a ward-election or for a justices' election, notice of such election shall be given by the commissioner. Such notice shall be given by advertisement in the *Bombay Government Gazette* and in the local newspapers, and, in the case of a ward-election, by posting placards in conspicuous places in the ward for which such election is to take place.

26. (1) Candidates for election at a ward-election or a justices' election must be duly nominated in writing in accordance with the provisions hereinafter contained.

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

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

(b) Each nomination-paper must state the name, abode and description of the candidate in full, and be subscribed by two persons entitled to vote at the election as proposer and seconder ;

(c) Every nomination-paper subscribed as aforesaid must be delivered at the commissioner's office before five o'clock in the afternoon of the day fixed for the election ;

(d) Each candidate must be nominated by a separate nomination-paper, but any person entitled to vote at the election may subscribe as many nomination-papers as there are vacancies to be filled, but no more ;

(e) If any person nominated

(i) is not enrolled in the municipal election roll as a voter of a ward or as a justice or as a fellow ; or

(ii) although enrolled in the municipal election roll as a justice or a fellow, has ceased to be a justice or a fellow ; or

(iii) is disqualified for being a councillor for any of the reasons set forth in section 16 ;

the commissioner shall declare such person's nomination invalid ;

(f) If there is no valid nomination, it shall be deemed that no councillor has been elected and proceedings for filling the vacancy or vacancies shall be taken under section 34 ;

(g) If the number of valid nominations is less than that of the vacancies, the persons nominated shall be deemed to be elected and for the remaining vacancy or vacancies it shall be deemed that no councillor has been elected and proceedings for filling such vacancy or vacancies shall be taken under section 34 ;

(h) If the number of valid nominations is the same as that of the vacancies, the persons nominated shall be deemed to be elected ;

(j) If the number of valid nominations exceeds that of the vacancies, the election of councillors shall be made from among the persons nominated, and such election shall be termed "a contested election" ;

(k) If, when two or more ward-elections are held simultaneously for different wards, any person is deemed, under clause (g) or clause (h) to be elected a councillor for more than one ward, he shall within twenty-four hours after receipt of written notice thereof from the commissioner, choose, by writing signed by him and delivered to the commissioner, or in his default, the commissioner shall, when the time for choice has expired, declare for which one of those wards he shall serve. The choice or declaration so made shall be conclusive,

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[Ch. II.—Municipal Constitution, Sects. 26 (l)—28 (j).]

and such person's nomination for the ward or wards for which he is not to serve shall be deemed to be null and void;

(l) If, when ward-elections are held as aforesaid, any person who is deemed, under clause (g) or clause (h), to be elected a councillor for any one or more wards, has also been duly nominated for any, one or more wards for which the number of nominations exceeds that of the vacancies, he shall within twenty-four hours after receipt of written notice thereof from the commissioner choose, by writing signed by him and delivered to the commissioner whether he shall serve for the ward, or for any one of the wards for which he is elected, or will stand as a candidate at the contested election or elections for the other ward or wards. In his default, the commissioner shall, when the time for choice has expired, declare that he shall serve for the ward, or for some one of the wards for which he is elected, and his nomination for any other ward shall be deemed to be null and void. If such person chooses, by writing as aforesaid, to stand as a candidate at the contested election or elections, his nomination for the ward or wards for which he is elected shall be deemed to be null and void. Any choice or declaration made under this clause shall be conclusive.

27. (1) When a ward-election or a justices' election is contested, a poll shall be taken seven days after the day fixed for the election. At such poll, the municipal election roll which was in operation on the day fixed for the election shall be deemed to be the roll to which reference must be made for the purposes of the election.

(2) At least four days before the day of the poll, the commissioner shall cause the names of all the persons validly nominated, with their respective abodes and descriptions and the names of the persons subscribing their respective nomination-papers as proposers and seconders, to be published in the *Bombay Government Gazette* and in the local newspapers.

28. With respect to contested ward-elections, the following provisions shall have effect, namely:

(a) One or more polling-places shall be provided by the commissioner for each ward, as he thinks fit, and the commissioner may appoint such and so many polling-officers and other persons to assist at the poll as he shall think fit and, with the approval of the standing committee, pay them such reasonable remuneration for their services as he shall determine;

(b) The poll shall commence at nine o'clock in the forenoon and close at six o'clock in the afternoon of the same day;

(c) The commissioner shall have voting-papers, in such form as he from time to time thinks fit, printed, and the said forms shall be supplied to persons entitled to vote, on any of the four days (not being a Sunday or a public holiday) previous to the day of the poll at the municipal office and on the day of the poll at each polling-place, free of charge;

(d) At each election for any ward, every voter shall be entitled to a number of votes equal to the number of councillors to be elected at such election for such ward, and may give all such votes to one candidate, or may distribute them among the candidates, as he thinks fit;

(e) No vote shall be received for any candidate whose name has not been published by the commissioner, under sub-section (2) of section 27, as having been validly nominated;

(f) No vote shall be received from any person whose name is not enrolled in the ward-roll as a voter of the ward for which the election is being held;

(g) When the name in the ward-roll is that of a joint-stock company, a vote on behalf of the said company may be received from its secretary, agent or manager;

(h) When the name in the ward-roll is that of any company, other than a joint-stock company, or of a firm, a vote on behalf of such company or firm may be received from any person who produces to the polling-officer a power-of-attorney authorizing him to represent the said company or firm for the purpose of the election;

(j) The polling-officer shall, if required by two persons whose names

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[Ch. II.—Municipal Constitution, Sects. 28 (k)—29(a).]

are enrolled in the ward-roll, or by a candidate, put to any person offering to vote, at the time of his presenting his voting-paper, but not afterwards, the following questions, or either of them :

(i) Are you the person enrolled in the ward-roll as follows (*read the whole entry from the roll*)?

(ii) Have you already voted at the present election, (*add, in case of simultaneous elections in two or more wards, or at any election being at present held for any other ward*)?

(k) A person to whom either of the said questions is put shall be bound to answer the same truly. His voting-paper shall not be received until he has answered the question or questions so put to him ;

(l) Except as aforesaid, no inquiry shall be permitted at a ward-election as to the right of any person to vote thereat ;

(m) The answers or answer made by any person to whom the said questions or either of them are or is put, shall be recorded by the polling-officer under his signature in writing, and such writing, together with the said person's voting-paper, shall be forwarded by the polling-officer, at the close of the poll, separately from the voting-papers of the persons whose right to vote has not been challenged as aforesaid ; and the polling-officer shall direct the parties to any such challenge to appear, within three days after the poll, before the commissioner ;

(n) The name of the person, or of every person for whom a voter votes and all other details prescribed by the form of the voting-paper shall be written legibly, in English, in the voting-paper, and the voter shall sign, or attach his mark to the voting-paper in the presence of the polling-officer ; and the said officer shall attest each such signature or mark and shall attach consecutive numbers to each of the voting-papers presented to him ;

(o) After the close of the poll, the polling-officer shall forward all the voting-papers presented to him, in one or more packets duly secured and sealed, to the commissioner, together with a list of the cases, if any, in which a person's right to vote has been challenged ;

(p) The commissioner shall, as soon as may be, hear and decide upon all challenges and other objections, if any, to or regarding the poll, made to him in writing not later than five o'clock in the afternoon of the day after the poll, and cause lists to be prepared of the valid votes given for each candidate. The said lists and the voting-papers on which they are based shall be kept in the commissioner's office, unless called for in the meantime by the Chief Judge of the Small Cause Court for the purpose of any appeal, for three months ;

(q) The person, or where there is more than one councillor to be elected, the persons not exceeding the number of councillors to be elected, who have the greatest number of valid votes shall be deemed to be elected ;

(r) Where an equality of such votes is found to exist between any candidates and the addition of a vote would entitle any of those candidates to be declared elected, the determination of the person or persons to whom such one additional vote shall be deemed to have been given shall be made by lot to be drawn in the presence of the commissioner in such manner as he shall determine ;

(s) If a candidate is elected councillor for more than one ward, he shall, within twenty-four hours after receipt of written notice thereof from the commissioner, choose, by writing signed by him and delivered to the commissioner, or, in his default, the commissioner shall, when the time for choice has expired, declare for which of those wards he shall serve, and the choice or declaration shall be conclusive ;

(t) When any such choice or declaration has been made, the votes recorded for the candidate aforesaid in any ward for which he is not to serve shall be deemed not to have been given, and the candidate, if any, who, but for the said votes, would have been declared elected for such ward, shall be deemed to have been duly elected for the same.

29. With respect to justices' contested elections the following provisions shall have effect, namely :—

(a) The poll shall be taken at a meeting of the justices, of the time and place of which reasonable notice shall be

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[Ch. II.—Municipal Constitution, Sects. 29 (b)—33 (1)]

given by the commissioner by advertisement in the *Bombay Government Gazette* and in the local newspapers and which shall be presided over by such one of the justices present, as may be chosen by the meeting to be chairman for the occasion.

(b) Every person entitled to vote may vote by signing and personally delivering, at the meeting held in accordance with the notice given under clause (a), to the chairman of such meeting, a voting-paper containing the name in full of the candidate or of each of the candidates for whom he votes ;

(c) Every voter shall be entitled to vote for any number of candidates not exceeding the number of vacancies ;

(d) No vote shall be received for any candidate whose name has not been published by the commissioner, under sub-section (2) of section 27, as having been validly nominated ;

(e) No vote shall be received from any person whose name is not enrolled in the justices' roll or who is not on the day of the meeting a justice ;

(f) The chairman of the meeting, as soon as all the voting-papers of the justices present and voting have been delivered to him, shall close the meeting and shall, as soon as may be, cause lists to be prepared of the valid votes given for each candidate. The said lists and the voting-papers on which they are based, shall be delivered by the chairman of the meeting to the municipal secretary by whom, unless they are called for in the meantime by the Chief Judge of the Small Cause Court for the purpose of any appeal, they shall be kept for three months ;

(g) The person, or where there is more than one councillor to be elected, the persons not exceeding the number of councillors to be elected, who have the greatest number of valid votes shall be deemed to be elected ;

(h) In case of an equality of such votes, the chairman of the meeting shall have a second or casting vote ;

(j) The chairman of the meeting shall make a return in duplicate to the commissioner setting forth the name in full of every person elected at the meeting.

30. (1) Elections of councillors by fellows shall be made, subject to the provisions of section 15, in such manner as shall from time to time be determined at a meeting of the senate of the University of Bombay convened in accordance with the rules at the time in force in this behalf : Provided that no vote shall be received from any person whose name is not enrolled in the fellows' roll or who is not on the day of the meeting a fellow.

(2) The registrar of the university shall make a return in duplicate to the commissioner setting forth the name, abode and description of every person so elected.

31. (1) Elections of councillors by the Bombay Chamber of Commerce shall be made by the members for the time being of the said chamber, subject to the provisions of section 15, in such manner as shall from time to time be determined at a meeting of the said chamber convened in accordance with the rules at the time in force in this behalf.

(2) The secretary to the said chamber shall make a return in duplicate to the commissioner setting forth the name in full of every person so elected ;

32. (1) The result of every election shall be declared by fixing, as soon as may be after the election, in some conspicuous place on the chief municipal office, a notice certifying the names of the persons, if any, elected and, in the case of a contested election, the number of votes recorded for each candidate.

(2) The said notice shall be signed, in the case of a ward-election and in the case of a justices' election which is not contested, by the commissioner, in the case of a contested justices' election, by the chairman of the meeting of justices at which the election took place, in the case of a fellows' election, by the registrar of the University of Bombay, and in the case of an election by the Bombay Chamber of Commerce, by the secretary of that chamber.

33. (1) If the qualification of any person declared to be elected for being a councillor is disputed, or if the validity of any elec-

Proceedings, at fellows' elections.

Proceedings at elections by the chamber of commerce.

Declaration of results of elections.

Election-petitions to be heard and disposed of by chief judge of the small cause court.

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[Ch. II.—Municipal Constitution, Sects. 33 (2)—36(b)]

tion is questioned, whether by reason of the improper rejection by the commissioner of a nomination or of the improper reception or refusal of a vote, or for any other cause, any person enrolled in the municipal election roll may at any time, within eight days after the result of the election has been declared, apply to the Chief Judge of the Small Cause Court.

(2) If the said chief judge, after making such inquiry as he deems necessary, finds that the election was a valid election and that the person whose election is objected to is not disqualified, he shall confirm the declared result of the election. If he finds that the election was not a valid election he shall set it aside, so far as concerns the person whose election is objected to. If he finds that there is no objection to the validity of the election-proceedings, but that the person whose election is objected to is disqualified for being a councillor, he shall declare such person's election null and void, and direct that the candidate, if any, in whose favour the next highest number of votes was recorded after the said person, or after all the persons who were returned as elected at the said election, shall be deemed to have been elected.

(3) The said chief judge's order shall be conclusive.

(4) If he sets aside an election or if, when he declares a person who has been declared elected disqualified for being a councillor, there is no other candidate who can be deemed to have been elected, proceedings for filling the vacancy or vacancies shall be taken under section 34.

(5) Every election not called in question in accordance with the foregoing provisions shall be deemed to have been to all intents a good and valid election.

34. (1) If from any cause no councillor is elected at any
Procedure if election fails. general election, not being one of the first general elections held in accordance with this Act, the retiring councillor or councillors shall, if willing to serve, be deemed to be re-elected.

(2) If, in any such case, the retiring councillor is not willing to serve, or some of the retiring councillors are willing to serve and some are not, or

if, in the case of a first general election held in accordance with this Act, or of an

election to fill a casual vacancy, no councillor is elected, or

if, in the case of any election, an insufficient number of councillors are elected,

the commissioner shall without delay inform the corporation of the circumstances, and thereupon the corporation, so far as it is constituted, may appoint a duly qualified person to fill the vacancy, or each vacancy, as the case may be, and if the corporation shall fail within fifteen days after receipt of such information to appoint a person as aforesaid, the commissioner shall appoint another day for holding a fresh election.

(3) A fresh election held under this section shall be held subject in all respects to the same provisions as if it were an election to fill a casual vacancy.

Appointment of Councillors by Government

35. (1) The first appointment of councillors by Government
Government appointments when to be made shall be made not less than seven days before the first day of April, 1889.

(2) Subsequent appointment of councillors by Government to succeed retiring councillors shall be made triennially not less than seven days before the day for retirement.

(3) Appointments of councillors by Government to fill casual vacancies shall be made as soon as conveniently may be after the occurrence of such vacancies.

Proceedings of the Corporation.

36. The corporation shall meet for the
Provisions regulating the corporation's proceedings despatch of business and shall from time to time make such regulations with respect to the summoning-notice, place, management and adjournment of such meetings, and generally with respect to the mode of transacting and managing the business of the corporation as they think fit, subject to the following conditions :

(a) there shall be one ordinary meeting in each month; the ordinary meeting in the month of March shall be held not later than on the twentieth day of that month;

(b) the first meeting in the month of April, after general elections, shall be held as early as conveniently may be in the said month on a day and at a time and place to be fixed by the commis-

The City of Bombay Municipal Act, 1888.

[*Ch. II.—Municipal Constitution, Sec. 36 (c)—(l)*]

sioner, and if not held on that day shall be held on some subsequent day to be fixed by the commissioner ;

(c) the day, time and place of meeting shall in every other case be fixed by the president of the corporation, or in the event of the office of president being vacant, or of the death or resignation of the president, or of his ceasing to be a councillor, or of his being incapable of acting, by the chairman of the standing committee ;

(d) the president of the corporation, or in any such event as aforesaid, the chairman of the standing committee may, whenever he thinks fit, and shall, upon a written requisition signed by not less than sixteen councillors or by not less than four members of the standing committee, call a special meeting ;

(e) every meeting shall be open to the public, unless a majority of the councillors present thereat decide by a resolution, which shall be put by the presiding authority, of his own motion or at the request of any councillor present, without previous discussion, that any inquiry or deliberation pending before the corporation is such as should be held in private and provided that the presiding authority may at any time cause any person to be removed who interrupts the proceedings ;

(f) if at any time during a meeting it shall be brought to the notice of the presiding authority that the number of councillors present falls short of twenty, inclusive of the presiding authority, the presiding authority shall adjourn the meeting to some other day, fixing such time and place for the same as he shall think convenient, and the business which remains undisposed of at such meeting shall be disposed of at the adjourned meeting or, if the latter meeting should be again adjourned, at any subsequent adjourned meeting, whether there be a quorum of twenty members present thereat or not ;

(g) every meeting shall be presided over by the president, if he is present at the time appointed for holding the same, and if the office of president is vacant, or if the president is absent, by such one of the councillors present as may be chosen by the meeting to be chairman for the occasion ;

(h) at least seven clear days' notice shall ordinarily be given of every meeting, other than an adjourned meeting, but in cases of urgency any such meeting may be called, except for the purpose of considering an annual budget-estimate, in pursuance of a written requisition signed by not less than four members of the standing committee, upon a notice of not less than three clear days ; of adjourned meetings such previous notice shall be given as shall be practicable, having regard to the period of the adjournment ;

(j) every notice of a meeting shall specify the time and place at which such meeting is to be held and the business to be transacted thereat and shall be given by the municipal secretary by advertisement in the local newspapers and, except in the case of adjourned meetings or of meetings called upon a requisition of urgency, in the *Bombay Government Gazette* ;

(k) any councillor who desires at any meeting to bring forward any business, or to make any substantive proposition, which is not already specified in the notice of such meeting, shall give written notice of the same to the municipal secretary at least three clear days before the day fixed for the meeting ; and a supplementary announcement of the business or propositions, of which notice has been so given, shall be given by the said secretary in not less than one local daily newspaper not later than the day previous to the meeting ;

(l) except at a meeting called on a requisition of urgency or at the discussion at any meeting of a budget-estimate, no business shall be transacted at any meeting other than the business specified in the notice published under clause (j) or urgent business not specified in the said notice which the standing committee or the commissioner deem it expedient to bring before the meeting,—and no substantive proposition shall be made or discussed which is not specified in the said notice or in the supplementary announcement, if any, published under clause (k), or which is not in support of the recommendation of the standing committee or of the commissioner with reference to any urgent business brought by either of those authorities, respect-

The City of Bombay Municipal Act, 1888.

[Ch II.—Municipal Constitution, Sec. 36 (m)—(s).

ively, before the meeting : provided that no such urgent business as aforesaid shall be brought before any meeting, unless at least three-fourths of the councillors present at such meeting, such three-fourths being not less than fifteen in number, assent to its being brought forward thereat ;

(m) at a meeting called on a requisition of urgency and during the discussion at any meeting of a budget-estimate, no business shall be transacted and no substantive proposition shall be made or discussed which does not directly relate to the business for which the urgent meeting was called, or to the budget-estimate, as the case may be ; and no proposition involving any change in the taxes which the standing committee propose to impose, or an increase or decrease of any item of expenditure in a budget-estimate, shall be made or discussed at any meeting at which such budget-estimate is under consideration, unless such proposition is specified in the notice of the meeting published under clause (j) or in the supplementary announcement, if any, published under clause (k), or unless, in the case of an adjourned meeting, each of the conditions mentioned in the proviso to clause (n) has been fulfilled ;

(n) any meeting may, with the consent of a majority of the councillors present, be adjourned from time to time, but no business shall be transacted and, except as is hereinafter provided, no proposition shall be discussed at any adjourned meeting other than the business and propositions remaining undisposed of at the meeting from which the adjournment took place : provided that at any adjourned meeting at which a budget-estimate is under consideration a proposition involving any change such as is described in clause (m), may be made and discussed, notwithstanding that such proposition is not one remaining undisposed of at the meeting from which the adjournment took place, if each of the following conditions has been fulfilled (namely) :

(i) that written notice of such proposition has been given at the meeting from which the adjournment took place ;

(ii) that the adjournment has been for not less than three clear days ; and

(iii) that a special announcement of the proposition has been given by the municipal secretary (who shall be bound to give such announcement) in not less than one local daily newspaper not later than the day previous to the adjourned meeting ;

(o) a minute of the names of the councillors present and of the proceedings at every meeting shall, on the day following the meeting, or as soon thereafter as may be, be drawn up and fairly entered by the municipal secretary in a book to be provided for this purpose and shall be signed at, and by the presiding authority of, the next ensuing meeting ; and the said minute-book shall at all reasonable times be open at the chief municipal office to inspection by any councillor free of charge, and by any other person on payment of a fee of eight annas ;

(p) a councillor shall not vote or take part in the discussion of any matter before a meeting in which he has, directly or indirectly, by himself or by his partner, any share or interest such as is described in clauses (g) to (l), both inclusive, of section 16, or in which he is professionally interested on behalf of a client, principal or other person ;

(q) every question other than the question whether the standing committee or the commissioner shall be permitted to bring urgent business before a meeting without notice, shall be decided by a majority of votes of the councillors present and voting on that question, the presiding authority having a second or casting vote when there is an equality of votes ;

(r) a declaration by the presiding authority that a proposition has been carried and an entry to that effect in the minute-book shall, unless a poll be demanded at the time of such declaration by not less than four councillors, be conclusive evidence of the fact, without proof of the number of votes given for or against the proposition ;

(s) when a poll is taken, the vote of each councillor present and voting upon the proposition shall be taken by tellers appointed by the presiding authority and the names of the councillors voting respectively for or against the proposition shall be recorded in the minute-book ;

The City of Bombay Municipal Act, 1888.

[*Ch. II.—Municipal Constitution, Sects. 36 (t)—39 (8)*]

(t) the commissioner shall have the same right of being present at a meeting of the corporation and of taking part in the discussions thereat as a councillor, and with the consent of a majority of the councillors present, ascertained by a show of hands, without discussion, may at any time make a statement or explanation of facts, but he shall not be at liberty to vote upon, or to make any proposition at such meeting.

President of the Corporation.

37. (1) The corporation shall at their first meeting in each official year, appoint one of their own number to be president until the first meeting of the corporation in the next following official year, unless the councillors in the meantime retire from office, and then until the day for retirement.

(2) Any councillor who ceases to be president shall be re-eligible.

(3) If any casual vacancy occurs in the office of president of the corporation, the corporation shall, as soon as they conveniently can after the occurrence of such vacancy, choose one of their number to fill such vacancy and every president so chosen shall continue in office so long only as the person in whose place he is appointed would have been entitled to continue if such vacancy had not occurred.

Committees.

38. The corporation may from time to time appoint out of their own body such and so many committees consisting of such number of persons, and may refer to such committees for inquiry and report or for opinion, such special subjects relating to the purposes of this Act as they shall think fit.

39. (1) It shall be the duty of the corporation and of Government each to appoint four members of a Joint Schools' Committee of eight members, for the purpose of giving effect to the provisions as to primary education hereinafter enacted.

(2) The first appointments to the said committee shall be made within one month from the date on which this Act comes into operation. The members then or thereafter duly appointed may perform all

the functions legally pertaining to the committee, notwithstanding any default, delay or defect in the appointment of any member.

(3) At the end of each of the first three years after this Act shall come into operation, one of the members of the Joint Schools' Committee appointed by Government and one appointed by the corporation shall retire by ballot. Thereafter the two senior members shall retire at the end of each calendar year and two shall be appointed or re-appointed by Government or by the corporation, whereof each shall appoint to the place vacated by any member previously appointed by itself, whether such vacancy have arisen as aforesaid or by death or resignation of the member.

(4) The names of all persons appointed to be members of the said committee shall be published by the municipal secretary in the *Bombay Government Gazette*.

(5) The Joint Schools' Committee shall, by election from amongst its own members, appoint one member to be chairman for the current term of his office or for any shorter period. The chairman so appointed shall preside and, in his absence, the senior member according to date of first appointment or, in case of equality of date, the member whose name appears first in the list published in the *Bombay Government Gazette* shall preside at meetings of the committee. He shall have a vote and, in case of equal division, a casting vote.

(6) The corporation shall provide for the Joint Schools' Committee a competent secretary and such clerks and messengers as shall be necessary. It shall also supply the committee with accommodation, stationery and the other material requisites for the due discharge of its duties on the requisition of the chairman, signified by him, by any member of the committee, or by the secretary.

(7) The Joint Schools' Committee shall administer the school-fund hereinafter defined and prescribed and shall provide thereout for the accommodation and maintenance of primary schools which at any time vest wholly or partly in the corporation and for otherwise aiding primary education in accordance with by-laws duly made under section 461, and with rules made or approved by Government in this behalf.

(8) An order signed by the chairman of the said committee shall be sufficient

The City of Bombay Municipal Act, 1888.

[Ch. II.—Municipal Constitution, Sects. 39 (9)—45.]

warrant for the disbursement by any person holding the school-fund or any part thereof, of any sum thereout in accordance with such order.

(9) The Joint Schools' Committee shall appoint and remove masters, teachers and other persons employed in the primary schools maintained out of the school-fund, and shall direct and control the instruction given in such schools and the terms and conditions of such instruction, and annex to the aid given to other primary schools such terms as shall seem expedient, subject always to by laws duly made under section 461 and to rules made or approved by Government in this behalf.

(10) The Joint Schools' Committee may, by a by-law duly made under section 461, be invested with the powers and duties of any authority constituted under this Act, in so far as shall be necessary or expedient in order to the fulfilment of the functions imposed on such committee as contemplated in this section and in section 61, clause (g), and to the extent to which such committee is invested as aforesaid, the powers and duties of the said authority shall be in abeyance, save as so vested and exercised accordingly.

40. The corporation may, for the purpose of giving effect to measures and arrangements in furtherance of secondary education or any branch of technical or other instruction, appoint or join in appointing a committee in the manner described in the last preceding section or as may be determined by any by-law made under section 461, and such committee shall have in relation to the branch of education and the institutions for which it is appointed the like powers and duties as are herein assigned to the Joint Schools' Committee, save as the same may be varied by any by-law made under the said section.

41. The corporation, either singly or in concurrence with Government, may appoint a Hospital Committee with such constitution, powers and duties with respect to hospitals and institutions for the benefit of the aged, sick and infirm, vesting wholly or partly in the corporation and supported or aided out of its funds, as may be defined and provided by by-laws made under section

461 or by any agreement made with Government in this behalf.

(B). *The Standing Committee.*

42. The standing committee shall consist of twelve councillors, eight appointed by the corporation and four by Government.

43. (1) The corporation shall at their first meeting in the month of April, after general elections, appoint eight persons out of their own body to be members of the standing committee.

(2) Four other councillors shall be appointed by Government to be members of the standing committee within one week after such appointment by the corporation.

44. (1) The standing committee shall at their first meeting in each official year appoint one of their own number to be their chairman until the first meeting of the said committee in the next following official year.

(2) A member of the standing committee who ceases to be chairman shall be re-eligible.

(3) If any casual vacancy occurs in the office of chairman, the standing committee shall, as soon as they conveniently can after the occurrence of such vacancy, choose one of their number to fill such vacancy and every chairman so chosen shall continue in office so long only as the person in whose place he is appointed would have been entitled to continue if such vacancy had not occurred.

45. (1) One-half of the members of each standing committee appointed by the corporation and one-half of those appointed by Government, the selection of the said members being made by lot at such time previous to the first day of March and in such manner as the chairman shall determine, shall retire from office at noon on the first day of April next following the date of their appointment.

(2) The remaining members of the standing committee shall retire from office at noon on the first day of April next following the first day of April aforesaid.

The City of Bombay Municipal Act, 1888.

[*Ch. II.—Municipal Constitution, Sects. 46—49 (h).*]

46. (1) The corporation shall at their ordinary meeting in the month of March appoint fresh members of the standing committee to fill the offices of those previously appointed by them who retire from time to time as aforesaid, and, within one week after any such appointment by the corporation, Government shall appoint fresh members to fill the offices of those previously appointed by them who retire as aforesaid.

(2) Any councillor who ceases to be a member of the standing committee shall be re-eligible.

47. In the event of non-acceptance of office by a councillor appointed to be a member of the standing committee or of the death, resignation or disqualification of a member of the said committee or of his becoming incapable of acting previous to the expiry of his term of office, the vacancy shall be filled up, as soon as it conveniently may be, by the appointment by the corporation or by Government, as the case may be, of a person thereto, who shall hold office so long only as the member in whose place he is appointed would have been entitled to hold it, if the vacancy had not occurred.

48. The standing committee in existence on the day for the retirement of councillors shall continue to hold office until such time as a new standing committee is appointed under section 43, notwithstanding that the members of the said committee or some of them may no longer be councillors.

49. The standing committee shall meet for the despatch of business in the chief municipal office and may, from time to time, make such regulations with respect to such meetings and with respect to the scrutiny of the municipal accounts, as they think fit, subject to the following conditions:—

(a) there shall be a meeting of the standing committee once a week, and at such other times as shall be found necessary;

(b) the first meeting of each standing committee shall be held on a day and at a time to be fixed by the commissioner, and if not held on that day shall be held on some subsequent day to be fixed by the commissioner; and every subsequent meeting of the standing committee shall be held on such day and at such time as the said committee from time to time determine;

(c) the chairman of the standing committee shall, upon a written requisition signed by the commissioner, call a special meeting of the said committee within twenty-four hours for the transaction of any business which, in the opinion of the commissioner, cannot be delayed until the next ordinary meeting of the said committee;

(d) no business shall be transacted at a meeting of the standing committee unless at least six members are present from the beginning to the end of such meeting;

(e) every meeting of the standing committee shall be presided over by the chairman, if the chairman is present at the time appointed for holding the meeting, and, if the chairman is absent, by such one of the members present as may be chosen by the meeting to be chairman for the occasion;

(f) every question shall be decided by a majority of votes of the members of the standing committee present and voting on that question, the presiding authority having a second or casting vote when there is an equality of votes;

(g) subject to any by-laws in this behalf made under clause (t) of section 461, the standing committee may from time to time, by a specific resolution in this behalf, delegate any of their powers or duties to sub-committees consisting of such members of the said committee not less in number than three on each sub-committee, as they think fit; and any sub-committee so formed shall conform to any instructions that may from time to time be given to them by the standing committee and the said committee may at any time discontinue or alter the constitution of any sub-committee so formed;

(h) a sub-committee may elect a chairman of their meetings, and if no such chairman is elected or if he is not pre-

The City of Bombay Municipal Act, 1888.

[Ch. II.—Municipal Constitution, Sects. 49 (j)—54.]

sent at the time appointed for holding any meeting, the members of the sub-committee present shall choose one of their number to be chairman of such meeting;

(j) sub-committees may meet and adjourn as they think proper, but the chairman of the standing committee may, whenever he thinks fit and shall, upon the written request of not less than two members of a sub-committee, call a special meeting of such sub-committee;

(k) questions at any meeting of a sub-committee shall be decided by a majority of votes of the members present and, in case of an equality of votes, the chairman of the meeting shall have a second or casting vote, but no business shall be transacted at any such meeting unless at least two-thirds of the members of the sub-committee are present from the beginning to the end thereof;

(l) a minute shall be kept by the municipal secretary of the names of the members present and of the proceedings at each meeting of the standing committee and at each sub-committee's meetings, in a book to be provided for this purpose, which shall be signed at, and by the presiding authority of, the next ensuing meeting;

(m) a member of the standing committee shall not vote or take part in the discussion before the said committee or before any sub-committee of any matter in which he has, directly or indirectly, by himself or by his partner, any share or interest such as is described in clauses (g) to (l), both inclusive, of section 16, or in which he is professionally interested on behalf of a client, principal or other person;

(n) the commissioner shall have the same right of being present at a meeting of the standing committee and of taking part in the discussions thereat as a member of the said committee, but he shall not be at liberty to vote upon, or make, any proposition at such meeting.

50. Every member of the standing committee shall be entitled to receive a fee of thirty rupees for each meeting of the said committee at which a quorum is present and business is transacted and which he attends from the beginning to the end thereof; provided

Fees payable to members of the standing committee.

that no more than one fee shall be paid to any member for his attendance at all such meetings in any one week.

Provisions regarding validity of proceedings.

51. No act or proceeding of the corporation or of the standing committee or of any committee or sub-committee appointed under this Act shall be questioned on account of any vacancy in their body.

Vacancy in corporation, &c, not to invalidate their proceedings.

52. No disqualification of, or defect in, the election or appointment of any person acting as a councillor or as the president or presiding authority of the corporation or as the chairman or as a member of the standing committee or of any committee or sub-committee appointed under this Act, shall be deemed to vitiate any act or proceeding of the corporation or standing committee or of any such committee or sub-committee, as the case may be, in which such person has taken part, whenever the majority of persons, parties to such act or proceeding, were entitled to act.

Proceedings of corporation, &c, not vitiated by disqualification, &c, of members thereof.

53. Until the contrary is proved, every meeting of the corporation or standing committee or of a committee or sub-committee in respect of the proceedings whereof a minute has been made and signed in accordance with this Act, shall be deemed to have been duly convened and held, and all the members of the meeting shall be deemed to have been duly qualified; and where the proceedings are proceedings of a committee or sub-committee, such committee or sub-committee shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minute.

Proceedings of meetings to be deemed to be good and valid, until the contrary is proved

(C). The Municipal Commissioner.

54. (1) The Municipal Commissioner for the city of Bombay shall be from time to time appointed by the Governor in Council for a renewable period of three years.

Appointment of the commissioner.

(2) But he shall be forthwith removed by Government from office, if at a meeting of the corporation not less than forty-

The City of Bombay Municipal Act, 1888.

[Ch. II.—Municipal Constitution, Sects. 55—59.]

five councillors shall vote in favour of a proposition in this behalf; and he may be removed by the Governor in Council at any time, if it shall appear to the Governor in Council that he is incapable of performing the duties of his office, or has been guilty of any misconduct or neglect which renders his removal expedient.

Deputy Municipal Commissioner.

55. (1) Subject to confirmation by the Governor in Council,

Appointment of a deputy municipal commissioner.

a person to be a Deputy Municipal Commissioner, if it shall appear to it expedient so to do.

(2) Every person so appointed shall be subject to the same liabilities, restrictions and conditions to which the commissioner is subject.

56. (1) A deputy commissioner so appointed shall be subordinate to the commissioner and, subject to his orders, shall exercise such of the powers and perform such of the duties of the commissioner as the commissioner shall from time to time depute to him.

(2) Provided that (a) it shall not be lawful for a deputy commissioner to appear in the commissioner's stead at any meeting of the corporation or standing committee or to exercise thereat any right or power of the commissioner;

(b) the commissioner shall inform the corporation of the powers and duties which he from time to time deposes to a deputy commissioner.

(3) All acts and things performed and done by a deputy commissioner, during his tenure of the said office and in virtue thereof, shall for all purposes be deemed to have been performed and done by the commissioner.

Remuneration of Commissioner and Deputy Commissioner.

57. (1) The commissioner shall receive such monthly salary, not exceeding rupees two thousand five hundred and not less than rupees two thousand, as Government shall from time to time determine, in return wherefor he shall, except as hereinafter provided, devote his whole time and atten-

tion to the duties of his office as prescribed in this Act or in any other enactment for the time being in force:

Duties which may be undertaken by the commissioner outside of this Act. (2) Provided that he may at any time:

(a) hold the office of a trustee of the port of Bombay;

(b) with the sanction of the corporation, serve on any committee constituted for the purpose of any local inquiry or for the furtherance of any object of local importance or interest.

(3) Provided also that, with the approval of the corporation, the monthly salary of a commissioner, who has held the appointment for a period of not less than three years, may be raised to a sum not exceeding three thousand rupees.

58. A deputy municipal commissioner shall receive such remuneration of a deputy municipal commissioner monthly salary not exceeding rupees fifteen hundred and not less than rupees twelve hundred as the corporation shall from time to time determine.

Provisions for absence of Commissioner or Deputy Commissioner on leave.

59. (1) Leave of absence may be granted, from time to time: (a) to the commissioner, by the Governor in Council,

with the assent of the standing committee; (b) to a deputy commissioner, by the corporation.

(2) The allowance to be paid to the commissioner or to a deputy commissioner whilst absent on leave shall be of such amount, not exceeding respectively the amount of the salary of the commissioner or deputy commissioner, as shall be fixed by the Governor in Council or the corporation, respectively: provided that if the commissioner or deputy commissioner is a Government officer, the amount of such allowance shall be regulated by the rules at the time in force relating to the leave allowances of officers of his class.

(3) During any absence of the commissioner or of a deputy commissioner the Governor in Council or the corporation may appoint a person

Appointment and remuneration of acting commissioner or acting deputy commissioner.

The City of Bombay Municipal Act, 1888.

[*Ch. II.—Municipal Constitution, Sect. 60 (1)—(3).*]

Ch. III.—Duties and Powers of the Municipal Authorities, Sects. 61—62.]

to act as commissioner or as deputy commissioner, as the case may be. Every person so appointed shall exercise the powers and perform the duties conferred and imposed by this Act, or by any other enactment at the time in force on the person for whom he is appointed to act, and shall be subject to the same liabilities, restrictions and conditions to which the said person is liable, and shall receive such monthly salary, within the limits prescribed in sections 57 and 58 for a commissioner and a deputy commissioner, as Government or the corporation, respectively, shall determine.

Disqualifications of the Commissioner and Deputy Commissioner.

60. (1) No person shall be qualified to be appointed or to be commissioner or a deputy commissioner who has, directly or indirectly, by himself or his partner, any share or interest in any contract with, by or on behalf of the corporation or in any employment with, by or on behalf of the corporation other than as commissioner or deputy commissioner, as the case may be.

(2) Any commissioner or deputy commissioner who shall acquire, directly or indirectly, by himself or his partner, any share or interest in any such contract or employment as aforesaid, shall cease to be commissioner or a deputy commissioner, as the case may be, and his office shall become vacant

(3) Nothing in this section shall apply to any such share or interest in any contract or employment with, by or on behalf of the corporation as, under clauses (h) and (k) of section 16, it is permissible for a councillor to have without his being thereby disqualified for being a councillor.

CHAPTER III.

DUTIES AND POWERS OF THE MUNICIPAL AUTHORITIES.

Obligatory and Discretionary Duties of the Corporation.

61. It shall be incumbent on the corporation to make adequate provision, by any means or measures which it is lawfully competent to them to use or to take, for each of the following matters, namely:—

Matters to be provided for by the corporation.

ration to make adequate provision, by any means or measures which it is lawfully competent to them to use or to take,

(a) the construction, maintenance and cleansing of drains and drainage-works, and of public latrines, urinals and similar conveniences;

(b) the construction and maintenance of works and means for providing a supply of water for public and private purposes;

(c) scavenging and the removal and disposal of excrementitious and other filthy matter, and of all ashes, refuse and rubbish;

(d) the reclamation of unhealthy localities, the removal of noxious vegetation and generally the abatement of all nuisances;

(e) the regulation of places for the disposal of the dead and the provision of new places for the said purpose;

(f) the registration of births and deaths;

(g) measures for preventing and checking the spread of dangerous diseases;

(h) the construction and maintenance of public markets and slaughter-houses and the regulation of all markets and slaughter-houses;

(j) the regulation of offensive and dangerous trades;

(k) the entertainment of a fire-brigade and the protection of life and property in the case of fire;

(l) the securing or removal of dangerous buildings and places;

(m) the construction, maintenance, alteration and improvement of public streets, bridges, culverts, causeways and the like;

(n) the lighting, watering and cleansing of public streets;

(o) the removal of obstructions and projections in or upon streets, bridges and other public places;

(p) the naming of streets and the numbering of premises;

(q) maintaining, aiding and suitably accommodating schools for primary education;

(r) the maintenance of a municipal office and of all public monuments and other property vesting in the corporation.

Share of the expenses of the police of the city to be paid by the corporation.

62. The corporation shall also provide and pay to Government:

The City of Bombay Municipal Act, 1888.

[Ch. III.—Duties and Powers of the Municipal Authorities, Sects. 62 (a)—65.]

(a) such proportion of the annual expenses of the police of the city as Government shall from time to time determine; and

(b) the necessary contingent expenses, as determined from time to time by Government, incurred by the police commissioner in granting licenses under Bombay Act VI of 1863 (*an Act for the regulation of public conveyances in the town, suburbs and harbour of Bombay*), to public conveyances in the city.

63. The corporation may, in their discretion, provide for the matters which may be provided for by the corporation at their discretion, either wholly or partly, for all or any of the following matters, namely:—

- (a) public vaccination;
- (b) educational objects other than those set forth in clause (g) of section 61;
- (c) constructing, maintaining or aiding libraries, museums and art galleries;
- (d) constructing or maintaining public parks and gardens and botanical and zoological collections;
- (e) planting and maintaining trees on road-sides and elsewhere;
- (f) surveys of buildings or lands;
- (g) registration of marriages;
- (h) taking of a census;
- (j) preparation and presentation of addresses to persons of distinction;
- (k) any measure not hereinbefore specifically named, likely to promote public safety, health, convenience or instruction.

And, with the previous sanction of Government, the corporation may make:

- (l) such contribution as they think fit towards any public ceremony or entertainment in the city.

Respective Functions of the several Municipal Authorities.

64. (1) The respective functions of the several municipal authorities, and of any committee appointed under section 39, 40 or 41, shall be such as are specifically prescribed in or under this Act.

Municipal government of the city vests in the corporation.

(2) Except as in this Act otherwise expressly provided, the municipal government of the city vests in the corporation.

(3) Subject, whenever it is in this Act expressly so directed, Special functions of the commissioner. to the approval or sanction of the corporation or the standing committee and subject also to all other restrictions, limitations and conditions imposed by this Act, the entire executive power for the purpose of carrying out the provisions of this Act vests in the commissioner, who shall also:

(a) perform all the duties and exercise all the powers, specifically imposed or conferred upon him by this Act;

(b) prescribe the duties of, and exercise supervision and control over, the acts and proceedings of all municipal officers and servants, other than the municipal secretary and the municipal officers and servants immediately subordinate to him, and, subject to the regulations at the time being in force under section 81, dispose of all questions relating to the service of the said officers and servants and their pay, privileges and allowances;

(c) on the occurrence or the threatened occurrence of any sudden accident or unforeseen event, involving or likely to involve extensive damage to any property of the corporation or danger to human life, take such immediate action as the emergency shall appear to him to justify or to require, reporting forthwith to the standing committee and to the corporation, when he has done so, the action he has taken and his reasons for taking the same and the amount of cost, if any, incurred or likely to be incurred, in consequence of such action, which is not covered by a current budget-grant, within the meaning of that expression as defined in section 130.

65. The corporation may at any time call for any extract from any proceedings of the standing committee or of any committee or sub-committee constituted under this Act and for any return, statement, account or report concerning or connected with any matter with which the standing committee or any such committee or sub-committee is empowered by or under this Act to deal; and every such requisition shall be complied with by the standing committee or other committee or sub-committee, as the case may be, without unreasonable delay.

The City of Bombay Municipal Act, 1888.

[Ch. III.—Duties and Powers of the Municipal Authorities, Sects. 66 (1)—68 (1).]

Corporation may require the commissioner to produce documents and furnish returns and reports, &c.

66. (1) The corporation may at any time require the commissioner:

(a) to produce any record, correspondence, plan or other document which is in his possession or under his control as commissioner, or which is recorded or filed in his office or in the office of any municipal officer or servant subordinate to him;

(b) to furnish any return, plan, estimate, statement, account or statistics concerning or connected with any matter appertaining to the administration of this Act or the municipal government of the city;

(c) to furnish a report by himself or to obtain from any head of a department subordinate to him and furnish, with his own remarks thereon, a report, upon any subject concerning or connected with the administration of this Act or the municipal government of the city.

(2) Except as is hereinafter provided, every such requisition shall be complied with, by the commissioner without unreasonable delay; and it shall be incumbent on every municipal officer and servant to obey any order made by the commissioner in pursuance of any such requisition.

(3) Provided that if, on such a requisition as aforesaid being made, the commissioner shall declare that immediate compliance therewith would be prejudicial to the interests of the corporation or of the public, it shall be lawful for him to defer such compliance until a time not later than the second ordinary meeting of the corporation after he shall have declared as aforesaid. If at such meeting, or any meeting subsequent thereto, the corporation shall repeat the requisition, and it shall then still appear to the commissioner inexpedient to comply therewith, he shall make a declaration to that effect, whereon it shall be lawful for the corporation to elect one councillor who with the president of the corporation and the chairman of the standing committee (or if the president of the corporation is also chairman of the standing committee, with the said president and one member of their own body elected by the standing committee) shall form a committee who shall engage to keep secret, save as hereinafter provided, the existence and purport of such documents and matters as may be disclosed to them; and to the

said committee the commissioner shall be bound to make known and to disclose all writings and matters within his knowledge, under his control, or available to him, and embraced within the requisition, and the said committee having taken cognizance of the information, writings and matters so laid before them shall determine, by a majority in case of difference, whether or not the whole or any part and which part, if any, of such matters ought to be disclosed to the corporation or kept secret for a defined time, which decision shall be conclusive and shall be reported to the corporation at the next ordinary meeting thereof, where also the commissioner shall be prepared to produce documents and to make any report or statement requisite to give effect to the decision of the committee when called on to do so by the corporation.

(4) The heads of departments subordinate to the commissioner are the executive engineer, the executive health officer, the assessor and collector, and the chief accountant.

67. The exercise by any municipal authority of any power conferred or the performance of any duty imposed by or under this Act, which will involve expenditure, shall, except in any case specified in sub-section (2) of section 115, be subject to the following provisos, namely:—

(a) that such expenditure, so far as it is to be incurred in the official year in which such power is exercised or duty performed, shall be provided for under a current budget-grant, within the meaning of that expression as defined in section 130; and

(b) that if the exercise of such power or the performance of such duty involves or is likely to involve expenditure for any period or at any time after the close of the said official year, liability for such expenditure shall not be incurred without the sanction of the corporation.

68. (1) Any of the powers, duties or functions conferred or imposed upon or vested in the commissioner by any of the sections, sub-sections or clauses mentioned in sub-section (2)

Municipal officers may be empowered to exercise certain of the powers, &c., of the commissioner.

The City of Bombay Municipal Act, 1888.

[Ch. III.—Duties and Powers of the Municipal Authorities, Sects. 68 (2)—70 (1).]

may be exercised, performed or discharged, under the commissioner's control and subject to his revision and to such conditions and limitations, if any, as he shall think fit to prescribe, by any municipal officer whom the commissioner generally or specially empowers in writing in this behalf; and in each of the said sections, sub-sections and clauses, the word "commissioner" shall, to the extent to which any municipal officer is so empowered, be deemed to include such officer.

(2) The sections, sub-sections and clauses of this Act referred to in sub-section (1) are the following, (namely):

Section 82.	Section 258, cls. (a), (b) & (c).
" 83.	" 259.
" 84.	" 263, sub-s. (1).
" 85, sub-s. (1).	" 265.
" 112.	" 266.
" 113, sub-s. (3).	" 272.
" 142, sub-s. (2).	" 273.
" 149.	" 276.
" 152, sub-s. (1).	" 278.
" 153, sub-s. (1).	" 279, sub-s. (1).
" 155, sub-ss. (1) & (3).	" 287.
" 160.	" 298, sub-ss. (1) & (2).
" 162.	" 300, sub-s. (1).
" 163, sub-s. (1).	" 311.
" 164.	" 314.
" 165, sub-ss. (1) & (2).	" 317.
" 174.	" 319.
" 175.	" 321, sub-s. (2).
" 176.	" 322.
" 177.	" 324.
" 187.	" 325.
" 188.	" 326, sub-ss. (2) & (3).
" 189.	" 329.
" 200.	" 333, sub-s. (4).
" 201, sub-s. (2).	" 334, sub-s. (1).
" 202, sub-s. (1).	" 337, sub-s. (1).
" 209, sub-s. (1).	" 338.
" 210, sub-s. (1).	" 339.
" 214, sub-ss. (2) & (3).	" 340.
" 222, sub-ss. (1) & (2).	" 342.
" 226, sub-s. (2).	" 343.
" 228.	" 345.
" 229.	" 346, sub-s. (1).
" 234.	" 347, cl. (a).
" 240.	" 348, cls. (a), (b) & (c).
" 243, sub-s. (2).	" 349.
" 244, sub-s. (1).	" 350.
" 248.	" 353.
" 249.	" 354.
" 250, sub-s. (2).	" 355.
" 251.	" 368.
" 253.	" 374.
" 254.	" 375.
" 255.	" 377.
" 257.	" 380.

Section 383.	Section 416.
" 384, cl. (a).	" 422.
" 394.	" 424, sub-s. (1).
" 396, sub-s. (1).	" 425, sub-s. (1).
" 403, cl. (e).	" 427, sub-s. (3).
" 409.	" 455.
" 410, sub-s. (1).	" 479, sub-s. (5).
" 412, sub-ss. (1) & (2).	" 488.
" 413, sub-s. (1).	" 489.
" 415.	" 492, cl. (a).
	" 517, cl. (a).

Contracts.

69. With respect to the making of contracts under or for any purpose of this Act, the following provisions shall have effect; namely:

(a) Every such contract shall be made on behalf of the corporation by the commissioner;

(b) No such contract for any purpose of this Act, the commissioner may not carry out without the approval or sanction of some other municipal authority, shall be made by him until or unless such approval or sanction has first of all been duly given;

(c) No contract, other than an agreement for the acquisition of immoveable property, which will involve an expenditure exceeding five thousand rupees shall be made by the commissioner, unless the same is previously approved by the standing committee;

(d) Every contract made by the commissioner involving an expenditure exceeding five hundred and not exceeding five thousand rupees shall be reported by him, within fifteen days after the same has been made, to the standing committee;

(e) The foregoing provisions of this section shall apply, respectively, to every contract which the commissioner shall have occasion to make in the execution of this Act; and the same provisions of this section which apply to an original contract shall be deemed to apply also to any variation or discharge of such contract.

70. (1) Every contract entered into by the commissioner on behalf of the corporation shall be entered into in such manner and form as would bind the commissioner if such contract were on his own behalf, and may

The City of Bombay Municipal Act, 1888.

[Ch. III.—Duties and Powers of the Municipal Authorities, Sects. 70 (1) (a)—73

Ch. IV.—Municipal Officers and Servants, Sect. 74 (1)—(3) (f).]

in the like manner and form be varied or discharged;

Provided that:

(a) where any such contract, if entered into by the commissioner, would require to be under seal, the same shall be sealed with the common seal of the corporation; and

(b) every contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding five hundred rupees shall be in writing and shall be sealed with the common seal of the corporation and shall specify the work to be done or the materials or goods to be supplied, as the case may be, the price to be paid for such work, materials, or goods, and, in the case of a contract for work, the time or times within which the same or specified portions thereof shall be completed.

(2) The common seal of the corporation, which shall remain in the custody of the municipal secretary, shall not be affixed to any contract, or other instrument, except in the presence of two members of the standing committee, who shall attach their signatures to the contract or instrument in token that the same was sealed in their presence. The signatures of the said members shall be distinct from the signatures of any witnesses to the execution of any such contract or instrument.

71. No contract not executed as in the last preceding section provided shall be binding on the corporation.

Contract not binding on the corporation unless executed as prescribed in section 70

72. (1) Except as is hereinafter otherwise provided, the commissioner shall, at least seven days before entering into any contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding three thousand rupees, give notice by advertisement in the local newspapers, inviting tenders for such contract.

Tenders to be invited for contracts involving expenditure exceeding Rs. 3,000.

(2) The commissioner shall not be bound to accept any tender which may be made in pursuance of such notice, but may accept, subject to the provision of clause (c) of section 69, any of the tenders so made

which appears to him, upon a view of all the circumstances, to be the most advantageous:

(3) Provided that the standing committee may authorize the commissioner, for reasons which shall be recorded in their proceedings, to enter into a contract without inviting tenders as herein provided or without accepting any tender which he may receive after having invited them.

73. The commissioner shall require sufficient security for the due performance of every contract into which he enters under the last preceding section, and may, in his discretion, require security for the due performance of any other contract into which he enters under this Act.

Security when to be taken for performance of contract

CHAPTER IV

MUNICIPAL OFFICERS AND SERVANTS.

Executive Engineer and Executive Health Officer.

74. (1) The corporation shall appoint fit persons to be municipal executive engineer and municipal executive health officer.

(2) Each of the said officers shall:

(a) be appointed for a renewable term of five years;

(b) devote his whole time and attention to the duties of his office;

(c) receive such monthly salary, not exceeding rupees fifteen hundred and not less than rupees twelve hundred, as the corporation shall from time to time determine;

(d) be removeable at any time from office for misconduct or for neglect of, or incapacity for, the duties of the office; on the votes of not less than two-thirds of the members present at a meeting of the corporation:

(3) Provided that:

(e) no person shall be appointed to be executive health officer who is not a legally qualified medical practitioner;

(f) the corporation may, in their discretion, appoint a person probationally for a limited period only, to either of the said offices, previous to appointing him for the full term of five years;

The City of Bombay Municipal Act, 1888.

[*Ch. IV.—Municipal Officers and Servants, Sects. 74 (3) (g)—79 (1)*]

(g) every appointment made under this section shall be subject to confirmation by the Governor in Council.

75. (1) On the occurrence of a vacancy in the office of executive engineer or of executive health officer, an appointment shall be made thereto by the corporation within four months from the date on which the vacancy occurred or in the event of any appointment so made by them not being confirmed by Government, within thirty days from the date of the receipt by the corporation of the order of Government.

Time within which vacancy in office of executive engineer or executive health officer must be filled up.

(2) In default of an appointment being made by the corporation as aforesaid, the Governor in Council may appoint a person to fill the vacancy and such appointment shall for all purposes be deemed to have been made by the corporation.

(3) Pending the settlement of an appointment under sub-section (1) or (2), the corporation may appoint a person to fill the vacancy temporarily and may direct that the person so appointed shall receive such monthly salary not exceeding rupees fifteen hundred as it shall think fit. A person so appointed to be temporary executive health officer need not be a legally qualified medical practitioner.

76. The executive health officer appointed under this Act shall be the consulting officer of health for the purposes of Bombay Act VI of 1867 (*an Act for the better sanitary regulation of the city of Bombay*).

Executive health officer to be the consulting officer of health under Bombay Act VI of 1867.

Municipal Secretary.

77. (1) The standing committee shall from time to time appoint a fit person to be municipal secretary.

Appointment of municipal secretary

(2) The municipal secretary shall be secretary of the corporation and also of the standing committee and shall:

(a) perform such duties as he is directed by this Act to perform and such other duties in and with regard to the corporation and the standing committee as shall be required of him by those bodies respectively;

(b) have the custody of all papers and documents connected with the proceedings of:

(i) the corporation and any committee appointed by the corporation;

(ii) the standing committee and any sub-committee thereof;

(c) devote his whole time and attention to the duties of his office;

(d) receive a monthly salary of rupees seven hundred which, with the previous sanction of the corporation, may be increased to a sum not exceeding rupees one thousand;

(e) be removeable at any time from office for misconduct or for neglect of, or incapacity for, the duties of the office by the standing committee, with the approval of the corporation.

78. (1) The standing committee may from time to time:

(a) appoint such clerks and servants subordinate to the municipal secretary as they think fit;

Appointment of clerks and servants subordinate to the municipal secretary.

(b) determine the nature and amount of the salaries, fees and allowances to be paid to the said servants and clerks respectively;

(c) prescribe or delegate to the municipal secretary the power of prescribing the duties of the said clerks and servants.

(2) The municipal secretary, subject to the orders of the standing committee, shall exercise supervision and control over

Control, &c., of the said clerks and servants.

the acts and proceedings of the said clerks and servants, and the standing committee, subject to the regulations at the time being in force under section 81, shall dispose of all questions relating to the service of the said clerks and servants and their pay, privileges and allowances.

Other Officers and Servants.

79. (1) The commissioner shall, as soon as may be after this Act comes into force and afterwards from time to time, prepare and bring before the standing committee a schedule setting forth the designations and grades of the other officers and servants

Schedule of other officers and servants to be prepared by the commissioner and sanctioned by the standing committee.

The City of Bombay Municipal Act, 1888.

[*Ch. IV.—Municipal Officers and Servants, Sects. 79 (2)—84 (1).*]

who should, in his opinion, be maintained, and the amount and nature of the salaries, fees and allowances which, he proposes, should be paid to each.

(2) The standing committee shall sanction such schedule either as it stands or subject to such modifications as they deem expedient: provided that no new office of which the aggregate emoluments exceed rupees two hundred per month shall be created without the sanction of the corporation.

80. No permanent officer or servant shall be entertained in any department of the municipal administration unless he has been appointed under section 74, 77, or 78, or his office and emoluments are included in the schedule at the time in force prepared and sanctioned under the last preceding section.

Leave of absence, acting appointments, &c

81. (1) The standing committee shall from time to time frame regulations, in consonance with any resolution that may be passed by the corporation:

(a) fixing the amount and the nature of the security to be furnished by any municipal officer or servant from whom it may be deemed expedient to require security;

(b) regulating the grant of leave to municipal officers and servants;

(c) authorizing the payment of allowances to the said officers and servants, or to certain of them, whilst absent on leave;

(d) determining the remuneration to be paid to the persons appointed to act for any of the said officers or servants during their absence on leave;

(e) regulating the period of service of all the said officers and servants;

(f) determining the conditions under which the said officers and servants, or any of them, shall on retirement or discharge receive pensions, gratuities or compassionate allowances, and under which the widows, or other relations dependent on any of the said officers and servants, shall, after their death, receive compassionate allowances, and the amounts of such pensions, gratuities or compassionate allowances;

(g) authorizing the payment of contributions, at certain prescribed rates and subject to certain prescribed conditions, to any pension or provident fund which may, with the approval of the standing committee, be established by the said officers and servants.

(2) No regulation made by the standing committee under this section shall have force or validity, unless and until it has been confirmed by the corporation, nor, if it is made under clause (f), unless and until it has been confirmed by Government.

Such regulations to be subject to confirmation by the corporation and, if made under clause (f), by Government.

is made under clause (f), unless and until it has been confirmed by Government.

82. Except as is hereinbefore otherwise provided, the power of appointing municipal officers and servants shall, subject to the schedule at the time being in force prepared and sanctioned under section 79, vest in the commissioner.

83. (1) Every municipal officer and servant may be fined, reduced, suspended or dismissed for any breach of departmental rules or discipline or for carelessness, unfitness, neglect of duty or other misconduct, by the authority by whom such officer or servant is appointed:

(2) Provided that:

(a) no officer whose monthly emoluments exceed rupees three hundred shall be dismissed by the commissioner, without the approval of the standing committee;

(b) any officer appointed by the corporation may be suspended by the standing committee pending an order of the corporation, such suspension and the reason therefor being forthwith reported to the corporation.

84. (1) Leave of absence may be granted by the commissioner, subject to the regulations at the time being in force under section 81, to any municipal officer or servant the power of appointing whom is vested in him and, for a period not exceeding one month, to any other municipal officer, other than an officer immediately subordinate to the municipal secretary.

Leave of absence by whom to be granted.

The City of Bombay Municipal Act, 1888.

[*Ch IV.—Municipal Officers and Servants, Sects. 84 (2)—86 (3).*

Ch V.—Municipal Property and Liabilities— Sects. 87—89 (1).]

(2) Leave of absence may be granted, subject as aforesaid, by the standing committee;

(a) to any clerk or servant appointed under section 78;

(b) for a period exceeding one month, to any other municipal officer, the power of appointing whom is not vested in the commissioner.

85. (1) The appointment of a person Acting appointments. to act in the place of an officer absent on leave may be made, when necessary, and subject to the regulations aforesaid, by the same authority who grants the leave of absence:

(2) Provided that:

(a) when the executive engineer or the executive health officer is granted leave of absence for a period exceeding one month, the appointment of a person to act for him shall be made by the corporation;

(b) any appointment of a person to act as executive engineer or as executive health officer may be disallowed by the Governor in Council, and from the time of being so disallowed shall be null and void;

(c) no person shall be appointed to act for the executive health officer for a period exceeding three months, unless such person is a legally qualified medical practitioner, but a person appointed to act for the said officer for a period not exceeding three months need not be a legally qualified medical practitioner.

(3) A person appointed under this section to act for any officer or servant shall, while so acting, perform the same duties and exercise the same powers and be subject to the same liabilities, restrictions and conditions which the permanent incumbent of the office or place is bound to perform or may exercise or to which the said incumbent is liable.

Disqualifications of Municipal Officers and Servants.

86. (1) Any person who has, directly or indirectly, by himself or his partner, any share or interest in any contract with, by, or on behalf of the corporation, or in any employment with, by, or on behalf of the corporation, other than as a municipal officer or servant, shall be

disqualified for being a municipal officer or servant.

(2) Any municipal officer or servant who shall acquire, directly or indirectly, by himself or his partner, any share or interest in any such contract or employment as aforesaid, shall cease to be a municipal officer or servant and his office shall become vacant.

(3) Nothing in this section shall apply to any such share or interest in any contract or employment with, by, or on behalf of the corporation as under clauses (h) and (k) of section 16 it is permissible for a councillor to have, without his being thereby disqualified for being a councillor.

CHAPTER V.

MUNICIPAL PROPERTY AND LIABILITIES.

Acquisition of Property.

87. The corporation shall, for the purposes of this Act, have power to acquire and hold moveable and immovable property, whether within or without the limits of the city.

88. All such immovable and other property as is held by, or in trust for, or has been granted by Government to the corporation under, or in pursuance, or for the purposes of any Act hereby repealed, shall, upon and after the date when this Act comes into force, vest in the corporation in trust for the purposes of this Act, but subject to all charges and liabilities affecting the same.

89. (1) On the expiry of the term of ninety-nine years, commencing on the first day of July, 1863, for which, in accordance with section 64

of the Bombay Municipal Acts of 1872 Bo III o and 1878, the Vehár lake and the property 1872 and appurtenant thereto, hereinafter referred to as "the Vehár waterworks," were vested in the corporation, the Governor in Council may direct that the said Vehár waterworks shall vest, and the same shall in such case vest, in the corporation, on the conditions hereinafter provided and, for the purposes of this Act, for such further period not exceeding ninety-nine years as shall seem expedient;

The City of Bombay Municipal Act, 1888.[Ch. V.—*Municipal Property and Liabilities, Sects, 89 (2)—92 (e).*]

(2) Provided that on the expiry of the said first term of ninety-nine years, or of any further term for which the Governor in Council may have directed that the said Vehár waterworks shall vest in the corporation, all rights and every power conveyed to the corporation shall forthwith cease and determine, and the said Vehár waterworks shall revert to and become vested in the Secretary of State for India in Council as the same were vested in the Secretary of State for India in Council before the first day of July, 1863.

90. (1) Whenever it is provided by this Act that the commissioner may acquire, or whenever it is necessary or expedient for any purpose of this Act that the commissioner shall acquire, any immoveable property, such property may be acquired by the commissioner on behalf of the corporation by agreement on such terms and at such rates or prices or at rates or prices not exceeding such maxima as shall be approved by the standing committee, either generally for any class of cases or specially in any particular case.

(2) And whenever, under any provision of this Act, the commissioner is authorized to agree to pay the whole or any portion of the expenses of acquiring any immoveable property, he shall do so on such terms and at such rates or prices or at rates or prices not exceeding such maxima as shall be approved by the standing committee as aforesaid;

(3) Provided that no agreement for the acquisition of any immoveable property under sub-section (1) or (2) shall be valid, if the price to be paid for such property exceeds one thousand rupees, unless and until such agreement has been approved by the corporation.

91. (1) Whenever the commissioner is unable to acquire any immoveable property under the last preceding section by agreement, Government may, in their discretion, upon the application of the commissioner, made with the approval of the standing committee, order proceedings to be taken for acquiring the same on behalf of the corporation, as if such property were land needed for a

public purpose within the meaning of the Land Acquisition Act, 1870.

X of 1870.

(2) The amount of compensation awarded and all other charges incurred in the acquisition of any such property shall, subject to all other provisions of this Act, be forthwith paid by the commissioner and thereupon the said property shall vest in the corporation.

Disposal of Property.

92. With respect to the disposal of property belonging to the corporation the following provisions shall have effect, namely:

Provisions governing the disposal of municipal property.

(a) the commissioner may, in his discretion, dispose of, by sale or otherwise, any moveable property belonging to the corporation not exceeding in value, in each instance, five hundred rupees, or grant a lease of any immoveable property belonging to the corporation, including any right of fishing or of gathering and taking fruit and the like, for any period not exceeding twelve months at a time: provided that every such lease granted by the commissioner shall be reported by him, within fifteen days after the same has been granted, to the standing committee;

(b) with the sanction of the standing committee, the commissioner may dispose of, by sale or otherwise, any moveable property belonging to the corporation, of which the value does not exceed five thousand rupees, or grant a lease of any immoveable property belonging to the corporation, including any such right as aforesaid, for any period not exceeding three years at a time;

(c) with the sanction of the corporation, the commissioner may lease, sell or otherwise convey any property, moveable or immoveable, belonging to the corporation;

(d) the sanction of the standing committee or of the corporation under clause (b) or clause (c) may be given either generally for any class of cases or specially in any particular case;

(e) the aforesaid provisions of this section shall apply, respectively, to every disposal of property belonging to the corporation made under or for any purpose of this Act.

The City of Bombay Municipal Act, 1888.

[*Ch. V.—Municipal Property and Liabilities, Sects. 93—98 (1.)*]

Liabilities.

93. So much of the following moneys as are still repayable on the day when this Act comes into force, shall be repaid, together with the interest due thereupon, by the corporation, namely:

(a) to the Secretary of State for India in Council—

(i) the balance of the debt due on account of the Vohar waterworks debt;

the terms heretofore prescribed in section 140 of the Bombay Municipal Acts of 1872 and 1878, with simple interest thereon at the rate of four per centum per annum;

(ii) the balance of the consolidated loan, as the same was defined in section 3, clause (3) of the Bombay Municipality's Consolidated Loan Act, 1880, due on various accounts, with interest thereon at the rate of four-and-a-half per centum per annum;

(b) to municipal security-holders—

(iii) the house-rate and the two market loans raised in 1867 and 1868 under the provisions of the Bombay Municipal Act, 1865, with interest thereon at the rate of six per centum per annum;

(iv) the drainage loan of 1878 raised under the provisions of the Public Works' Loan Act, 1871, with interest thereon at the rate of five per centum per annum;

(v) the sanitary works' loans of 1885, 1886 and 1888 contracted under the provisions of the

Local Authorities Loan Act, 1879, with interest thereon at the rate of five per centum per annum;

(vi) the portion of the Tansa waterworks' loan contracted under the Act last aforesaid previous to the coming into force of this Act;

(vii) the portion of the drainage and waterworks' loan of 1888 contracted under the said Act previous to the coming into force of this Act.

Repayment of moneys due to the Secretary of State in Council.

94. In order to secure the repayment of the Vohar waterworks' debt, the commissioner shall, on the first day of every month, until the whole of the said debt, together with the interest due thereon, shall be liquidated, pay to Government a sum of rupees fourteen thousand and six hundred.

95. (1) The whole of the consolidated loan, together with the interest due thereon, shall be repaid within thirty years from the first day of January, 1881.

(2) For better securing the repayment of the said loan, the commissioner shall pay half-yearly to Government, on every first day of January and every first day of July, until the whole of the said loan, together with the interest due thereon, shall be liquidated, a sum of one lakh seventy-eight thousand three hundred and twenty-six rupees two annas and five pies.

96. (1) Every payment to be made by the commissioner under either of the two last preceding sections shall be made to the officer, or into the bank, for the time being appointed to receive Government dues.

(2) Notice of every such payment having been made shall be forthwith published by the commissioner in the *Bombay Government Gazette*.

97. If the commissioner fails to make any of the said payments at the prescribed time, the Accountant General shall, within seven days after the day on which such payment ought to have been made, report the fact to the Chief Secretary to Government or other officer acting in that capacity.

98. (1) It shall be lawful for the said chief secretary, or other officer acting in that capacity, when any of the said payments is in arrear, to direct any Government officer, not being a municipal authority or

Bo. III of 1872 and IV of 1878.

Bo. II of 1880.

Bo. II of 1865.

XXIV of 1871.

XI of 1879.

The City of Bombay Municipal Act, 1888.

[Ch. V.—*Municipal Property and Liabilities, Sects. 98 (2)—104 (1).*]

officer, to detain, to the extent of any payment or payments then in arrear, any moneys due or that may become due to the corporation, which he may then or thereafter have in his custody or control.

(2) Such officer shall detain the moneys which he is so directed to detain and pay the same, as they become due to the corporation, to the officer, or into the bank, for the time being appointed to receive Government dues at Bombay.

(3) The moneys so paid shall be applied in or towards satisfaction of the amount for the time being due in respect of the Vehár waterworks' debt or of the consolidated loan, in preference to and with priority over all other incumbrances on and claims to such moneys.

99. (1) If the amount in arrear cannot be recovered in the manner provided in the last preceding section, the Governor in Council may attach the municipal fund, or any tax leviable by the corporation.

(2) After such attachment, no person, except an officer appointed by the Governor in Council, shall in any way deal with the attached fund or tax; but such officer may do all acts in respect thereof which the corporation or any municipal authority might have done, if such attachment had not taken place, and may apply the proceeds in satisfaction of the amount in arrear and of all expenses involved by the attachment and subsequent proceedings:

(3) Provided that no such attachment shall defeat or prejudice any debt for which the fund or tax attached was previously pledged in accordance with law; but all such prior charges shall be paid out of the proceeds of the fund or tax attached before any part of the proceeds is applied to the satisfaction of a liability for the Vehár waterworks' debt or the consolidated loan.

100. If the commissioner fails to make any monthly payment, in accordance with section 94, on account of the Vehár waterworks' debt and after notice in writing, signed by one of the secretaries to Government, requiring payment of the same has been served upon him and forwarded

to the president of the corporation and published for a period of not less than two months in the *Bombay Government Gazette*, shall still fail to make such payment,

the said Vehár waterworks shall, notwithstanding anything contained in section 88, cease to vest in the corporation and shall forthwith become vested in the Secretary of State for India in Council in trust for the purposes for which the same were previously vested in the corporation.

101. Nothing in the four last preceding sections shall affect the rights or remedies which the Secretary of State for India in Council has or shall have independently of this Act for the recovery of the moneys aforesaid.

102. The annual sum of the monthly instalments paid by the commissioner under section 94 and all recoveries made under any of the foregoing sections on account of the Vehár waterworks' debt shall be appropriated as follows, namely:

first, to the payment of the interest accrued on account of the principal sum of rupees thirty-seven lákhs thirty thousand and fifty-three due on account of the said debt on the first day of July, 1863;

secondly, to the payment of interest on all sums advanced by Government in connection with the said works since the first day of July, 1863;

thirdly, to the payment of all sums subsequently advanced as aforesaid; and

lastly, to the liquidation of the said principal sum of rupees thirty-seven lákhs thirty thousand and fifty-three.

103. Every payment made by the commissioner under section 95 and all recoveries made under any of the foregoing sections on account of the consolidated loan, shall be appropriated first to the payment of the interest due at the time of such payment or recovery, and secondly to the reduction of the principal.

Repayment of House-rate and Market Loans of 1867-68.

104. (1) Until such time as the corporation repay the house-rate loan and the two market loans

The City of Bombay Municipal Act, 1888.

[Ch. V.—Municipal Property and Liabilities, Sects. 104 (2)—105.]

[Ch. VI.—Borrowing Powers, Sects. 106—109 (d).]

Bo II of
1865.

raised in 1867 and 1868 under the provisions of sections 253 to 258 of the Bombay Municipal Act, 1865, it shall be incumbent on the corporation to maintain out of the taxes, on the security of which the said loans were raised, the sinking-fund prescribed by section 257 of the said Act:

(2) Provided that in the event of the corporation's discharging any portion of the said loans at any time previous to the time at which they are repayable in full, it shall be competent to the corporation to reduce *pro tanto* the amount of the said sinking-fund.

Publication of Annual Account of Balances due on Loans.

105 (1) The commissioner shall, in the month of January in each year, publish in the *Bombay Government Gazette* an account showing the balances due by the corporation on the last preceding thirty-first day of December to the Secretary of State for India in Council and to municipal security-holders, respectively, on account of each debt or loan, if any, at the time still repayable by the corporation.

(2) The commissioner shall also cause the said account to be printed and a printed copy thereof to be forwarded to the usual or last known local place of abode of each councillor.

CHAPTER VI.

BORROWING POWERS.

106. The corporation may from time to time borrow or re-borrow and take up at interest from the Secretary of State for India in Council, or, with the sanction of the Governor in Council, from any other person, any sum necessary for the purpose of defraying any costs, charges or expenses incurred, or to be incurred by them in the execution of this Act, or for the purpose of discharging any loan contracted under this Act or any other loan or debt for repayment of which they are liable.

107. If any new loan shall be contracted by the corporation under this Act with the Secretary of State for India in Council, the same shall be

subject, as regards repayment and security and in every other respect, to the same provisions as are hereinbefore contained in respect of the consolidated loan, save only that the rate of interest, the period of repayment and the number and amount of the instalments shall, in the case of any such new loan, be fixed, under the orders of the Governor General of India in Council, by the Governor in Council.

108. (1) The corporation may borrow or re-borrow any such sum as aforesaid from any person other than the Secretary of State for India in Council, on the security of any immoveable property belonging to them or proposed to be acquired by them under this Act or of all the taxes or of any tax which they are authorized to levy for the purposes of this Act or of all or any of those securities.

(2) And for the purpose of securing the repayment of any sum so borrowed, with interest thereon, they may mortgage to the person, by or on behalf of whom such sum is advanced, any such immoveable property or tax.

109. The exercise of the powers of borrowing conferred by this Act shall be subject to the following provisions, namely:

(a) money shall not be borrowed for the execution of any work other than a permanent work, including under this expression any work of which the cost ought, in the opinion of Government, to be spread over a term of years;

(b) the sum borrowed shall not at any time exceed, with the balances of all the outstanding loans and debts due by the corporation, in the whole, double the rateable value of the premises in the city assessable, as hereinafter provided, to property taxes;

(c) the money may be borrowed for such time, not exceeding sixty years, as the corporation, with the sanction of Government, determine in each case;

(d) the corporation shall either pay off the money so borrowed by equal annual instalments of principal, or of principal and interest, or they shall in every year set apart as a sinking-fund and accumulate in the way of compound interest, by investing the same in the purchase of public securities, such sum as will, with accu-

Account of balances due on loans to be published by the commissioner year

nuary in each year, publish in the *Bombay Government Gazette*

Mortgage of taxes or immoveable property.

Provisions as to exercise of borrowing powers.

Power to borrow from Government or other persons.

Provisions applicable to any new loan contracted with Government

The City of Bombay Municipal Act, 1888.

[Ch. VI.—*Borrowing Powers, Sects. 109 (e)→110.*]

[Ch. VII.—*Revenue and Expenditure, Sects. 111—112.*]

mulations in the way of compound interest, be sufficient, after payment of all expenses, to pay off the moneys so borrowed within the period sanctioned;

(e) the corporation may at any time apply the whole or any part of a sinking-fund set apart under this section in or towards the discharge of the moneys for the repayment of which the fund has been established: provided that they pay into the fund each time that interest would have been received by the corporation in respect of the sinking-fund or the part of the sinking-fund so applied, and accumulate, until the whole of the moneys borrowed are discharged, a sum equivalent to the interest which would have been so received;

(f) the investment every year of any sum set apart as portion of the principal of a sinking-fund shall be made within fifteen days after the day on which the second half-yearly payment of interest is due by the corporation in respect of the loan for repayment of which such sinking-fund is established; and the re-investment of any sum received by the corporation on account of interest on moneys appertaining to a sinking-fund already invested, and the investment of any sum payable into the fund under clause (e) as the equivalent of interest which the corporation would have received, if the sinking-fund or a part thereof had not been applied in any manner authorized by the said clause, shall be made within one month from the day on which such interest is received or from the day on which such interest would have been received, as the case may be;

(g) where money is borrowed for the purpose of discharging a previous loan, the time for repayment of the money so borrowed shall not, unless with the sanction of Government, extend beyond the unexpired portion of the period for which the original loan was sanctioned and shall in no case be extended beyond the period of sixty years from the date of the original loan.

110. (1) Every mortgage authorized to be made under this chapter shall be by debenture in the form contained in schedule C, or in such other form as the corporation, with the consent of Government, shall from time to time determine.

(2) Every debenture issued under this Act shall be transferable by endorsement, and such transfers may be in the form of schedule D, or to the like effect.

(3) The right to payment of the moneys secured by any of such debentures and to sue in respect thereof shall vest in the holder thereof for the time being, without any preference by reason of some of such debentures being prior in date to others.

CHAPTER VII.

REVENUE AND EXPENDITURE.

The Municipal Fund.

111. All moneys received by or on behalf of the corporation under the provisions of this Act or of any other enactment at the time in force, or under any contract,

all proceeds of the disposal of property by, or on behalf of, the corporation,

all rents accruing from any property of the corporation,

all moneys raised by any tax, levied for the purposes of this Act,

all fees and fines payable and levied under this Act or under any rule, regulation or by-law in force hereunder,

all fees for licenses for public conveyances granted by the police commissioner under Bombay Act VI of 1863 (*an Act for the regulation of public conveyances in the town, suburbs and harbour of Bombay*),

all fines levied by any magistrate in respect of any offence against the provisions of this Act, or of any regulation or by-law made under this Act,

all moneys received by or on behalf of the corporation from Government or private individuals by way of grant or gift or deposit, and

all interest and profits arising from any investment of, or from any transaction in connection with, any money belonging to the corporation,

shall be credited to a fund, which shall be called "the municipal fund" and which shall be held by the corporation in trust for the purposes of this Act, subject to the provisions herein contained.

112. All moneys payable to the credit of the municipal fund shall be received by the commissioner and shall be forthwith paid into the bank for the time being

Commissioner to receive payments on account of the municipal fund and to lodge them in a bank.

The City of Bombay Municipal Act, 1888.

[Ch. VII.—Revenue and Expenditure, Sects. 113—117.]

appointed to receive Government dues at Bombay to the credit of an account, which shall be styled "the account of the municipal fund of the city of Bombay."

113. (1) Subject to the provisions of section 520, no payment shall be made by the bank aforesaid out of the municipal fund, except upon a cheque signed by the commissioner, and by one member of the standing committee who shall attend at the chief municipal office for this purpose at least twice a week, and by the municipal secretary, or in the event of the illness or occasional absence of the commissioner from the city, by two members of the standing committee and by the said secretary.

(2) Payment of any sum due by the corporation in excess of one hundred rupees shall be made by means of a cheque signed as aforesaid and not in any other way.

(3) Payment of any sum due by the corporation, not exceeding one hundred rupees in amount, may be made by the commissioner in cash, cheques for sums not in excess of one thousand rupees each, signed as aforesaid, being drawn from time to time to cover such payments.

114. Notwithstanding anything contained in the two last preceding sections, the commissioner may, with the approval of the standing committee, from time to time remit any portion of the municipal fund to a bank or other agency at any place beyond the city at which it may be desirable for the corporation to have funds in deposit, and any money payable to the credit of the municipal fund or chargeable thereagainst, which can, in the opinion of the commissioner, be most conveniently paid into or out of the account of the corporation at any such bank or agency, may be so paid.

115. (1) Except as hereinafter provided, no payment of any sum shall be made by the commissioner out of the municipal fund, unless the expenditure of the same is covered by a current budget-grant, and a sufficient balance of such budget-grant is still available, notwithstanding any reduction or transfer thereof which may have been made under section 133 or section 134:

(2) Provided that the following items shall be excepted from this prohibition, namely:—

(a) sums of which the expenditure has been sanctioned by the standing committee under section 132;

(b) temporary payments under section 119 for works urgently required in the public service;

(c) refunds of taxes and other moneys which the commissioner is by or under this Act authorized to make;

(d) repayments of moneys belonging to contractors or other persons held in deposit and of moneys collected or credited to the municipal fund by mistake;

(e) sums which the commissioner is by sections 222, sub-section (3), 309, sub-section (2), 315, sub-section (2), 334, sub-section (2), 395, sub-section (2), 426, sub-section (2), 427, sub-section (4), 501, and 515, clause (b) required or empowered to pay by way of compensation;

(f) sums payable in any of the circumstances mentioned in clause (f) of section 118;

(g) expenses incurred by the commissioner in the exercise of the powers conferred upon him by section 434;

(h) costs incurred by the commissioner under clause (c) of section 64.

(3) In sub-section (1), "budget-grant" means a budget grant within the meaning of that term as defined in section 130 and includes any sum by which such budget-grant may at any time be increased by a transfer under clause (b) of section 133.

116. The members of the standing committee and the municipal secretary shall not sign any cheque under section 113, without first satisfying themselves that the sum for which such cheque is drawn is either covered by a budget-grant as aforesaid or is an item of one of the excepted descriptions specified in sub-section (2) of the last preceding section.

117. Whenever any sum is expended by the commissioner under clause (e), (f), (g) or (h) of section 115, he shall forthwith communicate the circumstances to the standing committee, who shall take such

Procedure when money not covered by a budget-grant is expended under clause (e), (f), (g) or (h) of section 115.

The City of Bombay Municipal Act, 1888.

[Ch. VII.—Revenue and Expenditure, Sects 118—121.]

action under section 133 or recommend the corporation to take, under section 131, such action as shall, in the circumstances, appear possible and expedient for covering the amount of the additional expenditure.

118. The moneys from time to time credited to the municipal fund shall be applied in payment of all sums, charges and costs necessary for the purposes specified in sections 61, 62 and 63, or for otherwise carrying this Act into effect, or of which the payment shall be duly directed or sanctioned under any of the provisions of this Act, inclusive of:

Purposes to which the municipal fund is to be applied.

(a) the expenses of every ward-election and of every justices' election held under this Act;

(b) the fees payable under section 50 to members of the standing committee;

(c) the salaries and other allowances of the commissioner and of any deputy commissioner appointed under this Act;

(d) the salaries and other allowances of all municipal officers and servants, and all pensions, gratuities and compassionate allowances payable under the provisions of this Act or of any schedule or regulation framed under this Act and at the time in force;

(e) all expenses and costs incurred by the commissioner in the exercise of any power or the discharge of any duty conferred or imposed upon him by this Act, including moneys which he is required or empowered to pay by way of compensation;

(f) every sum payable:

(i) under sub-section (1) of section 520 to Government;

(ii) under a decree or order of a civil or criminal court passed against the corporation or against the commissioner or a deputy commissioner *ex-officio*;

(iii) under a compromise of any suit or other legal proceeding or claim effected under section 517.

119. (1) On the written requisition of a secretary to Government, the commissioner may at any time undertake the execution of any work certified by such secretary to be urgently required in the public service, and for this

purpose may temporarily make payments from the municipal fund, so far as the same can be made without unduly interfering with the regular working of the municipal administration. The cost of all work so executed and of the establishment engaged in executing the same shall be paid by Government and credited to the municipal fund.

(2) On receipt of any requisition under sub-section (1), the commissioner shall forthwith forward a copy thereof to the corporation, together with a report of the steps taken by him in pursuance of the same.

The School Fund.

120. (1) The portion of the municipal fund to be devoted to the purposes specified in clause (g) of section 61 shall be credited under a separate heading in the municipal accounts and shall be called "the school-fund."

(2) There shall be carried every official year to the school-fund:

(a) every grant made by Government for the maintenance or aid of primary education;

(b) the fees levied in schools wholly maintained at the cost of the school-fund;

(c) such contribution from the general revenue of the corporation as the corporation shall from time to time determine, the same being not less, in each official year, than a sum of such amount as added to the fees levied as aforesaid in the same year would be equal to double the Government grant for that year;

(d) the unexpended balance, if any, of the school-fund of the last preceding official year;

(e) all sums made over to the corporation, by way of endowment or otherwise, for the promotion of primary education.

Other Special Funds.

121. With the approval of the corporation, any other special funds may be created with the approval of the corporation. Any portion of the municipal fund may also, from time to time, be credited to a separate heading in the municipal accounts, provided that there shall be credited and debited to such special

The City of Bombay Municipal Act, 1888

[Ch. VII.—Revenue and Expenditure, Sects. 122—126 (1).]

heading such sums only as shall expressly relate to the object for which a special fund is so created.

Disposal of Balances.

122. (1) Surplus moneys at the credit of the municipal fund which are not required for current charges may from time to time be deposited at interest with the bank for the time being appointed to receive Government dues or be invested in public securities.

(2) Such deposits and investments shall be made by the commissioner, on behalf of the corporation, with the sanction of the standing committee, and, with the like sanction, the commissioner may at any time withdraw any deposit so made or dispose of any public securities and re-deposit or re-invest the money so withdrawn, or the proceeds of the disposal of such public securities; but no order for making any deposit, investment, withdrawal or disposal under this section shall have any validity, unless the same be in writing, signed by the commissioner and one member of the standing committee and the municipal secretary.

(3) The loss, if any, arising from any such deposit or investment shall be debited to the municipal fund.

Accounts.

123. Accounts of the receipts and expenditure of the corporation shall be kept in such manner and in such forms as the standing committee shall from time to time prescribe.

124. (1) The commissioner shall, as soon as may be after each first day of April, have prepared a detailed report of the municipal administration of the city during the previous official year, together with a statement showing the amounts of the receipts and disbursements respectively credited and debited to the municipal fund during the said year and the balance at the credit of the fund at the close of the said year.

(2) The commissioner shall incorporate with his said report and statement:

(a) a report for the same period from each head of a department subordinate to him;

(b) the account of balances due on loans then last published under section 105;

and shall cause the same to be printed.

(3) After examination and review of the said printed report and statement by the standing committee, there shall be added to the compilation printed copies of such of the appendices attached to the reports of the several heads of departments, if any, as the standing committee direct and a printed copy of the standing committee's review; and a copy of the complete compilation shall be forwarded to the usual or last known local place of abode of each councillor at least eight days previous to the ordinary meeting of the corporation in the next following month of October, and copies thereof shall be delivered to any person requiring the same, on payment of such reasonable fee for each copy as the commissioner, with the approval of the standing committee, shall determine.

Annual Budget-estimate.

125. The commissioner shall, on or before each tenth day of November, have prepared annually by the commissioner, before the standing committee, in such form as the said committee shall from time to time approve:

(a) an estimate of the expenditure which must or should, in his opinion, be incurred by the corporation in the next ensuing official year;

(b) an estimate of all balances, if any, which will be available for re-appropriation or expenditure at the commencement of the next ensuing official year;

(c) a statement of proposals as to the taxation which it will, in his opinion, be necessary or expedient to impose under the provisions of this Act in the said year.

126. (1) The standing committee shall, on or as soon as may be after the tenth day of November, consider the estimates and proposals of the commissioner and, after having obtained from the commissioner such further detailed information, if any, as they shall think fit to require, and having regard to all the requirements of this Act, shall frame therefrom, subject to such modifications and additions therein or thereto as they shall think fit, a budget-estimate of the income and expenditure of the corporation for the next official year.

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[Ch. VII.—Revenue and Expenditure, Sects. 126 (2) (a)—133 (1) (b).]

(2) In such budget-estimate, the standing committee, shall :

(a) propose, with reference to the provisions of chapter VIII, the levy of municipal taxes at such rates and, in the case of town-duties, on such articles, as they shall think fit;

(b) provide for the payment, as they fall due, of all instalments of principal and interest for which the corporation may be liable under the provisions of chapter V, or on account of any loan contracted, after the passing of this Act, under chapter VI;

(c) allow for a cash balance at the end of the said year of not less than one lākh of rupees.

(3) The commissioner shall cause the budget-estimate, as finally approved by the standing committee, to be printed and shall, not later than the fifteenth day of December, forward a printed copy thereof to the usual or last known local place of abode of each councillor.

127. At a meeting of the corporation which shall be called for some day in January, not later than the tenth, the budget-estimate prepared by the standing committee shall be laid before the corporation, and they shall proceed to consider the same.

128. (1) The corporation shall, on or before the thirty-first day of January, after considering the standing committee's proposals in this behalf, determine, subject to the limitations and conditions prescribed in chapter VIII, the rates at which municipal taxes shall be levied, and the articles on which town-duties shall be levied in the next ensuing official year.

(2) Except under sections 134 and 196, the rates so fixed and the articles so appointed shall not be subsequently altered for the year for which they have been fixed.

129. Subject to the exigency of subsection (1) of the last preceding section, the corporation may refer the budget-estimate back to the standing committee for further consideration, or adopt the budget-estimate or any revised budget-estimate submitted to them, either as it stands or subject to such alteration as they deem expedient:

provided that the budget-estimate finally adopted by the corporation shall fully provide for each of the matters specified in clauses (b) and (c) of section 126.

130. Any sum entered on the expenditure side of a budget-estimate which has been adopted by the corporation shall be termed a "budget-grant."

131. (1) On the recommendation of the standing committee, the corporation may from time to time during an official year increase the amount of any budget-grant, or make an additional budget-grant for the purpose of meeting any special or unforeseen requirement arising during the said year, but not so that the estimated cash balance at the close of the year shall be reduced below one lākh of rupees.

(2) Such increased or additional budget-grants shall be deemed to be included in the budget-estimate adopted by the corporation for the year in which they are made.

132. If any portion of a budget-grant remains unexpended at the close of the year in the budget-estimate for which such grant was included; and if the amount thereof has not been taken into account in the opening balance of the municipal fund entered in the budget-estimate of the next following year, the standing committee may sanction the expenditure of such unexpended portion during the next following year for the completion, according to the original intention or sanction, of the purpose or object for which the budget-grant was made, but not upon any other purpose or object.

133. (1) The standing committee may, if they think necessary, at any time during an official year :

(a) reduce the amount of a budget-grant; or

(b) transfer and add the amount, or a portion of the amount of one budget-grant to the amount of any other budget-grant in the budget-estimate :

Provided that :

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[Ch. VII.—Revenue and Expenditure, Sects. 133 (1) (c)—137 (2).]

(c) due regard be had when making any such reduction or transfer to all the requirements of this Act;

(d) the aggregate sum of the budget-grants contained in the budget-estimate adopted by the corporation shall not be increased, except by the corporation under section 131;

(e) every such reduction or transfer shall be brought to the notice of the corporation at their next meeting.

(2) If any such reduction or transfer is of an amount exceeding five hundred rupees, the corporation may pass with regard thereto such order as they think fit, and it shall be incumbent on the standing committee and the commissioner to give effect to the said order.

134. (1) If it shall at any time during any official year appear to the corporation, upon the representation of the standing committee, that, notwithstanding any reduction of budget-grants that may have been made by the standing committee under the last preceding section, the income of the municipal fund during the said year will not suffice to meet the expenditure sanctioned in the budget-estimate of the said year and to leave at the close of the year a cash balance of not less than one lakh of rupees, it shall be incumbent on the corporation to forthwith sanction any measure which shall be necessary for proportioning the year's income to the expenditure.

(2) For this purpose, the corporation may either diminish the sanctioned expenditure of the year, so far as it may be possible so to do with due regard to all the requirements of this Act, or have recourse to supplementary taxation.

Scrutiny and Audit of Accounts.

135. (1) The standing committee shall conduct, or cause to be conducted under their superintendence, a weekly scrutiny of the municipal accounts and publish weekly an abstract of the receipts and expenditure of the week last preceding, signed by not less than two members of the said committee and by the municipal secretary.

Weekly scrutiny of accounts by standing committee.

(2) For this purpose, the standing committee shall have access to all the municipal accounts and to all records and correspondence relating thereto, and the commissioner shall forthwith furnish to the standing committee any explanation concerning receipts and disbursements which they may call for.

136. (1) The municipal accounts shall also be examined and audited from week to week by auditors specially appointed in this behalf for each official year by the corporation.

(2) The auditors so appointed may:

(a) by summons in writing, require the production before them of any book, deed, contract, account, voucher or other document or paper necessary for the proper conduct of their audit;

(b) by summons in writing, require any person having the custody or control of, or accountable for any such book, deed, contract, account, voucher or other document or paper to appear in person before them;

(c) require any person so appearing before them to make and sign a declaration with respect to such book, deed, contract, account, voucher or other document or paper.

(3) The auditors so appointed shall receive such reasonable remuneration, not exceeding, in the whole, ten thousand rupees per annum, as the corporation shall from time to time determine.

137. (1) The auditors so appointed shall forthwith report to the standing committee any material impropriety or irregularity which they may at any time observe in the expenditure or in the recovery of moneys due to the corporation or in the municipal accounts, and shall furnish to the standing committee such information as the said committee shall from time to time require concerning the progress of their audit and shall, as soon as may be after the commencement of each official year, deliver to the standing committee a report upon the whole of the municipal accounts for the previous official year.

(2) The commissioner shall cause the said report to be printed and forward a

Information and report to be furnished by auditors

The City of Bombay Municipal Act, 1888.

[Ch. VII.—Revenue and Expenditure, Sect. 138.]

[Ch. VIII.—Municipal Taxation, Sects. 139—142 (2).]

printed copy thereof, along with the printed copy of the administration report and statement of accounts which he is required by sub-section (3) of section 124 to forward to each councillor.

138. (1) The Governor in Council may at any time appoint an auditor for the purpose of making a special audit of the municipal accounts and of reporting thereon to Government: provided that the costs of any such audit shall not, without the consent of the corporation, be chargeable to the municipal fund.

(2) An auditor so appointed may exercise any power which an auditor appointed by the corporation may exercise.

CHAPTER VIII.—MUNICIPAL TAXATION.

MUNICIPAL TAXES DEFINED.

139. For the purposes of this Act, taxation shall be imposed as follows, namely:

- (1) property-taxes;
- (2) a tax on vehicles and animals;
- (3) a toll on vehicles entering the city from Salsette; and
- (4) town-duties.

PROPERTY-TAXES.

Property-taxes leviable.

140. The following taxes shall be levied on buildings and lands in the city, and shall be called "property-taxes," namely:

(a) a water-tax of so many per centum of their rateable value as the corporation shall deem reasonable with reference to the expenses of providing a water-supply for the city;

(b) a halálkhor-tax of so many per centum, not exceeding three, of their rateable value as will, in the opinion of the corporation, suffice to provide for the collection, removal and disposal, by municipal agency, of all excrementitious and polluted matter from privies, urinals and cesspools and for efficiently maintaining and repairing the municipal drains constructed or used for the reception or conveyance of

such matter, subject, however, to the provisoes that the minimum amount of such tax to be levied in respect of any one separate holding of land, or of any one building or of any one portion of a building which is let as a separate holding, shall be four annas per month, and that the amount of such tax to be levied in respect of any hotel, club or other large premises may be specially fixed under section 172;

(c) a general tax of not less than eight and not more than twelve per centum of their rateable value, together with not less than one-eighth and not more than three-quarters per centum of their rateable value added thereto in order to provide for the expense necessary for fulfilling the duties of the corporation arising under clause (k) of section 61 and chapter XIV.

141. Subject to the provisions of section 169, the water-tax shall be levied only in respect of premises:

(a) to which a private water-supply is furnished from, or which are connected by means of communication-pipes with, any municipal waterwork; or

(b) which are situated in a portion of the city in which the commissioner has given public notice that sufficient water is available from municipal waterworks for furnishing a reasonable supply to all the premises in the said portion.

142. (1) The halálkhor-tax shall be levied only in respect of premises:

(a) situated in any portion of the city in which public notice has been given by the commissioner that the collection, removal and disposal of all excrementitious and polluted matter from privies, urinals and cesspools will be undertaken by municipal agency; or

(b) in which, wherever situate, there is a privy, water-closet, cesspool, urinal, bathing-place or cooking-place connected by a drain with a municipal drain:

(2) Provided that the said tax shall not be levied in respect of any premises situated in any portion of the city specified in clause (a), in or upon which, in the opinion of the commissioner, no such matter as aforesaid accumulates or is deposited.

The City of Bombay Municipal Act, 1888.

[Ch. VIII.—Municipal Taxation, Sects. 142 (3)—145 (3).]

(3) If the commissioner directs, under sub-section (2) of section 248 that a separate water-closet, privy or urinal need not be required for any premises, the halál-khor-tax shall, nevertheless, be levied in respect of the said premises, if, but for such direction, the same would be leviable in respect thereof.

143. (1) The general tax shall be levied in respect of all buildings and lands in the city, except—

(a) buildings exclusively occupied for public worship or for charitable purposes;

(b) buildings and lands vesting in the Secretary of State for India in Council or in the corporation, in respect of which the said tax, if levied, would under the provisions hereinafter contained be primarily leviable from the Secretary of State for India in Council or the corporation, respectively.

(2) The following buildings shall not be deemed to be buildings exclusively occupied for public worship or for charitable purposes within the meaning of clause (a), namely:

(c) buildings in which any trade or business is carried on; and

(d) buildings in respect of which rent is derived, whether such rent is or is not applied exclusively to religious or charitable purposes.

144. (1) The Secretary of State for India in Council shall pay to the corporation in lieu of the general tax, by the Secretary of State for India in Council, from which buildings and lands vesting in him are exempted by clause (b) of section 143, a sum ascertained in the manner provided in sub-sections (2) and (3).

(2) The rateable value of the buildings and lands in the city vesting in the Secretary of State for India in Council and beneficially occupied, in respect of which, but for the said exemption, general tax would be leviable from the Secretary of State for India in Council, shall be fixed by a person from time to time appointed in this behalf by the Governor in Council, with the concurrence of the corporation. The said value shall be fixed by the said person, with a general regard to the provisions hereinafter contained concerning the valu-

ation of property assessable to property-taxes, at such amount as he shall deem to be fair and reasonable. The decision of the person so appointed shall hold good for a term of five years, subject only to proportionate variation, if in the meantime the number or extent of the buildings and lands vesting in the Secretary of State for India in Council in the city materially increases or decreases.

(3) The sum to be paid annually to the corporation by the Secretary of State for India in Council shall be eight-tenths of the amount which would be payable by an ordinary owner of buildings or lands in the city, on account of the general tax, on a rateable value of the same amount as that fixed under sub-section (2).

145. For section thirty-six of the Bombay Port Trust Act, 1879, the following section shall be substituted, namely:

“36. The Board shall pay annually, on the thirtieth day of September, to the Municipal Corporation of the city of Bombay, in lieu of the general tax leviable by the said corporation in respect of the property, or some portion of the property, vested in the Board, which would otherwise be liable to be assessed to the said tax, a sum ascertained in the manner provided in sub-sections (2) and (3).

“ (2) The rateable value of the buildings and lands in the city vesting in the Board in respect of which the said tax would be leviable from the Board shall be fixed from time to time by the Governor in Council. The said value shall be fixed, with a general regard to the provisions contained in the City of Bombay Municipal Act, 1888, concerning the valuation of property assessable to property-taxes, at such amount as the Governor in Council shall deem to be fair and reasonable. Every such decision of the Governor in Council shall hold good for a term of five years, subject only to proportionate variation, if in the meantime the number or extent of the buildings and lands vesting in the Board materially increases or decreases.

“ (3) The sum to be paid annually to the corporation by the Board shall be nine-tenths of the amount which would

The City of Bombay Municipal Act, 1888.

[Ch. VIII.—Municipal Taxation, Sects. 146 (1)—149 (2)]

be payable by an ordinary owner of buildings or lands in the city, on account of the general tax, on a rateable value of the same amount as that fixed under subsection (2)."

Liability for Property-taxes.

146. (1) Property-taxes shall be leviable primarily from the actual occupier of the premises upon which the said taxes are assessed, if such occupier holds the said premises immediately from Government or from the corporation or from a fazendár

Primary responsibility for property-taxes on whom to rest.

(2) Otherwise the said taxes shall be primarily leviable as follows, namely :

(a) if the premises are let, from the lessor ;

(b) if the premises are sub-let, from the superior lessor ;

(c) if the premises are unlet, from the person in whom the right to let the same vests.

(3) But if any land has been let for any term exceeding one year to a tenant, and such tenant has built upon the land, the property-taxes assessed upon the said land and upon the building erected thereon shall be primarily leviable from the said tenant or his legal representative, whether the premises be in the occupation of the said tenant or of his legal representative, or of a sub-tenant.

147. (1) If any premises assessed to any property-tax are let, and their rateable value exceeds the amount of rent payable in respect thereof to the person from whom, under the provisions of the last preceding section, the said tax is leviable, the said person shall be entitled to receive from his tenant the difference between the amount of the property-tax levied from him and the amount which would be leviable from him if the said tax were calculated on the amount of rent payable to him.

(2) If the premises are sub-let and their rateable value exceeds the amount of rent payable in respect thereof to the tenant by his sub-tenant, or the amount of rent payable in respect thereof to a sub-tenant by the person holding under him, the

said tenant shall be entitled to receive from his sub-tenant, or the said sub-tenant shall be entitled to receive from the person holding under him, as the case may be, the difference between any sum recovered under this section, from such tenant or sub-tenant and the amount of property-tax which would be leviable in respect of the said premises if the rateable value thereof were equal to the difference between the amount of rent which such tenant or sub-tenant receives and the amount of rent which he pays.

(3) Any person entitled to receive any sum under this section shall have, for the recovery thereof, the same rights and remedies as if such sum were rent payable to him by the person from whom he is entitled to receive the same.

148. If any person who is primarily liable for the payment of any property-tax himself pays rent to another person other than Government or the corporation in respect of the premises upon which such tax is assessed, he shall be entitled to credit in account with such other person for such sum as would be leviable on account of the said tax if the amount of the rent payable by him were the rateable value of the said premises.

Notice of transfer, &c., of premises assessable to property-taxes.

149. (1) Whenever the title of any person primarily liable for the payment of property-taxes on any premises to or over such premises is transferred, the person whose title is so transferred and the person to whom the same shall be transferred shall, within three months after execution of the instrument of transfer, or after its registration, if it be registered, or after the transfer is effected, if no instrument be executed, give notice of such transfer, in writing, to the commissioner.

(2) In the event of the death of any person primarily liable as aforesaid, the person to whom the title of the deceased shall be transferred, as heir or otherwise, shall give notice of such transfer to the commissioner within one year from the death of the deceased.

The City of Bombay Municipal Act, 1888.

[Ch. VIII.—Municipal Taxation, Sects. 150 (1)—155 (1) (b)].

150. (1) The notice to be given under the last preceding section shall be in the form, either of schedule E or schedule F, as the case may be, and shall state clearly and correctly all the particulars required by the said form.

(2) On receipt of any such notice, the commissioner may, if he thinks it necessary, require the production of the instrument of transfer, if any, or of a copy thereof obtained under section 57 of the Indian Registration Act, 1877.

Act III of 1877.

151. (1) Every person primarily liable for the payment of a property-tax on any premises, who transfers his title to or over such premises without giving notice of such transfer to the commissioner as aforesaid shall, in addition to any other liability which he incurs through such neglect, continue liable for the payment of all property-taxes from time to time payable in respect of the said premises until he gives such notice, or until the transfer shall have been recorded in the commissioner's books.

(2) But nothing in this section shall be held to diminish the liability of the transferee for the said property-taxes, or to affect the prior claim of the commissioner on the premises, conferred by section 212, for the recovery of the property-taxes due thereupon.

152. (1) When any new building is erected, or when any building is rebuilt or enlarged,

or when any building which has been vacant is re-occupied,

the person primarily liable for the property-taxes assessed on the building shall within fifteen days give notice thereof, in writing, to the commissioner,

(2) The said period of fifteen days shall be counted from the date of the completion or of the occupation, whichever first occurs, of the building which has been newly erected or rebuilt, or of the enlargement, as the case may be, and, in the case of a building which has been vacant, from the date of the re-occupation thereof.

153. (1) When any building or any portion of a building, which is liable to the payment of a property-tax, is demolished or removed, otherwise than by order of the commissioner, the person primarily liable for the payment of the said tax shall give notice thereof in writing to the commissioner.

(2) Until such notice is given, the person aforesaid shall continue liable to pay every such property-tax as he would have been liable to pay in respect of such building, if the same, or any portion thereof, had not been demolished or removed.

Valuation of property assessable to property-taxes.

154. (1) In order to fix the rateable value of any building or land assessable to a property-tax, there shall be deducted from the amount of the annual rent for which such land or building might reasonably be expected to let from year to year, a sum equal to ten per centum of the said annual rent, and the said deduction shall be in lieu of all allowance for repairs or on any other account whatever.

(2) The value of any machinery contained or situate in or upon any building or land shall not be included in the rateable value of such building or land.

155. (1) To enable him to determine the rateable value of any building or land and the person primarily liable for the payment of any property-tax leviable in respect thereof, the commissioner may require the owner or occupier of such building or land, or of any portion thereof, to furnish him, within such reasonable period as the commissioner prescribes in this behalf, with information, or with a written return signed by such owner or occupier:

(a) as to the name and place of abode of the owner or occupier, or of both the owner and occupier of such building or land; and

(b) as to the dimensions of such building or land, or of any portion thereof

The City of Bombay Municipal Act, 1888.

[Ch. VIII.—Municipal Taxation, Sects. 155 (2)—159 (1)].

and the rent, if any, obtained for such building or land, or any portion thereof.

(2) Every owner or occupier on whom any such requisition is made shall be bound to comply with the same and to give true information or to make a true return to the best of his knowledge or belief.

(3) The commissioner may also, for the purpose aforesaid, make an inspection of any such building or land.

Assessment-book.

156. The commissioner shall keep a book, to be called ^{Assessment-book} "the Assessment-book," in which shall ^{what to contain.} be entered every official year :

(a) a list of all buildings and lands in the city, distinguishing each, either by name or number, as he shall think fit ;

(b) the rateable value of each such building and land determined in accordance with the foregoing provisions of this Act ;

(c) the name of the person primarily liable for the payment of the property-taxes, if any, leviable on each such building or land ;

(d) if any such building or land is not liable to be assessed to the general tax, the reason of such non-liability ;

(e) when the rates of the property-taxes to be levied for the year have been duly fixed by the corporation and the period fixed by public notice, as hereinafter provided, for the receipt of complaints against the amount of rateable value entered in any portion of the assessment-book has expired, and, in the case of any such entry which is complained against, when such complaint has been disposed of in accordance with the provisions hereinafter contained, the amount at which each building or land entered in such portion of the assessment-book is assessed to each of the property-taxes, if any, leviable thereon ;

(f) if, under section 169 or 170 a charge is made for water supplied to any building or land by measurement or the water-tax or charge for water by measurement is compounded for, or if, under section 172, the halálkhor-tax for any building or land is fixed at a special rate, the particulars and amount of such charge, composition or rate ;

(g) such other details, if any, as the commissioner from time to time thinks fit to direct.

157. (1) The assessment-book shall be made in separate books, called "ward assessment-books," one for each of the wards into which the city is for the time being divided under the provisions of section 24; and each ward assessment-book may, if the commissioner thinks fit, be divided into two or more parts for such purposes and with such several designations as the commissioner shall determine.

(2) The ward assessment-books and their respective parts, if any, shall collectively constitute the assessment-book.

158. (1) When any building or land is let to two or more persons holding in severalty, the commissioner may, for the purpose of assessing such building or land to the property-taxes, either treat the whole thereof as one property or, with the written consent of the owner of such building or land, treat each several holding therein or any two or more of such several holdings together, or each floor or flat, as a separate property.

(2) When the commissioner has determined to treat all the several holdings comprised within any one building or land under this section as one property, he may, subject to any general conditions which may from time to time be prescribed by the standing committee in this behalf, at any time not later than seven days before the first day of any half-year for which an instalment of general tax will be leviable in respect of the said property, sanction a drawback of one-fifth part of the general tax so leviable.

159. (1) When the name of the person primarily liable for the payment of property-taxes in respect of any premises cannot be ascertained, it shall be sufficient to designate him in the assessment-book and in any notice which it may be necessary to serve upon the said person under this Act, "the holder" of such premises, without further description.

The City of Bombay Municipal Act, 1883.

[Ch. VIII—Municipal Taxation, Sects. 159 (2)—166 (1)].

(2) If in any such case, any person in occupation of the premises shall refuse to give such information as may be requisite for determining who is primarily liable as aforesaid, such person shall himself be liable, until such information is obtained, for all property-taxes leviable on the premises of which he is in occupation.

160. (1) When the entries required by clauses (a), (b), (c) and (d) of section 156 have been completed, as far as practicable, in any ward assessment-book, the commissioner shall give public notice thereof and of the place where the ward assessment-book, or a copy of it, may be inspected.

(2) Such public notice shall be given by advertisement in the *Bombay Government Gazette* and in the local newspapers, and also by posting placards in conspicuous places throughout the ward.

161. (1) Every person who reasonably claims to be the owner or occupier of some premises entered in the assessment-book or the agent of any such owner or occupier shall be permitted, free of charge, to inspect and to take extracts from any portion of the said book which relates to the said premises.

(2) Any person not entitled under sub-section (1) to inspect and take extracts from any portion of the assessment-book free of charge, shall be permitted to do so on payment of such fee as shall from time to time be prescribed in this behalf by the commissioner, with the approval of the standing committee.

162. (1) The commissioner shall, at the time and in the manner prescribed in section 160, give public notice of a day, not being less than fifteen days from the publication of such notice, on or before which complaints against the amount of any rateable value entered in the ward assessment-book will be received in his office.

(2) In every case in which any premises have for the first time been entered in the assessment-book

as liable to the payment of property-rates, or in which the rateable value of any premises liable to such payment has been increased, the commissioner shall, as soon as conveniently may be after the issue of the public notice under sub-section (1), give a special written notice to the owner or occupier of the said premises specifying the nature of such entry and informing him that any complaint against the same will be received in his office at any time within fifteen days from the service of the special notice.

163. (1) Every complaint against the amount of any rateable value entered in the assessment-book must be made by written application to the commissioner, which shall be left at his office on or before the day or the latest day fixed in this behalf in the public or special notice aforesaid.

(2) Every such application shall set forth briefly but fully the grounds on which the valuation is complained against.

164. The commissioner shall cause all complaints so received to be registered in a book to be kept for this purpose and shall give notice, in writing, to each complainant of the day, time and place, when and whereat his complaint will be investigated.

165. (1) At the time and place so fixed, the commissioner shall investigate and dispose of the complaint in the presence of the complainant, if he shall appear, and, if not, in his absence.

(2) For reasonable cause, the commissioner may from time to time adjourn the investigation.

(3) When the complaint is disposed of, the result thereof shall be noted in the book of complaints kept under section 164, and any necessary amendment shall be made, in accordance with such result, in the assessment-book.

166. (1) When all such complaints, if any, have been disposed of, and the entries required by clause (e) of section 156 have been completed in the ward assessment-

The City of Bombay Municipal Act, 1888.

[Ch. VIII.—Municipal Taxation, Sects. 166 (2)—170.]

book, the said book shall be authenticated by the commissioner, who shall certify, under his signature, that except in the cases, if any, in which amendments have been made, as shown therein, no valid objection has been made to the rateable values entered in the said book.

(2) Thereupon the said ward assessment-book, subject to such alterations as may thereafter be made therein under the provisions of the next following section, shall be accepted as conclusive evidence of the amount of each property-tax leviable on each building and land in the ward in the official year to which the book relates.

167. (1) The commissioner may, upon the representation of any person concerned, or upon any other information, at any time during the official year to which an assessment-book relates, amend the same by inserting therein the name of any person whose name ought to be so inserted or any premises previously omitted, or by striking out the name of any person not liable for the payment of any property-tax, or by increasing or reducing the amount of any rateable value and of the assessment based thereupon, or by making or cancelling an entry, exempting any premises from liability to any property-tax.

(2) Every such amendment shall be deemed to have been made, for the purpose of determining the liability or exemption of the person concerned in accordance with the altered entry, from the earliest day in the current official year when the circumstances justifying the amendment existed.

168. (1) It shall not be necessary to prepare a new assessment-book every official year. Subject to the provisions of sub-section (3), the commissioner may adopt the entries in the last preceding year's book, with such alterations as he thinks fit, as the entries for each new year.

(2) But public notice shall be given, in accordance with sections 160 and 162 every year, and the provisions of the said sections and of sections 163 to 167, both inclusive, shall be applicable each year.

(3) A new assessment-book shall be prepared at the least once in every four years.

Special provisions concerning the Water and Haldikhori Taxes.

169. (1) The commissioner may:

(a) in such cases as the standing committee shall either generally or specially direct,

instead of levying the water-tax in respect of any premises liable thereto under section 141, charge for the water supplied to such premises, by measurement, at such rate as shall from time to time be prescribed by the said committee in this behalf;

(b) with the approval of the standing committee, compound with any person for the supply of water to any premises for a renewable term of one or more years not exceeding five, on payment of a fixed periodical sum, in lieu of the water-tax or charge by measurement which would otherwise be leviable from such person in respect of the said premises.

(2) The standing committee may, for the cases in which the commissioner charges for water by measurement under clause (a), from time to time prescribe such conditions as they shall think fit, as to the use of the water and as to the charge to be paid for water consumed whilst a meter is out of order or under repair; and in each case in which a composition is made under clause (b), the said committee may prescribe such conditions, as to the use of the water as they shall think fit: provided that no condition prescribed under this sub-section shall be inconsistent with this Act or with any by-law made under this Act.

(3) A person who is charged for water by measurement or who has compounded for a fixed periodical sum shall not be liable for payment of the water-tax, but any sum payable by him on account of water and not paid when it becomes due, shall be recoverable by the commissioner as if it were an arrear of water-tax.

170. If, in respect of any premises, water-tax would be leviable under this Act from the Secretary of State for India in Council or from the Trustees of the Port of Bombay, the commissioner, in lieu of levying such

The City of Bombay Municipal Act, 1888.

[Ch. VIII.—Municipal Taxation, Sects. 171—176 (3).]

tax, shall charge for the water supplied to such premises, by measurement, at such rate as shall be prescribed by the standing committee in this behalf, not exceeding, in the case of the Secretary of State for India in Council, the minimum rate, and in the case of the said Trustees, the maximum rate at the time being charged under clause (a) of section 169 to any other person; and such charge shall be recoverable as provided in sub-section (3) of the said section.

171. No tax or charge of any kind shall be levied or demanded for the use of water in or from any drinking-fountain, tank, reservoir, cistern, pump, well, duct, stand-pipe or other work, used for the gratuitous supply of water to the inhabitants of the city and vesting in the corporation: provided that the use of water in or from any such work shall be limited as prescribed in sub-section (3) of section 269.

172. (1) The commissioner may, whenever he thinks fit, fix the halálkhor-tax to be paid in respect of any hotel, club or other large premises at such special rate as shall be approved by the standing committee in this behalf, either generally or in any particular case, whether the service in respect of which such tax is leviable be performed by halálkhors or by substituted means or appliances.

(2) In the case of premises in respect of which the halálkhor-tax is payable by the Secretary of State for India in Council or by the Trustees of the Port of Bombay, the commissioner shall fix the said tax at a special rate approved as aforesaid.

(3) In any such case the amount of the halálkhor-tax shall be fixed with reference to the cost or probable cost of the collection, removal and disposal, by the agency of municipal halálkhors, of excrementitious and polluted matter from the premises.

173. (1) Any person who has paid to the commissioner any water-tax or halálkhor-tax in respect of any premises, shall, if he was not himself in occupation of the

Water-tax or halálkhor-tax paid by any person may be recovered by him from the occupier of the premises for which it is paid.

said premises during the period for which he has made such payment, be entitled to receive the amount of the said payment from the person, if any, in actual occupation of the said premises for the said period.

(2) For the recovery of the said amount from the person aforesaid the person who has paid the same shall have the same rights and remedies as if such amount were rent payable to him by the person from whom he is entitled to receive the same.

Refund of property-taxes for vacancies.

174. When any building or land, or any portion of any premises which the commissioner has treated under section 158 as a separate property, has been vacant for not less than thirty consecutive days, the commissioner shall, subject to the provisions hereinafter contained, refund the amount of the water-tax and halálkhor-tax, if any, paid for the number of days that such vacancy lasted.

175. When any building or land, or any portion of any premises which the commissioner has treated under section 158 as a separate property, has been vacant for not less than sixty consecutive days, the commissioner shall, subject to the provisions hereinafter contained, refund two-thirds of the amount of the general tax, if any, paid for the number of days that such vacancy lasted.

176. (1) No refund of any property-tax shall be claimable from the commissioner as aforesaid, unless notice in writing of the vacancy shall have been given by the person liable for the payment of the tax, or his agent, to the commissioner.

(2) No refund shall be paid by the commissioner for any period previous to the day of the delivery of such notice.

(3) When a vacancy continues from one half-year in respect of which property-taxes are, under section 197, recoverable, into the next following half-year, no refund of any property-tax shall be claimable from the commissioner as aforesaid on account of such continued vacancy, unless notice thereof shall be given to the commissioner

Refund of general tax when and to what extent obtainable.

Refund of water and halálkhor-taxes when and to what extent obtainable.

Refund not claimable unless notice of vacancy is given to the commissioner.

The City of Bombay Municipal Act, 1888.

[Ch. VIII.—Municipal Taxation, Sects. 177—184.]

as aforesaid within thirty days from the commencement of the said next following half-year.

177. No refund of water-tax shall be claimable except from such time as a written application shall have been made to the commissioner to stop the water-supply to the vacant premises.

Refund of water-tax inadmissible unless application for stopping water-supply has been made.

178. No refund of general tax shall be claimable in any case in which the commissioner has sanctioned a drawback under sub-section (2) of section 158.

Refund of general tax inadmissible when drawback has been sanctioned.

179. It shall be in the discretion of the commissioner to disallow any claim for refund of any property-tax, unless application therefor is made to him in writing within thirty days after the expiry of the half-year to which the claim relates, accompanied by the bill presented to the applicant under section 200 for the amount of the tax from which the refund is claimed.

Applications for refund when and how to be made.

TAX ON VEHICLES AND ANIMALS.

180. Except as hereinafter provided, a tax at rates not exceeding those specified in schedule G shall be levied on all vehicles and on all animals of the descriptions specified in the said schedule which are kept within the city.

Tax on what vehicles and animals to be levied.

181. The said tax shall not be leviable in respect of:

(a) any vehicle or animal certified by the commissioner or the police commissioner, as the case may be, to be employed by the owner thereof for municipal or police purposes;

(b) gun-carriages, ordnance-carts or wagons, and artillery and cavalry horses;

(c) any horse which any person, exempted, by an order issued under section 3 of the Municipal Taxation Act, 1881, from the operation of any municipal tax on horses, is bound, by the regulations of the service to which he belongs, to keep;

(d) any horse exempted from municipal taxation by section twenty-five of the Indian Volunteers' Act, 1869;

of 1881.

of 1869

(e) vehicles and animals belonging to the Secretary of State for India in Council or to the corporation;

(f) vehicles and animals which belong to the persons to whom the right of working street-tramways in the city is granted by the Bombay Tramways Act, 1874, and which are exempted from municipal taxation by the said Act;

Bom I, of 1874

(g) vehicles kept by *bonâ fide* dealers in vehicles for sale merely, and not used;

(h) trucks used exclusively on a wharf, or in or upon any premises appertaining to a factory, workshop, warehouse or railway;

(j) hand-barrows having one wheel only and children's perambulators.

182. (1) Every person who has owned or had charge of any vehicle or animal in respect of which the tax aforesaid is leviable shall, if he has owned or had charge thereof:

Periods by which liability for the tax is determinable.

(a) for not less than thirty days in any quarter, be liable for the whole tax for that quarter;

(b) for less than thirty but more than seven days in any quarter, be liable for one-third of the whole tax for that quarter;

(c) for not more than seven days in any quarter, be exempt from liability for the tax for that quarter.

(2) When a person has owned or had charge of two or more vehicles or two or more animals of the same description, each at different periods in one quarter, he shall, for the purposes of this section, be deemed to have owned or had charge of one vehicle or one animal only, as the case may be, for the aggregate number of days in the said two or more periods.

183. If a vehicle has been under repair or standing at a carriage-maker's during the whole of any quarter, no tax shall be leviable in respect thereof for that quarter.

Vehicles under repair or standing at carriage-maker's exempt.

184. If an animal has been, during the whole of any quarter in any institution for the reception of infirm or disused animals, or if any animal

Animals unfit for use and not used, exempt.

The City of Bombay Municipal Act, 1888.

[Ch. VIII.—Municipal Taxation, Sects. 185—189 (2)]

certified by a veterinary surgeon to have been unfit for use during the whole of any quarter has not been used during such quarter, no tax shall be leviable in respect of such animal for that quarter.

185. The commissioner may, with the approval of the standing committee, compound with any livery-stable-keeper or other person keeping vehicles or horses or bullocks for hire, or with any dealer having stables in which horses are kept for sale on commission or otherwise, for the payment of a lump sum for any period not exceeding one year at a time, in lieu of the taxes which such livery-stable-keeper or other person or dealer would otherwise be liable to pay under section 180.

186. (1) The commissioner shall keep a book, in which shall be entered from time to time :

(a) a list of the persons liable to pay any tax under section 180;

(b) a specification of the vehicles and animals in respect of which the said persons are, respectively, liable to the said tax;

(c) the amount of tax payable by each such person and the period for which it is payable;

(d) the particulars of every composition made under section 185.

(2) Any person whose name is entered in the said book, or the agent of any such person, shall be permitted, free of charge, to inspect and take extracts from any portion of the said book which relates to such person.

(3) Any person not entitled under subsection (2) to inspect and take extracts from any portion of the said book free of charge, shall be permitted to do so on payment of such fee as shall from time to time be prescribed in this behalf by the commissioner, with the approval of the standing committee.

187. (1) In order that the said list may be prepared, the commissioner may require :

(a) the owner of any premises let to or occupied by more than one person

owning or having the charge of vehicles and animals, to furnish him with a written return signed by such owner, of the name and address of each of the said persons and of the animals and vehicles owned by or in the charge of each of the said persons kept upon such owner's premises;

(b) any person supposed to be liable to the payment of any tax on a vehicle or animal, to furnish him with a written return signed by such person and containing such information concerning the vehicles and animals, if any, owned by or in the charge of such person as the commissioner shall deem necessary.

(2) Every person on whom any such requisition is made shall be bound to comply with the same, within such reasonable period as the commissioner prescribes in this behalf, whether such person be liable to the payment of any such tax or not, and to make a true return to the best of his knowledge or belief.

188. Every person who, in any quarter for which a tax on vehicles and animals is leviable, becomes possessed of any vehicle or animal in respect of which he will be liable to the payment of the said tax, shall, if in the immediately preceding quarter he was not liable to the payment of any such tax, give notice, in writing, to the commissioner, within fifteen days after he has become possessed of such vehicle or animal, of the fact of his having become possessed thereof.

189. (1) The commissioner may make an inspection of any stable or coach-house or any place wherein he may have reason to believe that there is any vehicle or animal liable to a tax under this Act.

(2) The commissioner may, by written summons, require the attendance before him of any person whom he has reason to believe to be liable to the payment of a tax in respect of a vehicle or animal, or of any servant of any such person and may examine such person or servant as to the number and description of vehicles and animals owned by or in the charge of such person; and every person so summoned shall be bound to attend before the com-

The City of Bombay Municipal Act, 1888.

[Ch. VIII.—Municipal Taxation, Sects. 190 (1)—193 (3) (d).]

missioner and to give true information, to the best of his knowledge or belief, as to the said matters.

TOLL ON VEHICLES ENTERING THE CITY FROM SALSETTE.

190. (1) A toll at a rate not exceeding two annas each, shall be levied on all vehicles entering the city from Salsette which are not liable to the tax leviable under section 180, except vehicles of the descriptions specified in clauses (a), (b), (e), (f), and (h) of section 181.

(2) The said toll shall be leviable on each occasion that any vehicle thereto enters the city from Salsette.

191. (1) The driver of every vehicle in respect of which a toll is paid under the last preceding section shall be entitled to receive from the person who collects the same a ticket certifying payment thereof.

(2) The possession of any such ticket shall not, however, be deemed to exempt the person who owns or has charge of the vehicle from the tax leviable under section 180, if such vehicle is kept in the city for any such period as renders it liable to the said tax.

TOWN-DUTIES.

192. (1) Except as hereinafter provided, duties at rates not exceeding those respectively specified in schedule H. shall be levied in respect of the several articles mentioned in the said schedule or of so many of them as the corporation shall from year to year, in accordance with section 128, determine, when the said articles are imported from any place into the city.

(2) The said duties shall be called "town-duties."

193. The commissioner shall cause tables of the town-duties for the time being leviable, specifying the rates at which and the articles on which the same are leviable, to be printed in the English, Gujarathi, Marathi and Urdu languages and to

be affixed in a conspicuous position at every place at which the said town-duties are levied.

194. (1) No town-duty shall be leviable on any article belonging to Government which, at the time of its importation, is certified by an officer empowered by Government in this behalf to be the property of Government.

(2) If any article on which town-duty is paid is imported under a written declaration signed by the importer that such article is being imported for the purpose of fulfilling a specified contract with Government or otherwise for the use of Government, the full amount of the duty paid thereon shall be refunded, on production, at any time within six months after importation, of a certificate signed by an officer empowered by Government in this behalf certifying that the article so imported has become the property of Government.

195. (1) When any article upon which town-duty has been paid shall be exported from the city, the full amount of the duty so paid shall, subject to the provisions hereinafter contained, be refunded.

(2) Such refunds shall be paid under such rules as the commissioner, with the approval of the standing committee, shall from time to time frame in this behalf:

(3) Provided that.

(a) no refund shall be paid on any article, other than timber or flour, not exported within six months, or on any timber not exported within twelve months, from the date of its importation;

(b) a refund shall be claimable on all flour exported from the city, without proof of the importation of the same into the city, equal to seventy-five per centum of the amount of the duty at the time being leviable on the grain from which such flour has been prepared;

(c) no refund shall be paid unless the same is applied for within one month from the date of exportation;

(d) no refund shall be made of any less amount than five rupees;

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[Ch. VIII.—Municipal Taxation, Sects. 195 (3) (e)—202 (2).]

(e) no rule framed by the commissioner under this section shall have effect, unless and until it is confirmed by Government.

SUPPLEMENTARY TAXATION.

196. Whenever the corporation determine, under section 134, to have recourse to supplementary taxation in any official year, they shall do so by increasing, for the unexpired portion of the said year, the rates at which any tax imposable under this Act is being levied or by adding to the number of articles on which town-duties are being levied, but every such increase or addition shall be made subject to the limitations and conditions on which any such tax is imposable.

COLLECTION OF TAXES.

197. Each of the property-taxes shall be payable in advance in half-yearly instalments on each first day of April and each first day of October.

198. (1) Except as is hereinafter otherwise provided, the tax on vehicles and animals shall be payable quarterly in arrear on each first day of April and each first day of July and each first day of October and each first day of January :

(2) Provided that in the case of any public conveyance licensed by the police commissioner under Bombay Act VI of 1863 (*an Act for the regulation of public conveyances in the town, suburbs and harbour of Bombay*), the person who keeps or lets such public conveyance for hire shall be required by the said commissioner, before any license is issued to him under the said Act, to pay into the municipal office the tax leviable on the said public conveyance and the animal or animals used for the same, for the whole period for which such license is to be granted, together with the fee payable for such license.

199. Tolls on vehicles entering the city from Salsette and town-duties shall be payable on demand.

200. (1) When any property-tax or tax on vehicles and animals, other than public-conveyances and the animals used therefor, or any instalment of any such tax, shall have become due, the commissioner shall, with the least practicable delay, cause to be presented to the person liable for the payment thereof a bill for the sum due.

(2) Every such bill shall specify the period for which and the premises, vehicle or animal in respect of which the tax is charged, and shall also give notice of the time within which an appeal may be preferred, as hereinafter provided, against such tax.

201. (1) All the sums due for each half-year for all or any of the three property-taxes by any one person on account of one and the same property shall be charged to such person in one bill and shall be recoverable from him in the lump : provided that nothing herein contained shall affect the liability of such person to any increased tax to which he may be assessed on account of the said property under section 167.

(2) If any one person is liable for all or any of the said taxes on account of more properties than one, it shall be competent to the commissioner to charge to such person in one or several bills, as he shall think fit, the several sums payable by him on account of such properties : provided that if such person, by written notice to the commissioner, requests to be furnished with several bills, the commissioner shall comply with such request in respect of all the said taxes for which such person becomes liable after receipt by the commissioner of his said notice.

202. (1) If the amount of tax for which any bill has been presented as aforesaid is not paid into the municipal office within fifteen days from the presentation thereof, the commissioner may cause to be served upon the person liable for the payment of the same a notice of demand in the form of schedule I, or to the like effect.

(2) For every notice of demand which the commissioner causes to be served on any person under this section, a fee of

The City of Bombay Municipal Act, 1888.

[Ch. VIII.—Municipal Taxation, Sects. 203—209 (4).]

Such amount not exceeding one rupee as shall in each case be fixed by the commissioner shall be payable by the said person and shall be included in the costs of recovery.

203. If the person liable for the payment of the said tax do not within fifteen days from the service of the notice of demand pay the sum due, or show sufficient cause for non-payment of the same to the satisfaction of the commissioner, and if no appeal is preferred against the said tax, as hereinafter provided, such sum, with all costs of the recovery, may be levied under a warrant in the form of schedule J, or to the like effect, to be issued by the commissioner, by distress and sale of the goods and chattels of the defaulter, or if the defaulter be the occupier of any premises in respect of which a property-tax is due, by distress and sale of any goods and chattels found on the said premises.

204. The goods and chattels of any person liable for the payment of any tax, for levy of which a warrant has been issued as aforesaid, may be distrained wherever the same may be found.

205. The officer charged with the execution of a warrant of distress, issued under section 203, shall forthwith make an inventory of the goods and chattels which he seizes under such warrant, and shall at the same time give a written notice, in the form of schedule K, to the person in possession thereof at the time of seizure that the said goods and chattels will be sold as therein mentioned.

206. (1) If the warrant is not in the meantime suspended by the commissioner or discharged, the goods and chattels seized shall, after the expiry of the period named in the notice served under the last preceding section, be sold by order of the commissioner, who shall apply the proceeds or such part thereof as shall be requisite, in discharge of the sum due and of the costs of recovery.

(2) The surplus, if any, shall be forthwith credited to the municipal fund, but if the same be claimed by written application to the commissioner within one

year from the date of the sale, a refund thereof shall be made to the person in possession of the goods and chattels at the time of the seizure. Any surplus not claimed within one year as aforesaid shall be the property of the corporation.

207. For every distraint made under this Act a fee shall be charged at the rate set forth in schedule L, and the said fee shall be included in the costs of recovery.

208. The commissioner may, in his discretion, remit the whole or any part of any fee chargeable under the last preceding section or under sub-section (2) of section 202.

209. (1) If the sum due on account of any property-tax remains unpaid after a bill for the same has been duly presented to the person primarily liable for the payment thereof, and the said person be not the occupier for the time being of the premises in respect of which the tax is due, the commissioner may present a bill for the amount to the occupier of the said premises, or, if there are two or more occupiers thereof, may present a bill to each of them for such portion of the sum due as bears to the whole amount due, the same ratio which the rent paid by such occupier bears to the aggregate amount of rent paid by them both or all in respect of the said premises.

(2) If the occupier or any of the occupiers fails within fifteen days from the presentation of any such bill to pay the amount therein claimed, the said amount may be recovered from him in accordance with the foregoing provisions.

(3) No arrear of a property-tax shall be recovered from any occupier under this section, which has remained due for more than one year or which is due on account of any period for which the occupier was not in occupation of the premises on which the tax is assessed.

(4) If any sum is paid by, or recovered from, an occupier under this section, he shall be entitled to credit therefor in account with the person primarily liable for the payment of the same.

The City of Bombay Municipal Act, 1888.

[Ch. VIII.—Municipal Taxation, Sects. 210 (1)—214 (4).]

210. (1) If the commissioner shall at any time have reason to believe that any person from whom any sum is due on account of any property-tax or tax on vehicles and animals, or who would be liable for any sum on account of the tax on vehicles and animals if the current quarter had come to a close, is about forthwith to remove from the city, the commissioner may direct the immediate payment by such person of the sum so due or about to become due by him and cause a bill for the same to be presented to him.

(2) If, on presentation of such bill, the said person do not forthwith pay the sum due or about to become due by him, the amount shall be leviable by distress and sale in the manner hereinbefore prescribed, except that it shall not be necessary to serve upon the defaulter any notice of demand, and the commissioner's warrant for distress and sale may be issued and executed without any delay.

211. Instead of proceeding against a defaulter by distress and sale as hereinbefore provided, or after a defaulter shall have been so proceeded against unsuccessfully or with only partial success, any sum due or the balance of any sum due, as the case may be, by such defaulter, on account of a property-tax or of the tax on vehicles and animals, may be recovered from him by a suit in any court of competent jurisdiction.

212. Property-taxes due under this Act in respect of any building or land shall, subject to the prior payment of the land-revenue, if any, due to Government thereupon, be a first charge upon the said building or land and upon the goods and chattels, if any, found within or upon such building or land and belonging to the person liable for such taxes.

213. (1) Tolls on vehicles entering the city from Salsette and town-duties:

Collection of tolls and town-duties how to be effected

(a) may be collected under the orders of the commissioner, by municipal officers and servants appointed in this behalf; or

(b) if the commissioner thinks fit, may, with the approval of the standing committee, be farmed by him for any period not exceeding one year at a time or be collected by or under the orders of any person, whom the commissioner, with the approval of the standing committee, appoints to be his agent for this purpose.

(2) The said tolls and town-duties shall be collected and refunds of town-duties shall be made at such places and be managed and controlled in such manner, as the commissioner, with the approval of the standing committee, shall from time to time direct.

214. (1) If any toll payable in respect of a vehicle entering the city from Salsette is not paid on demand, the person authorized under section 213 to collect the same may seize:

(a) any part of the contents of the vehicle in respect of which the toll is payable of sufficient value to defray the toll; or

(b) if the vehicle is empty, or the contents are of insufficient value to defray the toll, the vehicle itself.

(2) If the toll and the costs, if any, incurred on account of the seizure, remain undischarged for twenty-four hours after the seizure, the case shall be reported to the commissioner, and the commissioner shall forthwith issue a public notice, fixing some convenient time within three days after the date of the seizure for the sale by public auction of the property which has been seized.

(3) If at any time before the sale is commenced in accordance with such public notice, the person in whose possession the property was at the time it was seized shall pay to the commissioner a sum equal to double the amount of the toll due, together with all the expenses incurred on account of the non-payment of the toll and of the seizure and intended sale, the commissioner shall forthwith release the property seized.

(4) If such payment is not made, the property seized shall be sold by auction in accordance with the public notice and the proceeds shall be devoted to the discharge of the toll and of all expenses incurred on account of the non-payment of the toll

The City of Bombay Municipal Act, 1888.

[Ch. VIII.—Municipal Taxation, Sects. 215—219.]

and of the seizure and sale. The surplus, if any, shall be forthwith credited to the municipal fund, but if the same be claimed by written application to the commissioner within one year from the date of the sale, a refund thereof shall be made to the person in whose possession the property was at the time of the seizure. Any surplus not claimed within one year, as aforesaid shall be the property of the corporation.

215. Every person authorized under section 213 to collect or to refund town-duties shall have, in respect of the collection of the said duties and of paying refunds and of the confiscation of goods in connection therewith, the same powers as are conferred by any law at the time in force on the Commissioner of Customs of Bombay and the officers subordinate to him in respect of the levy of customs-duties and of the grant of drawbacks and of the confiscation of goods in connection therewith, and shall also have the same privileges and be subject to the same liabilities in respect of anything done by him in or for the purpose of collecting or refunding town-duties, as the said Commissioner of Customs and the officers subordinate to him have or are subject to, under any law at the time in force relating to customs-duties.

216. The commissioner may, with the approval of the standing committee, from time to time write off any sum due on account of any tax or of the costs of recovering any tax, which shall, in his opinion, be irrecoverable.

APPEALS AGAINST VALUATIONS AND TAXES.

217. (1) Subject to the provisions hereinafter contained, appeals against any rateable value or tax fixed or charged under this Act shall be heard and determined by the Chief Judge of the Small Cause Court.

(2) But no such appeal shall be heard by the said chief judge, unless:

(a) it is brought within fifteen days after the accrual of the cause of complaint;

(b) in the case of an appeal against a rateable value, a complaint has previ-

ously been made to the commissioner under section 163, and such complaint has been disposed of;

(c) in the case of an appeal against any amendment made in the assessment-book under section 167 during the official year, a complaint has been made by the person aggrieved within fifteen days after he first received notice of such amendment and his complaint has been disposed of;

(d) in the case of an appeal against a tax, or in the case of an appeal made against a rateable value after a bill for any property-tax assessed upon such value has been presented to the appellant, the amount claimed from the appellant has been deposited by him with the commissioner.

218. For the purposes of the last preceding section, cause of complaint when to be deemed to have accrued shall be deemed to have accrued as follows, namely:

(a) in the case of an appeal against a rateable value, on the day when the complaint made to the commissioner under section 163 against such value is disposed of;

(b) in the case of an appeal against any amendment made in the assessment-book, under section 167, during the official year, on the day when the complaint made to the commissioner by the person aggrieved against such amendment is disposed of;

(c) in the case of an appeal against a tax, on the day when payment thereof is demanded or when a bill therefor is presented.

219. (1) Every rateable value fixed under this Act and taxes and decisions against which no appeal to be final, complaint is made as herebefore provided, and

the amount of every sum claimed from any person under this Act on account of any tax, if no appeal therefrom is made as herebefore provided, and

the decision of the chief judge aforesaid upon any appeal against any such value or tax,

shall be final.

(2) Effect shall be given by the commissioner to every decision of the said

The City of Bombay Municipal Act, 1888.

[Ch. IX.—Drains and Drainage-works, Sects. 220—226.]

chief judge on any appeal against any such value or tax.

CHAPTER IX.

DRAINS AND DRAINAGE-WORKS.

Municipal Drains.

220. All drains belonging to the corporation, — which in this Act are referred to as “municipal drains” — shall be under the control of the commissioner.

Municipal drains to be under the control of the commissioner.

221. The commissioner shall maintain and keep in repair all municipal drains and, when authorized by the corporation in this behalf, shall construct such new drains as shall from time to time be necessary for effectually draining the city.

Drains to be constructed and kept in repair by the commissioner.

222. (1) The commissioner may carry any municipal drain through, across or under any street, or any place laid out as or intended for a street, or under any cellar or vault which may be under any street, and, after giving reasonable notice in writing to the owner or occupier, into, through or under any land whatsoever within the city, or, for the purpose of outfall or distribution of sewage, without the city.

Powers for making drains.

(2) The commissioner may enter upon, and construct any new drain in the place of an existing drain in any land wherein any municipal drain has been already lawfully constructed, or repair or alter any municipal drain so constructed.

(3) In the exercise of any power under this section, as little damage as can be shall be done, and compensation shall be paid by the commissioner to any person who sustains damage by the exercise of such power

223. (1) Without the written permission of the commissioner, no building, wall or other structure shall be newly erected, and no street or railway shall be constructed over any municipal drain.

Buildings, &c., not to be erected without permission over drains.

(2) If any building, wall or other structure be so erected, or any street or railway be so constructed, the commis-

sioner may, with the approval of the standing committee, remove or otherwise deal with the same, as he shall think fit, and the expenses thereby incurred shall be paid by the person offending.

224. (1) The commissioner may enlarge, arch over or otherwise improve any municipal drain and may discontinue, close up or destroy any such drain which has, in his opinion, become useless or unnecessary:

Alteration and discontinuance of drains.

(2) Provided that the discontinuance, closing up or destruction of any drain shall be so done as to create the least practicable nuisance or inconvenience to any person, and, if by reason of any thing done under this section any person is deprived of the lawful use of any drain, the commissioner shall, as soon as may be, provide for his use some other drain as effectual as the one which has been discontinued, closed up or destroyed.

225. (1) The municipal drains shall be so constructed, maintained and kept as to create the least practicable nuisance and shall be from time to time properly flushed, cleansed and emptied.

Cleansing drains.

(2) For the purpose of flushing, cleansing and emptying the said drains, the commissioner may, when authorized by the corporation in this behalf, construct or set up such reservoirs, sluices, engines and other works as he shall from time to time deem necessary.

226. (1) Every drain in, alongside or under any street which has been or shall be constructed, whether at the cost of the municipal fund or not, for the sole use and benefit of, or which shall be continued for the sole use and benefit of, any premises adjoining or near to such street, shall be maintained and from time to time repaired, flushed, cleansed and emptied by the owner or occupier of the said premises.

Maintenance of drains kept up for the benefit of certain premises only.

(2) The commissioner may, by written notice, require the owner or occupier of the said premises to repair, flush, cleanse, empty or, with the approval of the standing committee, to take such other order with any such drain as the commissioner shall deem necessary.

The City of Bombay Municipal Act, 1888.

[Ch. IX.—Drains and Drainage-works, Sects. 227—230 (3).]

Drains of private streets and drainage of premises.

227. The owner of a private street shall be entitled to connect the drain of such street with a municipal drain, subject to the following conditions, (namely):

Power to connect drains of private streets with municipal drains.

(a) Before commencing to construct such drain, the owner of the street shall submit to the commissioner a plan of the street, bearing the signature of a licensed surveyor in token of its having been made by him or under his supervision, and drawn to such a convenient scale as the commissioner shall require, and there shall be shown on such plan the position, course and dimensions of the proposed drain, with a section or sections thereof, and such other particulars in relation thereto as the commissioner shall deem necessary and require, and no such drain shall be proceeded with, without the approval in writing or contrary to the directions of the commissioner.

(b) The drain of such private street shall, at the expense of the owner of the street, be constructed of such size, material and description and be branched into the municipal drain in such manner and form of communication in all respects, as the commissioner, with the approval of the standing committee, shall direct.

(c) The commissioner may, if he thinks fit, construct such part of such drain and such part of the work necessary for branching the same into the municipal drain as shall be in or under any public street or place vesting in the corporation; and, in such case, the expenses incurred by the commissioner shall be paid by the owner of the private street.

228. The owner or occupier of any premises shall be entitled to cause his drain to empty into a municipal drain, provided that he first obtains the written permission of the commissioner and that he complies with such conditions as the commissioner prescribes as to the mode in which and the superintendence under which the communications between drains not belonging to the corporation and municipal drains are to be made.

229. No person shall, without complying with the provisions of section 227 or 228, as the case may be, make or cause to be made any connection of a drain

belonging to himself or to some other person with any municipal drain; and the commissioner may, with the approval of the standing committee, close, demolish, alter or re-make any such connection made in contravention of this section and the expenses incurred by the commissioner in so doing shall be paid by the owner of the street or the owner or occupier of the premises for the benefit of which the connection was made, or by the person offending.

230. (1) If it shall appear to the commissioner that the only means or the most convenient means, by which the owner or occupier of any premises can cause his drain to empty into a municipal drain, is by carrying the same into, through or under any land belonging to some person other than the said owner or occupier, the commissioner, after giving to the owner of the land a reasonable opportunity of stating any objection, may, with the approval of the standing committee, if no objection is raised, or if any objection which is raised appears to him invalid or insufficient, by an order in writing, authorize the said owner or occupier to carry his drain into, through or under the said land in such manner as he shall think fit to allow.

(2) Every such order, bearing the signature of the commissioner, shall be a complete authority to the person in whose favour it is made, or to any agent or person employed by him for this purpose, after giving to the owner of the land reasonable written notice of his intention so to do, to enter upon the said land with assistants and workmen, at any time between sunrise and sunset, and to execute the necessary work.

(3) Subject to all other provisions of this Act, the owner or occupier of any premises, or any agent or person employed by him for this purpose, may, after giving to the owner of any land, wherein a drain has been already lawfully con-

The City of Bombay Municipal Act, 1838.

[Ch. IX.—Drains and Drainage-works, Sect. 230 (4)—233 (a).]

constructed for the drainage of his said premises, reasonable written notice of his intention so to do, enter upon the said land with assistants and workmen, at any time between sunrise and sunset, and construct a new drain in the place of the existing drain or repair or alter any drain so constructed.

(4) In executing any work under this section, as little damage as can be shall be done, and the owner or occupier of premises by whom or in whose behalf the work is done shall :

(a) cause the work to be executed with the least practicable delay ;

(b) fill in, re-instate and make good, at his own cost and with the least practicable delay, the ground or portion of any building or other construction, opened, broken up or removed for the purpose of executing the said work ;

(c) pay compensation to any person who sustains damage by the execution of the said work.

(5) If the owner of any land, into, through or under which a drain has been carried under this section, whilst such land was unbuilt upon, shall, at any time afterwards, desire to erect a building on such land, the commissioner shall, with the approval of the standing committee, by written notice, require the owner or occupier of the premises for the benefit of which such drain was constructed, to close, remove or divert the same in such manner as shall be approved by the said committee, and to fill in, re-instate and make good the land as if the drain had not been carried into, through or under the same : provided that no such requisition shall be made, unless, in the opinion of the standing committee, it is necessary or expedient, in order to admit of the construction of the proposed building or the safe enjoyment thereof, that the drain be closed, removed or diverted.

231. Where any premises are, in the opinion of the

Commissioner may enforce drainage of undrained premises situate within a hundred feet of a municipal drain.

and a municipal drain or some place legally set apart for the discharge of drainage, is situated at a distance not exceeding one hundred feet from some part of the said premises, the commissioner may, by written notice,

require the owner or occupier of the said premises :

(a) to make a drain of such material, size and description and laid at such level and with such fall and outlet as may appear to the commissioner necessary, emptying into such municipal drain or place aforesaid ;

(b) to provide and set up all such appliances and fittings as may appear to the commissioner necessary for the purposes of gathering and receiving the drainage from, and conveying the same off the said premises and of effectually flushing such drain and every fixture connected therewith ;

(c) to remove any existing drain, or other appliance or thing used or intended to be used for drainage, which is injurious to health.

232. (1) Where any premises are, in the opinion of the commissioner, without sufficient means of effectual drainage, but no municipal drain or such place as aforesaid is situated at a distance not exceeding one hundred feet from some part of the said premises, the commissioner may, by written notice, require the owner or occupier of the said premises to make a drain emptying into a covered cesspool.

(2) And the commissioner may in like manner require any such drain and, if no suitable cesspool already exists, any such cesspool to be of such materials, size and description, and to be made at such level and with allowance for such fall, as may appear to him to be necessary.

233. (1) Where a drain connecting any premises with a municipal drain is sufficient for the effectual drainage of the said premises and is otherwise unobjectionable, but is not, in the opinion of the commissioner, adapted to the general drainage system of the city, the commissioner, with the approval of the standing committee, may :

(a) subject to the provision of subsection (2), close, discontinue or destroy the said drain and cause any work necessary for that purpose to be done ;

The City of Bombay Municipal Act, 1888.

[Ch. IX.—Drains and Drainage-works, Sect. 233 (b)—238 (2).]

(b) direct that the said drain shall, from such date as he prescribes in this behalf, be used for sullage, excrementitious matter and polluted water only or for rain-water and unpolluted subsoil water only, and, by written notice, require the owner or occupier of the premises to make a new and entirely distinct drain for rain-water and unpolluted subsoil water or for sullage, excrementitious matter and polluted water, as the case may be.

(2) No drain may be closed, discontinued or destroyed by the commissioner under clause (a), except on condition of his providing another drain as effectual for the drainage of the premises and communicating with any municipal drain which the commissioner thinks fit; and the expenses of the construction of any drain so provided by the commissioner and of any work done under clause (a) shall be paid by the commissioner.

(3) Any requisition made by the commissioner under clause (b) may embrace any detail specified in clause (a) or clause (b) of section 231.

234. (1) It shall not be lawful newly to erect any building, or to rebuild any building, or to occupy any building newly erected or rebuilt, unless and until:

(a) a drain be constructed, of such size, materials and description, at such level and with such fall, as shall appear to the commissioner to be necessary for the effectual drainage of such building;

(b) there have been provided for and set up in such building and in the premises appurtenant thereto, all such appliances and fittings as may appear to the commissioner to be necessary for the purposes of gathering and receiving the drainage from, and conveying the same off the said building and the said premises and of effectually flushing the drain of the said building and every fixture connected therewith.

(2) The drain to be constructed as aforesaid shall empty into a municipal drain or into some place legally set apart for the discharge of drainage, situated at a distance not exceeding one hundred feet from such building; but if no such drain or place is within that distance, then such drain

shall empty into such cesspool as the commissioner directs.

235. No person shall, except with the permission of the commissioner, pass or permit to be passed any excrementitious matter into any cesspool made or used under section 232 or section 234, or into any drain communicating with any such cesspool.

236. Every owner of a drain connected with a municipal drain shall be bound to allow the use of it to others or to admit other persons as joint owners thereof on such terms as may be prescribed under section 238.

237. Any person desiring to drain his premises into a municipal drain, through a drain of which he is not an owner, may, make a private arrangement with the owner for permitting his use of the drain or may apply to the commissioner for authority to use such drain or to be declared joint owner thereof.

238. (1) On receipt of any such application, the commissioner, after giving the owner of the drain a reasonable opportunity of stating any objection thereto, may, with the approval of the standing committee, if no objection is raised or if any objection which is raised appears to him invalid or insufficient, by an order in writing, either authorize the applicant to use the drain or declare him to be a joint owner thereof, on such conditions as to the payment of rent or compensation and as to connecting the drain of the applicant with the drain to which his application refers and as to the respective responsibilities of the parties for maintaining, repairing, flushing, cleaning and emptying the joint drain, or otherwise, as may appear to him equitable.

(2) Every such order bearing the signature of the commissioner shall be a complete authority to the person in whose favour it is made, or to any agent or person employed by him for this purpose, after

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[Ch. IX.—Drains and Drainage-works, Sects. 238 (a)—244 (a).]

giving or tendering to the owner of the drain the compensation or rent specified in the said order and otherwise fulfilling, as far as possible, the conditions of the said order, and after giving to the owner of the drain reasonable written notice of his intention so to do, to enter upon the land in which the said drain is situate, with assistants and workmen, at any time between sunrise and sunset, and, subject to all provisions of this Act, to do all such things as may be necessary for :

- (a) connecting the two drains ; or
- (b) renewing, repairing or altering the connection ; or
- (c) discharging any responsibility attaching to the person in whose favour the commissioner's order is made for maintaining, repairing, flushing, cleaning or emptying the joint drain or any part thereof.

(3) In respect of the execution of any work under sub-section (2), the person in whose favour the commissioner's order is made shall be subject to the same restrictions and liabilities which are specified in sub-section (4) of section 230.

239. Wherever it is provided in this chapter that steps shall or may be taken for the effectual drainage of any premises, it shall be competent to the commissioner to require that there shall be one drain for sullage, excrementitious matter and polluted water and another and an entirely distinct drain for rain-water or unpolluted subsoil water, or for both rain-water and unpolluted subsoil water, each emptying into separate municipal drains or other suitable places.

240. Except with the written permission of the commissioner, and in conformity with such conditions as shall be prescribed by the standing committee, either generally or specially, in this behalf, no drain shall be so constructed as to pass beneath any part of a building.

241. No person shall construct a cesspool beneath any part of a building used or intended to be used for human habitation or in which any person may be or may be intended to

be employed in any manufacture, trade or business ;

nor, within twenty feet of any well, spring, or tank, nor, except with the written permission of the commissioner, within twenty feet of any cistern, main, pipe or other work containing or carrying water for drinking or other domestic purpose, or for manufacturing drinks for the use of man.

242. All drains, ventilation-shafts and pipes and all appliances and fittings connected with drainage-works constructed, erected or set up at the charge of the municipal fund upon premises not belonging to the corporation, whether before or after the passing of this Act, and whether for the use of the owner or occupier of the said premises or not, shall, unless the corporation has otherwise determined or shall at any time otherwise determine, vest and be deemed to have always vested, in the corporation.

243. (1) Every drain and cesspool, whether belonging to the corporation or to any other person, shall be provided with proper traps and coverings and with proper means of ventilation.

(2) The commissioner may, by written notice, require the owner of any drain or cesspool not belonging to the corporation to provide and apply to the said drain or cesspool such trap and covering and such means of ventilation as would be provided and applied if such drain or cesspool belonged to the corporation.

244. (1) For the purpose of ventilating any drain or cesspool, whether belonging to the corporation or to any other person, the commissioner may erect upon any premises or affix to the outside of any building, or to any tree, any such shaft or pipe as shall appear to the commissioner necessary :

(2) Provided that any shaft or pipe so erected or affixed shall :

- (a) be carried at least ten feet higher than any sky-light or window situated

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[Ch. IX.—Drains and Drainage-works, Sects. 244 (b)—248.]

within a distance of twenty feet therefrom;

(b) if the same be affixed to a wall supporting the eave of a roof, be carried at least five feet higher than such eave;

(c) be erected or affixed so as to create the least practicable nuisance or inconvenience to the inhabitants of the neighbourhood;

(d) be removed by the commissioner to some other place, if at any time the owner of the premises, building or tree upon or to which the same has been erected or affixed, is desirous of effecting any change in his property, which either cannot be carried out, or cannot, without unreasonable inconvenience, be carried out, unless the shaft or pipe is removed.

(3) If the commissioner declines to remove a shaft or pipe under clause (d), the owner of the premises, building or tree, upon or to which the same has been erected or affixed, may apply to the Chief Judge of the Small Cause Court; and the said chief judge may, after such inquiry as he thinks fit to make, direct the commissioner to remove the shaft or pipe, and it shall be incumbent on the commissioner to obey such order.

Disposal of Sewage.

245. The commissioner may cause all or any municipal drains to empty into the sea or other place, whether within or without the city and dispose of the sewage at any place, whether within or without the city, and in any manner, which he shall deem suitable for such purpose; Provided that—

(a) the commissioner shall not cause any municipal drain to empty into any place into which a municipal drain has not heretofore emptied or dispose of sewage at any place or in any manner at or in which sewage has not heretofore been disposed of, without the sanction of the corporation;

(b) any power conferred by this section shall be exercised in such manner as to create the least practicable nuisance;

(c) no municipal drain shall be made to empty into any place, and no sewage

shall be disposed of at any place or in any manner which Government shall think fit to disallow.

246. (1) For the purpose of receiving, storing, disinfecting, distributing or otherwise disposing of sewage, the commissioner may, when authorized by the corporation in this behalf:

(a) construct any work within or without the city;

(b) purchase, or take on lease any land, building, engine, material or apparatus, either within or without the city;

(c) enter into an arrangement with any person, for any period not exceeding twenty years, for the removal or disposal of sewage;

(2) Provided that any power conferred by this section shall be exercised in such manner as to cause the least practicable nuisance.

Water-closets, Privies, Urinals, &c.

247. It shall not be lawful newly to erect any building or to rebuild any building without a sufficient water-closet, or privy and urinal.

248. (1) If it appears to the commissioner that any premises are without a water-closet or privy or urinal, or that the existing water-closet or privy or urinal available for the occupiers of any premises is insufficient, inefficient or, for sanitary reasons, objectionable, the commissioner shall, by written notice, require the owner of such premises to provide a water-closet, privy or urinal or an additional water-closet, privy or urinal, as the case may be, to his satisfaction;

(2) Provided that where a water-closet, privy or urinal has been and is used in common by the occupiers of two or more premises, or, if in the opinion of the commissioner, a water-closet, privy or urinal may be so used and is sufficient for all the occupiers of the two or more premises using or intending to use the same, he need not require a separate water-closet or privy or urinal to be provided on or for each of the said premises.

The City of Bombay Municipal Act, 1888.

[Ch. IX.—Drains and Drainage-works, Sects. 249—253.]

249. Where it appears to the commissioner that any premises are, or are intended to be used as a market, railway-station, dock, wharf, or other place of public resort, or as a place in which persons exceeding twenty in number are employed in any manufacture, trade or business or as workmen or labourers, the commissioner may, by written notice, require the owner or occupier of the said premises to construct a sufficient number of water-closets or latrines or privies and urinals for the separate use of each sex.

250. (1) The owner or occupier of any premises on which there is a privy shall:

(a) have between such privy and any building or place used or intended to be used for human habitation, or in which any person may be or may be intended to be employed in any manufacture, trade or business, an air-space of at least three feet in width and open to the sky;

(b) have such privy shut off by a sufficient roof and wall, or fence, from the view of persons dwelling in the neighbourhood or passing by;

(c) unless and except for such period as he shall be permitted by the commissioner, under the power next hereinafter conferred, to continue any existing door or trap-door, close up and not keep any door or trap-door in such privy opening on to a street:

(2) Provided that the commissioner may permit the continuance for such period as he may think fit of any existing door or trap-door in a privy opening on to a street, if a nuisance is not thereby created.

(3) Provided also that clause (a) shall not be deemed to apply to any privy in existence when this Act comes into force, unless:

(d) there is space available on the premises of the owner or occupier for the erection of a new privy conformably to the said clause; and

(e) the existing privy can be removed, and a new one erected as aforesaid, without destroying any portion of a permanent building other than the existing privy.

251. The owner or occupier of any premises on which there is a water-closet shall:

(a) have such water-closet divided off from any part of a building or place used or intended to be used for human habitation, or in which any person may be or may be intended to be employed in any manufacture, trade or business, by such means as the commissioner shall deem sufficient;

(b) have such water-closet in such a position that one of its sides at the least shall be an external wall;

(c) have the seat of such water-closet placed against an external wall;

(d) cause such water-closet to be provided with such means of constant ventilation as the commissioner shall deem adequate, by a window or other aperture in one of the walls of such water-closet opening directly into the external air, or by an air-shaft or by some other suitable method or appliance:

(e) have such water-closet supplied by a supply-cistern and flushing apparatus and fitted with a soil-pan or receiver and such other appliances of such materials, size and description as the commissioner shall deem necessary: provided always that a cistern from which a water-closet is supplied shall not be used, or be connected with another cistern which is used, for supplying water for any other purpose.

252. The commissioner shall provide and maintain, in proper and convenient situations and on sites vesting in the corporation, water-closets, latrines, privies and urinals and other similar conveniences for public accommodation.

Inspection.

253. All drains, ventilation-shafts and pipes, cesspools, house-gullies, water-closets, privies, latrines and urinals which do not belong to the corporation or which have been constructed, erected or set up at the charge of the municipal fund on premises not belonging to the corporation, for the use or benefit of the

Drains, &c., not belonging to the corporation to be subject to inspection and examination.

The City of Bombay Municipal Act, 1888.

[Ch. IX—Drains and Drainage-works, Sects. 254—258 (b)]

owner or occupier of the said premises, shall be open to inspection and examination by the commissioner.

254. For the purpose of such inspection and examination, the commissioner may cause the ground or any portion of any drain or other work exterior to a building, or, with the approval of the standing committee, any portion of a building, which he shall think fit, to be opened, broken up or removed: Provided that in the prosecution of any such inspection and examination, as little damage as can be, shall be done.

255. If upon any such inspection and examination as aforesaid, it shall be found that the drain, ventilation-shaft or pipe, cesspool, house-gully, water-closet, privy, latrine or urinal examined is in proper order and condition, and that none of the provisions of this chapter has been contravened in respect of the construction or maintenance thereof, and that no encroachment has been made thereupon, the ground or portion of any building, drain or other work, if any, opened, broken up or removed for the purpose of such inspection and examination shall be filled in, re-instated and made good by the commissioner.

256. But if it shall be found that any drain, ventilation-shaft or pipe, cesspool, house-gully, water-closet, privy, latrine or urinal so examined is not in good order or condition, or has been repaired, changed, altered or encroached upon, or except when the same has been constructed by or under the order of the commissioner, if it has been constructed in contravention of any of the provisions of this chapter or of any enactment at the time in force,

the expenses of the inspection and examination shall be paid by the owner of the premises, and the said owner shall fill in, re-instate and make good the ground, or portion of any building, drain or other work opened, broken up or removed for the purpose of such inspection and examination, at his own cost.

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257. (1) When the result of the inspection and examination is as described in the last preceding section, the commissioner may, by written notice, require the owner of the premises in which the drain, ventilation-shaft or pipe, cesspool, house-gully, water-closet, privy, or urinal is situate:

(a) to close or remove the same or any encroachment thereupon; or

(b) to renew, repair, cover or recover, trap, ventilate, pave and pitch, flush, cleanse or take such other order with the same as he shall think fit to direct, and to fill in, re-instate and make good the ground or portion of any building, drain or other work opened, broken up or removed for the purpose of the inspection and examination aforesaid.

(2) In any such case as aforesaid, the commissioner may forthwith and without notice, stop up or demolish any drain by which sullage, excrementitious matter or polluted water is carried through, from, into, or upon any premises in contravention of any of the provisions of this chapter and all expenses incurred by the commissioner in so doing shall be paid by the owner of the premises.

General Provisions.

258. No person shall: (a) in contravention of any of the provisions of this chapter, or of any notice issued or direction given under this chapter or without the written permission of the commissioner, in any way alter the fixing, disposition or position of, or construct, erect, set up, renew, rebuild, remove, obstruct, stop up, destroy or change any drain, ventilation-shaft or pipe, cesspool, water-closet, privy, latrine, or urinal, or any trap, covering or other fitting or appliance connected therewith;

(b) without the written permission of the commissioner, renew, rebuild, or unstop any drain, ventilation-shaft or pipe, cesspool, water-closet, privy, latrine or urinal, or any fitting or appliance, which has been or has been ordered to be discontinued, demolished,

The City of Bombay Municipal Act, 1888.

[Ch. IX.—Drains and Drainage-works, Sects. 258 c—260 (2). Ch. X.—Water-supply, Sects. 261 & 262.]

or stopped up under any of the provisions of this chapter ;

(c) without the written permission of the commissioner, make any encroachment upon or in any way injure or cause or permit to be injured, any drain, cess-pool, house-gully, water-closet, privy, latrine or urinal ;

(d) drop, pass or place, or cause or permit to be dropped, passed or placed into or in any drain, any brick, stone, earth, ashes, or any substance or matter by which or by reason of the amount of which such drain is likely to be obstructed ;

(e) pass, or permit or cause to be passed into any drain provided for a particular purpose, any matter or liquid for the conveyance of which such drain has not been provided ;

(f) cause or suffer to be discharged into any drain from any factory, bake-house, distillery, workshop or workplace or from any building or place in which steam, water or mechanical power is employed, any hot water, steam, fumes, or any liquid which would prejudicially affect the drain or the disposal by sale or otherwise of the sewage conveyed along the drain or which would, from its temperature or otherwise, be likely to create a nuisance.

259. (1) On the written request of any

When materials and work may be supplied and done under this chapter for any person by the commissioner.

person who is required under any of the provisions of this chapter to supply any materials or fittings or to do any work, the commissioner may, in such person's behalf, supply the necessary materials or fittings, or cause the necessary work to be done, but he shall not do so in any case to which the provisions of section 493 or 495 will not apply, unless a deposit is first of all made by the said person of a sum which will, in the opinion of the commissioner, suffice to cover the cost of the said materials, fittings and work.

(2) The commissioner shall not permit any work which any person is required to do under any of the provisions of this chapter to be done except through the agency of a licensed plumber.

260. (1) The commissioner may, if he thinks fit, cause any work described in sections 230, 231, 238, 256 or 257 to be executed by municipal or other agency under his own orders, without first of all giving the person by whom the same would otherwise have to be executed the option of doing the same.

(2) The expenses of any work so done shall be paid by the person aforesaid, unless the corporation shall, by a general or special order or resolution, sanction, as they are hereby empowered to sanction, the execution of such work at the charge of the municipal fund.

CHAPTER X.

WATER-SUPPLY.

Construction and maintenance of municipal waterworks.

261. For the purpose of providing the city with a supply of water proper and sufficient for public and private purposes, the commissioner, when authorized by the corporation in this behalf, may:

- (a) construct and maintain waterworks, either within or without the city, and do any other necessary acts ;
- (b) purchase or take on lease any waterwork or any water or right to store, or to take and convey water, either within or without the city ;
- (c) enter into an arrangement with any person for a supply of water.

262. The commissioner shall manage all waterworks belonging to the corporation—and kept in repair by all which waterworks are in this Act referred to as "municipal water-works"—and maintain the same in good repair and efficient condition, and shall cause all such alterations and extensions to be from time to time made in the said water-works as shall be necessary or expedient for improving the said works.

The City of Bombay Municipal Act, 1883.

[Ch. X.—Water-supply, Sects. 263 (1)—268 (2).]

263. (1) The commissioner and any person appointed by Government under section 264 in this behalf, may, for the purpose of inspecting or repairing or executing any work in, upon or in connection with any municipal water-work, at all reasonable times :

(a) enter upon and pass through any land, within or without the city, adjacent to or in the vicinity of such waterwork, in whomsoever such land may vest ;

(b) convey into and through any such land all necessary materials, tools and implements.

(2) In the exercise of any power conferred by this section, as little damage as can be shall be done, and compensation for any damage which may be done in the exercise of any of the said powers shall be paid by the commissioner, or, if any person appointed under section 264 by Government has caused the damage, by Government.

264. Any person appointed by Government in this behalf shall at all reasonable times have liberty to enter upon and inspect any municipal waterwork.

265. The commissioner shall have the same powers and be subject to the same restrictions for carrying, renewing and repairing water-mains, pipes and ducts within or without the city as he has and is subject to under the provisions hereinbefore contained, for carrying, renewing and repairing drains within the city.

266. The commissioner shall cause fire-hydrants and all necessary works, machinery and assistance for supplying water in case of fire to be provided and maintained ; and shall have painted or marked on the buildings and walls or in some other conspicuous manner, within the streets, words or marks near to such hydrants to denote the situation thereof, and shall cause a hydrant-key to be deposited at each place within the city where a municipal fire-engine is kept, and do such

other things for the purpose aforesaid as he shall deem expedient.

267. (1) Except with the sanction of the corporation and, in the case of the Vohar waterworks, of Government, or, for the purposes of section 262, under the authority of the commissioner, no person shall :

(a) erect any building for any purpose whatever within the limits of the water-shed of any lake or reservoir from which a supply of water is derived for any municipal waterwork ;

(b) extend, alter or apply to any purpose different to that to which the same has been heretofore applied, any building already existing within the said limits ;

(c) carry on, within the said limits, any operation of manufacture, trade or agriculture in any manner, or do any act whatsoever, whereby injury may arise to any such lake or reservoir or to any portion thereof, or whereby the water of any such lake, tank or reservoir may be fouled or rendered less wholesome

(2) The limits of the water-shed of the Vohar lake shall, for the purposes of this section, be deemed to be the limits defined in a plan marked "B," authenticated by the signatures of the Governor and Members of Council, and deposited in the office of the Secretary to the Government of Bombay.

268. (1) Without the written permission of the commissioner, no building, wall or other structure shall be newly erected and no street or railway shall be constructed over any municipal water-main.

(2) If any building, wall or other structure be so erected or any street or railway be so constructed, the commissioner may, with the approval of the standing committee, cause the same to be removed or otherwise dealt with as to him shall appear fit, and the expenses thereby incurred shall be paid by the person offending.

The City of Bombay Municipal Act, 1888.

[Ch. X.—Water-supply, Sects 269 (1)—272.]

Public gratuitous water-supply.

269. (1) All existing public drinking-fountains, tanks, reservoirs, cisterns, pumps, wells, ducts, and works for the supply of water for the gratuitous use of the inhabitants of the city shall vest in the corporation and be under the control of the commissioner.

(2) The commissioner may maintain the said works and provide them with water, and, when authorized by the corporation in this behalf, may construct any other such works for supplying water for the gratuitous use of the inhabitants of the city :

(3) Provided that water carried away by any of the inhabitants from any such work shall be taken only for his private use and not for sale, and shall not, except with the written permission of the commissioner, be carried away in a cask, cart, pakhál or masak.

(4) The commissioner may temporarily, and, with the approval of the corporation, permanently close any of the said works, either entirely or partially.

(5) In case any such work permanently closed, either entirely or partially, by the commissioner, the site thereof, or of the portion thereof which is so closed, and the materials of the same may be disposed of as the property of the corporation. provided that if any such work, which is permanently closed, either entirely or partially, was a gift to the public by some private person, the said site and materials or the proceeds of the sale thereof shall, unless by reason of their value being insignificant or for other sufficient reason, the corporation think fit to otherwise direct, be applied to or towards some local work of public utility bearing the name of such person or to or towards any such local work, which shall be approved by the corporation and by the heirs or other representatives, if any, of the said person.

270. (1) The commissioner may assign and set apart each of the said, works and the water therein for use by the public for such purpose only as he shall think fit,

and shall cause to be indicated by a notice affixed on a conspicuous spot on or near each such work, the purpose for which the same is so assigned and set apart.

(2) No person shall make use of any such work or of any water therein for any purpose other than the purpose for which the same has been so assigned or set apart.

Private water-supply.

271. (1) Communication-pipes for conveying to any premises a private supply of water from a water-main or other municipal waterwork shall not ordinarily be connected with the main or other waterwork, except on the written application or with the written assent of the owner of the premises, or of the person primarily liable for the payment of property-taxes on the said premises.

(2) But if it shall appear to the commissioner that any premises, situate within any portion of the city in which a public notice has been given by the commissioner under clause (b) of section 141, are without a proper supply of pure water, the commissioner shall, by written notice, require the owner of the said premises, or the person primarily liable for the payment of property-taxes thereon, to obtain a supply from a municipal waterwork adequate to the requirements of the persons usually occupying or employed upon the said premises, and to provide communication-pipes and do all such works as may be necessary for that purpose.

272. Communication-pipes and all fittings and works necessary for making a connection with any municipal waterwork or for conveying a private supply of water from any municipal waterwork into any premises shall be procured and executed, subject to the inspection and to the satisfaction of the commissioner, at the cost of the person who obtains the supply.

The City of Bombay Municipal Act, 1888.

[Ch. X.—Water-supply, Sects. 273—279 (1).]

273. No communication-pipe shall be laid, except with the written permission of the commissioner, and no connection with any municipal water-work shall be made except by a municipal officer or servant empowered by the commissioner in this behalf, nor until such municipal officer as the commissioner appoints in this behalf shall have certified that the communication-pipes and all necessary fittings and works have been laid, applied and executed in a satisfactory manner.

274. (1) The commissioner may, whenever it shall appear to him to be necessary, by written notice require that any premises furnished with a private water-supply from any municipal waterwork, shall, within a reasonable period which shall be prescribed in the said notice, be provided with a storage-cistern of such size, material, quality and description and with such fittings and placed in such position as he thinks fit.

(2) The commissioner shall also from time to time prescribe the size, material, quality, description and position of the pipes, taps, cocks and other fittings to be employed for the purposes of any connection with, or of any communication from, any municipal waterwork, and no such connection or communication shall be made by any person otherwise than as so prescribed.

275. It shall be incumbent on the owner or occupier of any premises to which a private water-supply is furnished from any municipal waterwork, to keep in efficient repair every pipe conveying water from the said waterwork to such premises and every meter for measuring water, not being a municipal meter, and every tap, cock or other fitting and every storage-cistern in or connected with any such pipe, so as effectually to prevent the water from running to waste.

276. (1) Where water is supplied by measurement, the commissioner may either provide a meter and charge the con-

sumer for the same such rent as shall from time to time be prescribed in this behalf by the standing committee, or may permit the consumer to provide a meter of his own of such size, material and description as the commissioner shall approve for this purpose.

(2) The commissioner shall at all times keep all meters and other instruments for measuring water, let by him for hire to any person, in proper order for correctly registering the supply of water, and in default of his so doing, such person shall not be liable to pay rent for the same during such time as such default continues.

277. Where water is supplied by measurement, the register of the meter or other instrument for measuring water shall be *prima facie* evidence of the quantity consumed.

Inspection.

278. (1) The commissioner may make an inspection of any premises, to which a private water-supply is furnished by the corporation in order

(a) to remove, test, examine and replace any meter for measuring water; or

(b) to examine the communication-pipes, and the taps, cocks and other fittings thereof and the storage-cisterns connected therewith; or

(c) to see if there be any waste or misuse of water.

(2) The commissioner may, by written notice, require the owner or occupier of the premises to remedy any defect which shall be found to exist in any such meter, not being a municipal meter let to him for hire, or in any such communication-pipe, tap, cock or other fitting or cistern.

Cutting off private water-supply.

279. (1) The commissioner may, with the sanction of the standing committee, cut off the connection between any municipal waterwork and any premises to which a private water-supply is furnished by the

Power to cut off private water-supply or to turn off water.

The City of Bombay Municipal Act, 1888.

[Ch. X.—Water-supply, Sects. 279 (1) (a)—283 (2).]

corporation or turn off the water from such premises in any of the following cases, namely :

(a) in default of payment of any instalment of water-tax or of any sum due for water within fifteen days after a bill for such tax or sum has been duly presented ;

(b) if the owner or occupier of the premises neglects, within the period prescribed in this behalf in any notice given under sub-section (1) of section 274, to comply with any requisition made to him by the commissioner regarding the provision of a storage cistern ;

(c) if the owner or occupier of the premises fails, within the period prescribed in this behalf in any notice given under sub-section (2) of section 278, to put any such cistern or any pipe conveying water from any municipal waterwork or any tap, cock, or other fitting thereof into good repair, so as effectually to prevent the water from running to waste ;

(d) if, after receipt of a written notice from the commissioner requiring him to refrain from so doing, the owner or occupier of the premises continues :

(i) to use the water, or to permit the same to be used in contravention of any by-law made under this Act or of any condition prescribed under sub-section (2) of section 169 ;

(ii) when payment for the water is not made by measurement, to permit any person not residing on premises in respect of which water-tax is paid, to carry away from such owner's or occupier's premises water derived from the municipal water-work ;

(e) if the owner or occupier of the premises wilfully or negligently injures or damages his meter or any pipe conveying water from any municipal waterwork.

(2) The expense of cutting off the connection or of turning off the water in any such case as aforesaid shall be paid by the owner or occupier of the premises.

280. No person to whom water is supplied by measurement or on payment of a fixed periodical sum shall contravene any

Conditions as to use of water not to be contravened

condition prescribed under sub-section (2) of section 169 for the use of such water or permit any such condition to be contravened.

281. No water-pipe shall be laid in a drain or on the surface of an open channel or house-gully or within twenty feet of a cesspool or in any position where the pipe is likely to be injured or the water therein polluted ; and no well or tank and, except with the consent of the commissioner, no cistern shall be constructed within twenty feet of a cesspool.

282. (1) No person shall fraudulently dispose of any water supplied to him by the corporation.

Prohibition of fraudulent and unauthorized use of water.

(2) No person to whom a private supply of water is furnished by the corporation shall, except when the water supplied is charged for by measurement, permit any person who does not reside on premises in respect of which water-tax is paid, to carry away water from the premises to which it is supplied.

(3) No person, who does not reside on premises in respect of which water-tax is paid, shall carry away water from any premises to which a private supply is furnished by the corporation, unless, in any case in which such supply is charged for by measurement, he does so with the permission of the person to whom such supply is furnished.

283. (1) No person shall fraudulently :

Prohibition of fraud in respect of meters.

(a) alter the index to any meter or prevent any meter from duly registering the quantity of water supplied ;

(b) abstract or use water before it has been registered by a meter set up for the purpose of measuring the same.

(2) The existence of artificial means, under the control of the consumer, for causing any such alteration, prevention, abstraction or use, shall be evidence that the consumer has fraudulently effected the same.

The City of Bombay Municipal Act, 1888.

[Ch. X.—*Water-supply, Sects. 284—288.*

General Provisions.

284. No person shall wilfully or negligently :

Prohibition of wilful or neglectful acts relating to waterworks. (a) injure or suffer to be injured any meter belonging to the corporation or any of the fittings of any such meter;

(b) break, injure or open any lock, cock, valve, pipe, work or engine appertaining to any municipal waterwork ;

(c) flush or draw off the water from any such waterwork, thereby causing such water to be wasted ;

(d) do any act whereby the water in or derived from any municipal waterwork shall be wasted ;

(e) obstruct, divert or in any way injure or alter any water-main or duct.

285. Compensation shall be paid by the offender for any damage which the corporation sustains by reason of any contravention of section 283 or section 284.

286. If it shall be shown that an offence against some provision of this chapter or against some by-law made under this Act at the time in force relating to water-supply, has occurred on any premises to which a private supply of water is furnished by the corporation, it shall be presumed, until the contrary is proved, that such offence has been committed by the occupier of the said premises.

287. (1) On the written request of any person who is required under any of the provisions of this chapter to supply any materials or fittings or to do any work, the commissioner may, in such person's behalf, supply the necessary materials or fittings, or cause the necessary work to be done, but he shall not do so in any case to which the provisions of section 493 or 495 will not apply, unless a deposit is first of all made by the said person of a sum which will, in the opinion of the commissioner, suffice to cover the cost of the said materials, fittings and work.

Ch. XI.—*Regulation of Streets, Sect. 289 (3)*]

(2) The commissioner shall not permit any work, which any person is required to do under any of the provisions of this chapter, to be done except through the agency of a licensed plumber, and any person who causes or allows communication-pipes or any fittings or work necessary for conveying a private supply of water from a municipal waterwork into any premises to be laid, applied or executed by any person other than a licensed plumber shall not be entitled to demand a connection with the municipal waterwork.

288. The commissioner may supply water from a municipal waterwork to any local authority or person without the city on such terms as to payment and as to the period and conditions of supply as shall be, either generally or specially, approved by the corporation.

CHAPTER XI.

REGULATION OF STREETS.

Construction, maintenance and improvement of public streets.

289. (1) All streets within the city, being or which at any time become public streets, and the pavements, stones and other materials thereof shall vest in the corporation and be under the control of the commissioner.

(2) The commissioner shall from time to time cause all such streets to be levelled, metalled or paved, channelled, altered and repaired, as occasion shall require; he may also from time to time widen, extend or otherwise improve any such street or cause the soil thereof to be raised, lowered or altered, and may place and keep in repair fences and posts for the safety of foot-passengers: provided that no widening, extension or other improvement of a public street, the aggregate cost of which will exceed five thousand rupees, shall be undertaken by the commissioner unless or until such undertaking has been authorized by the corporation.

(3) With the sanction of the corporation, the commissioner may permanently

The City of Bombay Municipal Act, 1888.

[Ch. XI.—Regulation of Streets, Sects. 290—296 (2)]

close the whole or any part of a public street: provided that such sanction of the corporation shall not be given, unless one month at least before the meeting at which the matter is decided, a notice signed by the commissioner has been put up in the street or part of a street which it is proposed to close, informing the residents of the said proposal, nor until the objections to the said proposal, if any, made in writing at any time before the day of the said meeting have been received and considered by the corporation.

290. Whenever any public street, or part of a public street, is permanently closed under section 289, the site of such street or of the portion thereof which has been closed, may be disposed of as land vesting in the corporation.

291. The commissioner, when authorized by the corporation in this behalf, may at any time

(a) lay out and make a new public street;

(b) agree with any person for the making of a street for public use through the land of such person, either entirely at the expense of such person or partly at the expense of such person and partly at the expense of the corporation and that such street shall become, on completion, a public street.

292. Nothing in sub-sections (1) and (3) of section 289 or in the two last preceding sections shall be deemed to affect

the provisions of sections 37 and 38 of the Bombay Port Trust Act, 1879.

293. (1) Permission shall not be granted to any person to lay or work upon any public street, any tramway or railway or the like, by any municipal authority other than the corporation, and no such permission shall have validity unless and until it is confirmed by Government.

(2) Nothing in this section shall be deemed to affect the provisions of the Bombay Tramways Act, 1874.

294. No new public street made under section 291 shall be less than forty feet in width, if such street be made for carriage traffic, or twenty feet, if such street be made for foot traffic only, and no steps and, except with the written permission of the commissioner under section 310, no other projection shall extend on to any such street.

295. The commissioner, when authorized by the corporation in this behalf, may agree:

(a) with any person to adopt and maintain any existing or projected bridge, viaduct, or arch and the approaches thereto, and may accordingly adopt and maintain such bridge, viaduct or arch and approaches as parts of public streets, or as property vesting in the corporation; or

(b) for the construction or alteration of any such bridge, viaduct or arch or for the purchase or acquisition of any adjoining land required for the foundation and support thereof or for the approaches thereto, either entirely at the expense of such person or partly at the expense of such person and partly at the expense of the corporation.

296. (1) The commissioner may, subject to the provisions of sections 90, 91 and 92:

(a) acquire any land required for the purpose of opening, widening, extending, or otherwise improving any public street or of making any new public street and the buildings, if any, standing upon such land;

(b) acquire, in addition to the said land and the buildings, if any, standing thereupon, all such land, with the buildings, if any, standing thereupon, as it shall seem expedient for the corporation to acquire outside of the regular line, or of the intended regular line, of such street;

(c) lease, sell or otherwise dispose of any land or building purchased under clause (b).

(2) Any conveyance of land or of a building under clause (c) may comprise such conditions as the commissioner thinks fit, as to the removal of the existing building, the description of new building to

The City of Bombay Municipal Act, 1888.

[Ch. XI—Regulation of Streets, Sects 297—300.]

be erected, the period within which such new building shall be completed and other such matters.

Preservation of regular line in public streets.

297. (1) The commissioner shall prescribe a line on each side of any public street within which, except under the provisions of section 310, no portion of any building abutting on the said street shall, after such line has been prescribed, be constructed.

(2) A line so prescribed shall be called "the regular line of the street."

298. (1) If any part of a building abutting on a public street is within the regular line of such street, the commissioner may, whenever it is proposed :

(a) to rebuild such building or to take down such building to an extent exceeding one-half thereof above the ground-level, such half to be measured in cubic feet ; or

(b) to remove, re-construct, or make any addition to any portion of such building which is within the regular line of the street ;

in any order which he issues, under section 345 or 346, concerning the re-building, alteration or repair of such building, require such building to be set back to the regular line of the street.

(2) When any building, or any part thereof within the regular line of a public street, falls down, or is burnt down or is taken down, whether under the provisions of section 351 or 354, or otherwise, the commissioner may at once take possession, on behalf of the corporation, of the portion of land within the regular line of the street theretofore occupied by the said building, and, if necessary, clear the same.

(3) Land acquired under this section shall thenceforward be deemed a part of the public street and shall vest, as such, in the corporation.

299. (1) If any land, not vesting in the corporation whether open or enclosed, lies within the regular line of a public street, and is not occupied by a building, or if a platform, verandah, step or

some other structure external to a building abutting on a public street, or a portion of a platform, verandah, step or other such structure, is within the regular line of such street,

the commissioner may, after giving to the owner of the land or building not less than seven clear days' written notice of his intention so to do, take possession, on behalf of the corporation, of the said land, with its enclosing wall, hedge or fence, if any, or of the said platform, verandah, step, or other such structure as aforesaid, or of the portion of the said platform, verandah, step or other such structure as aforesaid which is within the regular line of the street, and, if necessary, clear the same, and the land so acquired shall thenceforward be deemed a part of the public street :

(2) Provided that when the land or building is vested in the Secretary of State for India in Council or in any corporation constituted by royal charter or by an Act of Parliament or of the Governor General of India in Council or of the Governor in Council, possession shall not be taken as aforesaid, without the previous sanction of Government.

300. (1) If any building which abuts on a public street is in rear of the regular line of such street, the commissioner may, whenever it is proposed,

(a) to re-build such building ; or

(b) to alter or repair such building in any manner that will involve the removal or re-erection of such building, or of the portion thereof which abuts on the said street, to an extent exceeding one-half of such building or portion thereof, above the ground-level, such half to be measured in cubic feet,

in any order which he issues, under section 345 or 346, concerning the re-building, alteration or repair of such building, permit or, with the approval of the standing committee, require such building to be set forward to the regular line of the street.

(2) For the purposes of this section, a wall separating any premises from a public street shall be deemed to be a building ; and it shall be deemed to be a sufficient compliance with a permission or requisition to set forward a building to the regular line of a street if a wall of such

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[Ch. XI.—Regulation of Streets Sects. 301—304 (2)]

materials and dimensions as are approved by the commissioner is erected along the said line.

301. (1) Compensation shall be paid by the commissioner to the owner of any building or land acquired for a public street under section 298 or 299, for the value of the said land and for any loss, damage or expense sustained by such owner in consequence of the order made by the commissioner under either of the said sections.

(2) If, in consequence of any order to set forward a building made by the commissioner under the last preceding section, the owner of such building sustains any loss or damage, compensation shall be paid to him by the commissioner for such loss or damage.

(3) If the additional land which will be included in the premises of any person required or permitted under the last preceding section to set forward a building, belongs to the corporation, the order or permission of the commissioner to set forward the building shall be a sufficient conveyance to the said owner of the said land; and the terms and conditions of the conveyance shall be set forth in the said order or permission.

(4) If, when the commissioner requires a building to be set forward, the owner of the building is dissatisfied with any of the terms or conditions of the conveyance, the commissioner shall, upon the application of the said owner at any time within fifteen days after the said terms and conditions are communicated to him, refer the case for the determination of the Chief Judge of the Small Cause Court, whose decision thereupon shall be conclusive.

Provisions concerning private streets.

302. Every person who intends to make or lay out a new private street shall give written notice of his intention to the commissioner, and shall, along with such notice, submit plans and sections, showing the intended level, direction and width and means of drainage of such street and the height and means of drainage of the buildings to be erected on each side thereof.

Notice of intention to lay out new private street to be given to commissioner

303. (1) The level, direction, width and means of drainage of every new private street and the height and means of drainage of the buildings to be erected on each side thereof shall be fixed and determined by the commissioner, with the approval of the standing committee.

(2) But if within thirty days after the receipt by the commissioner of any notice under the last preceding section, the disapproval by the commissioner of the level, direction, width or means of drainage of the proposed new street or of the proposed height or means of drainage of the buildings to be erected on each side thereof, shall not be communicated to the person who gave the notice under the last preceding section, the proposals of the said person shall be deemed to have been approved by the commissioner.

304. (1) No person shall make or lay out any new private street or erect any building on either side thereof otherwise than in accordance with the directions of the commissioner under the last preceding section, or with proposals approved by him under the said section, as the case may be.

(2) If any new private street be made or laid out, or if any building on either side of any such street be erected in contravention of this section, the commissioner may, by written notice, require the person who is making or laying out or has made or laid out such street, or who is erecting or has erected such building, on or before such day as shall be specified in such notice, by a statement in writing subscribed by him in that behalf and addressed to the commissioner, to show sufficient cause why such street or building should not be altered to the satisfaction of the commissioner or, if that be impracticable, why the same should not be demolished, or removed;

or shall require the said person on such day and at such time and place as shall be specified in such notice to attend personally, or by an agent duly authorized by him in that behalf and show cause as aforesaid.

The City of Bombay Municipal Act, 1888.[Ch. XI.—*Regulation of Streets, Sects. 304 (3)—310 (1)*]

(3) If such person shall fail to show sufficient cause, to the satisfaction of the commissioner, why such street or building should not be so altered or demolished or removed, the commissioner may cause the street or building to be so altered or demolished or removed and the expenses thereof shall be paid by the said person.

305. If any private street be not levelled, led, metalled or paved, sewered, drained, channelled and lighted to the satisfaction of the commissioner, he may, with the sanction of the standing committee, by written notice, require the owners of the several premises fronting or adjoining the said street or abutting thereon to level, metal or pave, drain and light the same in such manner as he shall direct.

306. (1) When any private street has been levelled, metalled or paved, sewered, drained, channelled and made good to the satisfaction of the commissioner, he may and, upon the request of the owner or of any of the owners of such street, shall, if lamps, lamp-posts and other apparatus necessary for lighting such street have been provided to his satisfaction,

by notice in writing put up in any part of such street, declare the same to be a public street, and thereupon the same shall become a public street :

(2) Provided that no such street shall become a public street if, within one month after such notice has been put up, the owner of such street or of the greater part thereof, shall, by notice in writing to the commissioner, object thereto.

(3) Nothing in this section shall be deemed to affect the provisions of sections 37 and 38 of the Bombay Port Trust Act, 1879.

307 If a portion only of any street is a public street, within the meaning of that term as defined in clause (x) of section 3, the other portion of such street may for all purposes of sections 305 and 306, be deemed to be a private street.

Projections and obstructions.

308 (1) No person shall erect, set up or place against or in front of any premises any structure or fixture, which will :

(a) overhang, jut or project into, or in any way encroach upon, or obstruct the safe or convenient passage of the public along any street, or

(b) jut or project into or encroach upon any drain or open channel in any street, so as in any way to interfere with the use or proper working of such drain or channel or to impede the inspection or cleansing thereof.

(2) The commissioner may, by written notice, require the owner or occupier of any premises to remove any structure or fixture which has been erected, set up or placed against, or in front of, the said premises in contravention of this section, or to alter the same in such manner as the commissioner thinks fit to direct.

(3) If the occupier of the said premises removes or alters any structure or fixture in accordance with such notice, he shall be entitled, unless the structure or fixture was erected, set up or placed by himself, to credit in account with the owner of the premises for all reasonable expenses incurred by him in complying with the said notice.

309. (1) If any such structure or fixture as is described in the last preceding section has been erected, set up or placed against, or in front of, any premises, at any time before the Bombay Municipal Act, 1872, came into force, the commissioner may give notice as aforesaid to the owner or occupier of the said premises :

(2) But, if in any such case the structure or fixture shall have been lawfully erected, set up or placed, compensation shall be paid by the commissioner to every person who sustains loss or damage by the removal or alteration thereof.

310. (1) The commissioner may give a written permission, on such terms as he shall in each case think fit, to the

Projections over streets may be permitted in certain cases

The City of Bombay Municipal Act, 1888.

[Ch. XI.—Regulation of Streets, Sects. 310(1)(a)—315.]

owner or occupier of any building abutting on any street :

(a) to erect an arcade over such street or any portion thereof, or

(b) to put up a verandah, balcony, sunshade, weather-frame or other such structure or thing projecting from any upper story over any street or portion thereof :

(2) Provided that no permission shall be given by the commissioner for the erection of an arcade in any public street in which the construction of arcades has not been previously sanctioned by the corporation.

(3) The provisions of section 308 shall not be deemed to apply to any arcade, verandah, balcony, sunshade, weather-frame or other structure or thing erected or put up under and in accordance with the terms of a permission granted under this section.

311. The commissioner may at any time, by written notice, require the owner of any premises on the ground-floor of which any door, gate, bar or window opens outwards upon a street, or upon any land required for the improvement of a street, in such manner as, in the opinion of the commissioner, to obstruct the safe or convenient passage of the public along such street, to have the said door, gate, bar or window altered so as not to open outwards.

312. (1) No person shall, except with the permission of the commissioner under section 310 or 317, erect or set up any wall, fence, rail, post, step, booth or other structure or fixture in or upon any street or upon or over any open channel, drain, well, or tank in any street so as to form an obstruction to, or an encroachment upon, or a projection over, or to occupy, any portion of such street, channel, drain, well or tank.

(2) Nothing in this section shall be deemed to apply to any erection or thing to which clause (c) of section 322 applies.

313. (1) No person shall, except with the written permission of the commissioner :

Prohibition of deposit, &c., of things in streets.

(a) place or deposit

upon any street or upon any open channel, drain or well in any street, any stall, chair, bench, box, ladder, bale or other thing so as to form an obstruction thereto or encroachment thereon;

(b) project at a height of less than twelve feet from the surface of the street any board or shelf beyond the line of the plinth of any building, over any street, or over any open channel, drain, well or tank in any street;

(c) attach to or suspend from any wall or portion of a building abutting on a street, at a less height than aforesaid, any thing whatever.

(2) Nothing in clause (a) applies to building-materials.

314. The commissioner may, without notice, cause to be removed :

Commissioner may, without notice, remove anything erected in contravention of section 312, after it comes into force, or deposited, &c., in contravention of section 313.

(a) any wall, fence, rail, post, step, booth or other structure or fixture which shall be erected or set up in or upon any street, or upon or over any open channel, drain, well or tank contrary to the provisions of sub-section (1) of section 312, after the same comes into force ;

(b) any stall, chair, bench, box, ladder, bale, board or shelf, or any other thing whatever placed, deposited, projected, attached or suspended in, upon, from or to any place in contravention of sub-section (1) of section 313.

315. (1) The commissioner may, by written notice, require the owner or occupier of any premises contiguous to, or in front of, or in connection with which any wall, fence, rail, post, step, booth or other structure or fixture, which it would be unlawful to erect or set up after section 312 comes into force, has been erected or set up before the said section comes into force, to remove the said wall, fence, rail, post, step, stall or other structure or thing.

(2) But, if in any such case the structure or fixture shall have been lawfully erected or set up, compensation shall be paid by the commissioner to every person who sustains loss or damage by the removal or alteration thereof.

*The City of Bombay Municipal Act, 1888.**[Ch. XI—Regulation of Streets, Sects. 316—322 (1) (a)]*

316. (1) No person shall tether any animal or cause or permit the same to be tethered by any member of his family or household in any public street.

Prohibition of the tethering of animals in the public streets

(2) Any animal tethered as aforesaid may be removed by the commissioner or by any municipal officer or servant and made over to a police officer, or may be removed by a police officer, who shall deal therewith as with an animal found straying.

Temporary erections on streets during festivals.

317. With the concurrence of the police commissioner, the commissioner may permit booths, &c., to be erected on streets on festivals. The commissioner may grant a written permission for the temporary erection of a booth and any other such structure on any street on occasions of ceremonies and festivals.

Provisions concerning execution of works in or near to streets.

318. Whenever the soil or pavement of any street is opened or broken up by or under the order of the commissioner or of any municipal officer or servant, for the execution of any work on behalf of the corporation, the work on account of which the same shall have been opened or broken up shall be completed and the soil or pavement filled in, re-instated and made good with all convenient speed; and on completion of the work, the surplus of earth and materials, if any, excavated and all rubbish occasioned thereby shall be removed without delay.

Street when broken up for any municipal purpose to be restored without delay.

319. (1) The commissioner may, whilst any such work as aforesaid or any work which may lawfully be executed in any street is in progress, direct that the said street shall be wholly or partially closed for traffic or for traffic of such description as he shall think fit; and shall set up in a conspicuous position an order prohibiting traffic to the extent so directed, and fix such bars, chains or posts across or in the street as he shall think proper for preventing or restricting traffic therein.

(2) No person shall, without the permission of the commissioner or without

other lawful authority, remove any bar, chain or post so fixed or infringe any order prohibiting traffic so set up

320. Whilst the execution of any work on behalf of the corporation is in progress in any street, the commissioner shall, so far as may be reasonably practicable, make adequate provision for the passage or diversion of traffic, for securing access to all premises approached from such street and for any drainage, water-supply or means of lighting which may be interrupted by reason of the execution of the said work, and shall pay compensation to any person who sustains special damage by reason of the execution thereof.

Commissioner to provide for traffic, &c, pending execution of municipal work in any street

321. (1) Whilst the execution of any work on behalf of the corporation is in progress in any street, the commissioner shall:

Precautions to be taken for the public safety whilst municipal works are in progress in any street.

(a) take proper precaution for guarding against accident by shoring up and protecting the adjoining buildings;

(b) have any place where the soil or pavement has been opened or broken up fenced and guarded;

(c) have a light sufficient for the warning of passengers set up and kept every night against any such place and against any bars, chains or posts set up under section 319, for so long as such place shall be continued open or broken up, or such bars, chains or posts shall remain set up.

(2) No person shall, without the written permission of the commissioner or without other lawful authority, remove any shoring-timber, or fence, or extinguish any light employed or set up for any of the purposes of this section.

322. (1) No person, other than the commissioner or a municipal officer or servant, shall, without the written permission of the commissioner or without other lawful authority:

Streets not to be opened or broken up and building-materials not to be deposited thereon without permission

(a) open, break up, displace, take up or make any alteration in or cause any injury to the soil or pavement, or any wall, fence, post, chain, or other mate-

The City of Bombay Municipal Act, 1888.

[Ch. XI—Regulation of Streets, Sects. 322 (1) (b)—327 (1) (b).]

rial or thing forming part of any street ;
or

(b) deposit any building-materials in any street ; or

(c) set up in any street any scaffold or any temporary erection for the purpose of any work whatever, or any posts, bars, rails, boards or other things by way of enclosure, for the purpose of making mortar or depositing bricks, lime, rubbish or other materials.

(2) Any permission granted under clause (b) or clause (c) shall be terminable at the discretion of the commissioner, on his giving not less than twenty-four hours' written notice of the termination thereof to the person to whom such permission was granted.

323. Every person to whom any permission is granted under section 322 shall, at his own expense, cause the place where the soil or pavement has been opened or broken up or where he has deposited building-materials or set up any scaffold, erection or other thing, to be properly fenced and guarded, and in all cases in which the same is necessary to prevent accidents, shall cause such place to be well lighted during the night.

324. (1) Every person to whom permission is granted under section 322 to open or break up the soil or pavement of any street, or who, under other lawful authority, opens or breaks up the soil or pavement of any street, shall with all convenient speed complete the work for which the same shall be opened or broken up and fill in the ground and re-instate and make good the street or pavement so opened or broken up without delay, to the satisfaction of the commissioner.

(2) If the said person shall fail to re-instate and make good the street or pavement as aforesaid, the commissioner may restore such street or pavement and the expenses incurred by the commissioner in so doing shall be paid by the said person.

325. The commissioner may, by written notice, require any person to whom permission is granted under section 322 to open or break up the soil or pavement of

Precautions for public safety to be taken by persons to whom permission is granted under section 322

Persons to whom permission is granted under section 322 must re-instate streets, &c.

Provisions to be made by persons to whom permission is granted under section 322 for traffic, &c., when their works interrupt streets

any street, or who, under any other lawful authority, opens or breaks up the soil or pavement of any street, for the purpose of executing any work, to make provision to his satisfaction for the passage or diversion of traffic, for securing access to the premises approached from such street and for any drainage, water-supply or means of lighting which may be interrupted by reason of the execution of the said work.

326. (1) No person who proposes to build, take down or re-build any building or wall, or to alter or repair any part of any building or wall, shall, in any case in which the footway in any adjacent street will be thereby obstructed or rendered less convenient, commence doing so, without first having caused to be put up a proper and sufficient hoard or fence, with a convenient platform and handrail, if there be room enough for the same and the commissioner shall think the same desirable, to serve as a footway for passengers outside of such hoard or fence.

(2) No hoard or fence shall be so put up without the previous written permission of the commissioner, and every such hoard or fence put up with such permission, with such platform and handrail as aforesaid, shall be continued standing and maintained in good condition to the satisfaction of the commissioner, by the person who carries on the work, during such time as may be necessary for the public safety and convenience; and, in all cases in which the same is necessary to prevent accidents, the said person shall cause such hoard or fence to be well lighted during the night.

(3) The commissioner may, by written notice, require the person aforesaid to remove any hoard or fence so put up.

(3) The commissioner may, by written notice, require the person aforesaid to remove any hoard or fence so put up.

Naming of streets, &c.

327. (1) The commissioner may, from time to time ;

(a) with the sanction of the corporation, determine the name by which any street shall be known ;

(b) cause to be put up or painted on a conspicuous part of any house at or near each end, corner or entrance to every street, the name of such street as so determined ;

Naming streets, and numbering of houses.

The City of Bombay Municipal Act, 1888.

[Ch. XI.—*Regulation of Streets, Sects. 327 (1) (c)—333 (1).*]

(c) cause a number to be put up or painted in a conspicuous place on the outer side, wall, door or gate of any premises.

(2) No person shall, without the written permission of the commissioner or without other lawful authority, destroy, remove, deface, or in any way injure any such name or number, or put up or paint any name or number different from that put up or painted by order of the commissioner.

Bill-posting.

328. No person shall, without the consent of the owner or occupier, affix any posting-bill, placard or other paper or means of advertisement against or upon any building, wall, board, fence or pale, or write upon, soil, deface or mark any such building, wall, board, fence or pale with chalk or paint or in any other way whatsoever.

Dangerous places.

329. (1) If any place is, in the opinion of the commissioner, from want of sufficient repair, protection or enclosure, or owing to some work being carried on thereupon, dangerous to passengers along a street, or to persons, other than the owner or occupier of the said place, who have legal access thereto or to the neighbourhood thereof, he may, by notice in writing, require the owner or occupier thereof, to repair, protect or enclose the said place or take such other step as shall appear to the commissioner necessary, in order to prevent danger therefrom.

(2) The commissioner may, before giving any such notice or before the period of any such notice has expired, take such temporary measures as he thinks fit to prevent danger from the said place. Any expense incurred by the commissioner in taking such temporary measures shall be paid by the owner or occupier of the place to which the said notice refers.

Lighting of streets.

330. The commissioner shall:

(a) take measures for lighting in a suitable manner the public streets and

municipal markets and all buildings vesting in the corporation; and

(b) procure, erect and maintain such a number of lamps, lamp-posts and other appurtenances as may be necessary for the said purpose; and

(c) cause such lamps to be lighted by means of oil, gas, electricity or such other light as the corporation shall from time to time determine; and may:

(d) place and maintain electric wires for the purpose of lighting such lamps under, over, along or across, and posts, poles, standards, stays, struts, brackets, and other contrivances for carrying, suspending or supporting, lamps or electric wires in or upon any immovable property, without being liable to any claim for compensation thereanent:

Provided that such wires, posts, poles, standards, stays, struts, brackets and other contrivances shall be so placed as to occasion the least practicable inconvenience or nuisance to any person.

331. No person shall, without lawful authority, take away or wilfully break, throw down, or damage:

(a) any lamp, lamp-post, or lamp-iron set up in any public street or in any municipal market or building vesting in the corporation;

(b) any electric wire for lighting any such lamp;

(c) any post, pole, standard, stay, strut, bracket or other contrivance for carrying, suspending or supporting any such electric wire or lamp;

and no person shall wilfully extinguish the light, or damage any appurtenance of any such lamp.

332. If any person shall, through negligence or accident, break any lamp set up in any public street, or municipal market or building vesting in the corporation, he shall pay the expenses of repairing the damage so done by him.

333. (1) No gas-pipe shall be laid in a drain or on the surface of an open channel or house-gully.

Manner of laying gas-pipes.

The City of Bombay Municipal Act, 1888.

[Ch. XI.—Regulation of Streets, Sects 333 (2)—338.]

(2) Gas-pipes shall be laid at the greatest practicable distance from water-pipes, having regard to the width of the street. Where the width of the street will allow of it, the said distance shall not be less than four feet.

(3) When it is necessary for a gas-pipe to cross a water-pipe, the gas-pipe shall, if practicable, be laid above the water-pipe. A gas-pipe so laid shall be at least nine feet in length and, as nearly as the situation will admit of, shall be so placed as to form with the water-pipe a right angle and so that no joint in the gas-pipe will be nearer to any water-pipe than four feet. The greatest practicable distance shall be kept between a water-pipe and a gas-pipe which crosses it and the gas-pipe shall, throughout its entire length, be sufficiently bedded in with good sound clay or other fit material of a proper consistence, which shall be well worked and rammed into a trench all round the gas-pipe.

(4) If any gas-pipe be laid in any way contrary to the provisions of this section, the commissioner may make such alteration with respect to such pipe as he shall think necessary and the expenses thereof shall be paid by the person under whose order or management the pipe has been laid.

334. (1) The commissioner may, whenever for any of the purposes of this Act it shall appear to him necessary, by written notice, require the owner of any gas-pipe or of any other gas-work laid in any street, to raise, sink or otherwise alter the situation of such pipe or work.

(2) Every alteration required to be made under sub-section (1), shall be made at the charge of the municipal fund and compensation shall be paid to the owner by the commissioner for the damage, if any, which he sustains by reason of such alteration:

(3) Provided that no such alteration shall be made which will prevent gas passing through any pipe or work as freely and conveniently as, having regard to all the requirements of this Act, is practicable.

335. (1) Without the written permission of the commissioner, no building, wall or other structure shall be newly erected, and no street or railway shall be constructed over any gas-pipe belonging to the corporation.

(2) If any building, wall or other structure be so erected, or any street or railway be so constructed, the commissioner may, with the approval of the standing committee, cause the same to be removed or otherwise dealt with as to the commissioner shall appear fit, and the expenses thereby incurred shall be paid by the person offending.

Watering of streets.

Measures for watering 336. The commissioner may:

(a) take measures for having the public streets watered at such times and seasons and in such manner as he shall think fit;

(b) procure and maintain such water-carts, animals and apparatus as he shall think fit for the said purpose.

CHAPTER XII.

BUILDING REGULATIONS.

Notices regarding erection of buildings.

337. (1) Every person who shall intend to erect a building shall give to the commissioner notice of his said intention, in a form, obtained for this purpose under section 344, specifying the position of the building intended to be erected, the description of building, the purpose for which it is intended and its dimensions.

(2) In this chapter "to erect a building" means to newly erect a building, or to re-erect any building pulled down to the plinth, or any frame-building of which only the framework is left down to the plinth, or to convert into a dwelling-house any building not originally constructed for human habitation, or to convert into more than one dwelling-house a building originally constructed as one dwelling-house only; and a building so erected, re-erected or converted is called in this chapter "a new building."

338. At any time within thirty days after receipt of any notice under section 337, the commissioner may, by written notice, require the person who has given the notice first hereinbefore in this section mentioned, to furnish to the commissioner all or any of the following documents, (namely):

Situation of gas-pipes, &c., may be altered by commissioner.

Notice to be given to commissioner of intention to erect a building.

Buildings, &c, not to be erected without permission over municipal gas-pipes

Commissioner may require plans and other documents to be furnished.

The City of Bombay Municipal Act, 1888.[Ch. XI.—*Building Regulations, Sects. 338 (a)—343 (1).*]

(a) plans and sections of every floor of the intended building, which shall be drawn to a scale of not less than one inch to every eight feet, and shall show the position, form and dimensions of the several parts of such building and of every water-closet, privy, urinal, cess-pool, well and other appurtenance and, in the case of a building intended as a dwelling-house for two or more families or for carrying on any trade or business in which a number of people exceeding twenty may be employed or as a place of public resort, the means of ingress and egress;

(b) a description in writing of the materials of which it is intended that the building shall be constructed, of the thickness of the walls and roof and of the intended mode of drainage, means of water-supply, and means of ventilation, and, if the building is to adjoin or abut on a street, the intended means of access from such street;

(c) a block plan of such building, which shall be drawn to a scale of not less than one inch to every forty feet and shall show the position and appurtenances of the properties, if any, immediately adjoining, the width and level of the street, if any, in front and of the street, if any, at the rear of such building, the levels of the foundations and lowest floor of such building and of any yard or ground belonging thereto;

(d) a plan showing the intended line of drainage of such building and the intended size, depth and inclination of each drain and the details of the arrangement proposed for the ventilation of the drains.

339. The commissioner may decline to accept any plan, section or description as sufficient for the purposes of the last preceding section which does not

Commissioner may require plans, &c., submitted under last preceding section, to be prepared by a licensed surveyor.

bear the signature of a licensed surveyor, in token of its having been prepared by such surveyor or under his supervision.

340. If the notice given under section 337 and the documents, if any, furnished under section 338 do not supply all the information which the commissioner deems necessary to

Additional information and the attendance of the person who gave the notice may be required.

the commissioner

enable him to deal satisfactorily with the case, the commissioner may, at any time within thirty days after receipt of the said documents, by written notice, require the production of such further particulars and details as he deems necessary.

341. If any requisition made under section 338 or 340 is not complied with, the notice given under section 337 shall be deemed not to have been given.

Notices regarding execution of works not amounting to the erection of a building.

342. Every person who shall intend: .

(a) to make any addition to a building; or

(b) to make any alteration or repairs to a building, not being a frame-building, involving the removal or re-erection of any external or party-wall thereof or of any wall which supports the roof thereof, to an extent exceeding one-half of such wall above the ground-level, such half to be measured in superficial feet; or

(c) to make any alteration or repairs to a frame-building, involving the removal or re-erection of more than one-half of the posts in any such wall thereof as aforesaid, such half to be measured in superficial feet; or

(d) to remove or reconstruct any portion of a building abutting on a street which stands within the regular line of such street;

shall give to the commissioner, in a form obtained for this purpose under section 344, notice of his said intention, specifying the position of the building in which such work is to be executed and the nature and extent of the intended work.

343. (1) If any notice given under the last preceding section does not supply all the information which the commissioner deems necessary to enable him to deal satisfactorily with the case, he may, at any time within thirty days after receipt of the said notice, by written notice, require the person who gave the notice first hereinbefore in this section mentioned to furnish plans and sections of the intended new work or of any specified portion of the

Plans and additional information may be called for

last preceding section does not supply all the information which the

The City of Bombay Municipal Act, 1888.

[Ch. XI.—Building Regulations, Sects. 343 (2)–347.]

intended new work and a description in writing of the materials of which it is intended that the new work or any specified portion thereof shall be constructed, of the thickness of any new wall or roof which it is intended to construct and of such other particulars and details as he deems necessary.

(2) The commissioner may decline to accept as sufficient for the purposes of this section any plan, section, or description which does not bear the signature of a licensed surveyor, in token of its having been prepared by such surveyor or under his supervision.

Forms of Notices.

344. (1) The commissioner shall cause printed forms of notices for the purposes of section 337 or 342 to be delivered to any person requiring the same, on payment of such fee not exceeding eight annas for each form as shall from time to time be prescribed in this behalf by the commissioner, with the approval of the standing committee.

(2) There shall be printed on the reverse of every such notice, or on a separate paper supplied, without extra charge, therewith, a copy of sections 337, 338, 339, 340, 341, 342, 343, 345, 346, 347, 348 and 349 and of all by-laws made under clauses (c), (d) and (e) of section 461 at the time in force.

Commencement of work.

345. If within thirty days after receipt of any notice under section 337 or 342, or of the plan, section, description or further information, if any, called for under section 338, 340 or 343, as the case may be, the commissioner fails to intimate in writing to the person who has given the said notice, his disapproval of the building which the said person proposes to erect, or of the work which he proposes to execute;

or if, within the said period, the commissioner signifies in writing to the said person, his approval of the said building or work;

the said person may at any time within one year from the date of the delivery of the notice to the commissioner, proceed with the said building or work in accordance

with his intention as described in the notice or in any of the documents aforesaid, but not so as to contravene any of the provisions of this Act or any by-law made under this Act at the time in force.

346. (1) If the commissioner disapproves of any building or work of which notice has been given as aforesaid or of any portion or detail thereof, by reason that the same will contravene some provision of this Act or some by-law made hereunder at the time in force or will be unsafe, he may, at any time within thirty days of the receipt of the notice or of the plan, section, description or further information, if any, called for under section 338, 340 or 343, as the case may be, by a written notice, intimate to the person who gave the notice first hereinbefore in this section mentioned his said disapproval and the reason for the same and prescribe terms subject to which the building or work may be deemed to be approved by him.

(2) The person who gave the notice concerning any such building or work may proceed with the same, subject to the terms prescribed as aforesaid but not otherwise, at any time within one year from the date of receipt by him under sub-section (1) of the written notice in this behalf, but not so as to contravene any of the provisions of this Act or any by-law made hereunder at the time in force.

347. (1) No person shall commence to erect any building or to execute any such work as is described in section 342:

(a) until he has given notice of his intention, as hereinbefore required, to erect such building or execute such work and the commissioner has either intimated his approval of such building or work or failed to intimate his disapproval thereof within the period prescribed in this behalf in section 345 or 346;

(b) after the expiry of the period of one year prescribed in sections 345 and 346, respectively, for proceeding with the same.

(2) If a person who is entitled under section 345 or 346 to proceed with any building or work, fails so to do within the period of one year prescribed

The City of Bombay Municipal Act, 1888.[Ch. XII.—*Building Regulations, Sec. 348 (1) (a)—(k).*]

in the said sections, respectively, for proceeding with the same, he may at any subsequent time give a fresh notice of his intention to erect such building or execute such work and thereupon the provisions hereinbefore contained shall apply as if such fresh notice were a first notice of such person's intention.

Provisions as to structure, materials, &c.

348. (1) With respect to buildings which are to be newly erected on any site previously unbuilt upon, the following provisions shall have effect, namely :

(a) The erection of any such building on either side of a new street may be disapproved by the commissioner, unless and until such new street has been levelled, metalled or paved, sewered and drained to the satisfaction of the commissioner.

(b) The erection of any such building in any part of the city in which the position and direction of the streets likely to be required in the future have not yet been laid down or determined, shall, with the assent of the standing committee, be disapproved by the commissioner, unless the site proposed for such building is, in the opinion of the commissioner, such as, with reference to the positions occupied by the buildings, if any, already existing in the neighbourhood, will admit of the construction in the future of one or more new streets convenient for the occupiers of all the buildings in the neighbourhood and for the purposes of drainage, water-supply and ventilation : provided that any person whose building is so disapproved, may by written notice to the commissioner, require that the position and direction of the future streets in the vicinity of his intended building be forthwith laid down and determined, and if such requisition be not complied with within six months from the date thereof, may, subject to all other provisions of this Act applicable thereto, proceed with the erection of his building.

(c) The foundation of any such building shall not be constructed on any site which has been filled up with, or has been used as a place for depositing, excrementitious matter or the carcasses of dead animals or other filthy or offensive matter, until such matter shall have been properly removed to the satisfaction of the commissioner.

(d) Every such building intended to be used as a dwelling shall be built with a plinth at least two feet above the centre of the nearest street and not below such standard level as may be fixed by the commissioner in this behalf.

(e) No such building which abuts on a street of a less width than fifty feet, shall, without the written permission of the commissioner, be erected to a greater height than one-and-a-half times the width of the street it abuts on.

(f) In addition to any means of ventilation required by any by-law made under this Act at the time in force, every such building intended to be used as a dwelling shall be so constructed that the whole of at least one side of every room thereof shall either be an external wall or abut on an interior open space. Such external wall, except where it faces a street of not less than fifteen feet in width, shall have between it and the boundary-line of the owner's premises, an open space, extending throughout the entire length of such wall, at least two feet wide or, in the case of a chawl or building intended to form a range of separate rooms for lodgers, at least five feet wide. Such interior open space shall have an area equal to not less than one-tenth of the aggregate floor-area of all the rooms abutting thereon and shall not be in any direction less than six feet across. And every open space, whether exterior or interior, required by this clause shall be and be kept free from any erection thereon and open to the sky and shall be and be kept open to access from each end thereof.

(g) Every room intended to be inhabited in any such building, except a room in the roof thereof, shall be in every part at least eight feet in height from the floor to the ceiling.

(h) Every such room in the roof of any such building shall have an average height of at least seven feet from the floor to the ceiling.

(i) Every such room shall have a clear superficial area of not less than eighty square feet.

(k) In addition to any means of ventilation required by any by-law made under this Act at the time in force, every such room shall be ventilated by means of doors or windows which open directly into the external air and have an aggregate opening equal to not less than one-fourth of the

The City of Bombay Municipal Act, 1888.

[Ch. XII.—Building Regulations, Sects. 348 (1) (i)—352 (1).]

superficial area of the side of the room which faces an open space.

(l) Huts or sheds or ranges or blocks of huts or sheds, whether the same are to be used as dwellings or stables or for any other purpose, shall be built, if the commissioner thinks fit so to require :

(i) so that they may stand in regular lines, with a free passage or way in front of and between every two lines of such width as the commissioner thinks proper for ventilation and for facilitating scavenging ; and

(ii) with such and so many privies, latrines or urinals and such means of drainage as the commissioner deems necessary ; and

(iii) at such a level as will suffice for the means of drainage required by the commissioner.

(2) Nothing in clause (a) shall be deemed to affect the power of Government to determine, under section 38 of the Bombay Port Trust Act, 1879, any dispute which arises between the Trustees of the Port of Bombay and the commissioner as to whether any road within the limits of the property of the said trustees has been duly levelled, metalled or paved, sewered and drained.

349. (1) No external wall and no covering of a roof built or renewed since the Bombay Municipal Act, 1872, came into force shall, except with the written permission of the commissioner, consist of wood, cloth, canvas, grass, leaves, mats or any other inflammable material.

(2) If any external wall or covering of a roof is or has been, since the said Act came into force, constructed of any such material, the commissioner may, by written notice, require the owner or occupier of the building to which such wall or roof appertains to remove such wall or covering.

Inspection.

350. The commissioner may at any time during the erection of a building or the execution of any such work as is described in section 342 make an inspection thereof, without giving previous notice of his intention so to do.

351. (1) If the erection of any building or the execution of any such work as is described in section 342 is commenced contrary to the provisions of section 347, the commissioner, unless he deems it necessary to take proceedings in respect of such building or work under section 354, shall :

(a) by written notice, require the person who is erecting such building or executing such work, or has erected such building or executed such work, on or before such day as shall be specified in such notice, by a statement in writing subscribed by him or by an agent duly authorized by him in that behalf and addressed to the commissioner, to show sufficient cause why such building or work shall not be removed, altered or pulled down ; or

(b) shall require the said person on such day and at such time and place as shall be specified in such notice to attend personally, or by an agent duly authorized by him in that behalf, and show sufficient cause why such building or work shall not be removed, altered or pulled down.

(2) If such person shall fail to show sufficient cause, to the satisfaction of the commissioner, why such building or work shall not be removed, altered or pulled down, the commissioner, with the approval of the standing committee, may remove, alter or pull down the building or work and the expenses thereof shall be paid by the said person.

352. (1) If there shall be reasonable ground for suspecting that in the erection of any such building or in the execution of any such work as is referred to in the last preceding section, anything has been done contrary to any provision of this Act or of any by-law made under this Act at the time in force, or that any thing required by any such provision or by-law to be done has been omitted to be done ;

and if, on inspecting such building or work it is found that the same has been completed or is too far advanced to permit of any such fact being ascertained ;

the commissioner may, with the approval of the standing committee, by written

Bo. VI of 1879.

Bo. III of 1872.

The City of Bombay Municipal Act, 1888.[Ch. XII.—*Building Regulations, Sects. 352 (2)—354.*][Ch. XIII.—*Licensing of Surveyors and Plumbers, Sects. 355—356.*]

notice, require the person who has erected such building or executed such work or is erecting such building or executing such work, to cause so much of the building or work as prevents any such fact being ascertained to be cut into, laid open or pulled down to a sufficient extent to permit of the same being ascertained.

(2) If it shall thereupon be found that in the erection of such building or the execution of such work, nothing has been done contrary to any provision of this Act or of any by-law made under this Act at the time in force and that nothing required by any such provision or by-law to be done has been omitted to be done, compensation shall be paid by the commissioner to the person aforesaid for the damage and loss incurred by cutting into, laying open or pulling down the building or work.

353. The commissioner may, at any time during the erection of a building or the execution of any such work as aforesaid, or at any time within three months after the completion thereof, by written notice, specify any matter in respect of which the erection of such building or the execution of such work may be in contravention of any provision of this Act or of any by-law made under this Act at the time in force, and require the person erecting or executing or who has erected or executed such building or work, or, if the person who has erected or executed such building or work is not at the time of the notice the owner thereof, then the owner of such building or work, to cause any thing done contrary to any such provision or by-law to be amended or to do anything which by any such provision or by-law may be required to be done but which has been omitted to be done.

Dangerous Structures.

354. (1) If it shall at any time appear to the commissioner that any structure (including under this expression any building, wall or other structure and anything affixed to or projecting from any building, wall or other structure) is in a ruinous condition, or likely to fall, or in any way dangerous to any person occupying, resorting to, or passing by such structure or any other structure or place in the neighbourhood

Removal of structures, &c., which are in ruins or likely to fall.

to the commissioner that any structure (including under this expression any building,

thereof, the commissioner may, by written notice, require the owner or occupier of such structure, to pull down, secure or repair such structure, and to prevent all cause of danger therefrom.

(2) The commissioner may also, if he thinks fit, require the said owner or occupier, by the said notice, either forthwith or before proceeding to pull down, secure or repair the said structure, to set up a proper and sufficient hoard or fence for the protection of passers-by and other persons, with a convenient platform and handrail, if there be room enough for the same and the commissioner shall think the same desirable, to serve as a footway for passengers outside of such hoard or fence.

CHAPTER XIII.

LICENSING OF SURVEYORS AND PLUMBERS.

355. (1) The commissioner may grant to any person he thinks fit a license to act as a surveyor or as a plumber for the purposes of this Act. Each such license shall be for a renewable period of one year.

(2) If any applicant for a license to act as a surveyor is a licentiate of civil engineering or a person who has passed some test of professional qualification equivalent to that for a licentiate of civil engineering, his application shall not be refused by the commissioner, except with the approval of the standing committee and upon the ground that the applicant is unfit, through incompetency, misconduct or other grave reason, to hold such license.

(3) If the commissioner refuses any application for a license under this section, he shall, at the request of the applicant, furnish such applicant with his reasons for such refusal in writing under his signature, without charge.

356. The commissioner may, with the approval of the standing committee, from time to time prescribe regulations for the guidance of licensed surveyors and plumbers, respectively, and a copy of all regulations so prescribed at the time in force shall be written on the back of every license granted to a surveyor or plumber, respectively.

Regulations may be prescribed for guidance of licensed surveyors and plumbers.

approval of the standing committee, from time to time prescribe regulations for the guidance of licensed

The City of Bombay Municipal Act, 1888.[Ch. XIII.—*Licensing of Surveyors and Plumbers, Sects. 357—358.*][Ch. XIV.—*Municipal Fire-brigade, Sects. 359—364.*]

357. The standing committee may from time to time prescribe the fees or charges to be paid to licensed plumbers for any work done by them under or for any purpose of this Act; and no licensed plumber shall demand or receive more than the fee or charge so prescribed for any such work.

Fees and charges of licensed plumbers to be prescribed by the standing committee.

358. No licensed plumber shall execute any work under this Act carelessly or negligently or make use of any bad material, appliance or fitting for the purpose of such work.

Licensed plumber to be bound to execute work properly.

CHAPTER XIV.

MUNICIPAL FIRE-BRIGADE.

359. (1) With a view to the discharge by the corporation of the duty of extinguishing fire and protecting life and property in case of fire, the commissioner shall provide, in the schedule of municipal officers and servants from time to time prepared by him under section 79, for a force of firemen, with a proper number of officers over them, to be called "the municipal fire-brigade," and shall furnish the said brigade with all such fire-engines, fire-escapes, horses, accoutrements, tools, implements and means of inter-communication as may be necessary for the efficient discharge of their duties.

Maintenance of firemen and of necessary fire-engines, &c.

(2) A person may be appointed to be a member of the fire-brigade in addition to any other office or employment of such person.

360. The commissioner shall from time to time make regulations for

Power to make regulations for fire-brigade

(a) the training, discipline and good conduct of the men belonging to the fire-brigade;

(b) their speedy attendance with engines, fire-escapes and all necessary implements on the occasion of any alarm of fire;

(c) the maintenance of the said brigade generally in a due state of efficiency.

361. On the occasion of a fire, the chief or other officer in charge of the fire-brigade may, subject to such orders as the commissioner may from time to time issue in this behalf, take the command of all municipal officers and servants present and of any other persons who voluntarily place their services at his disposal; and may

Powers of chief officer of fire-brigade at a fire.

(a) remove, or order any fire-man, or other officer or person under his command to remove any persons who interfere by their presence with the operations of the fire-brigade;

(b) take generally any measures that appear expedient for the protection of life and property, with power by himself or by the persons under his command, to break into or through or take possession of, or pull down any premises for the purpose of putting an end to such fire, doing as little damage as possible;

(c) cause the water to be shut off from the mains and pipes of any district in order to give a greater supply and pressure of water in the district in which the fire has occurred and utilize the water of any well or tank available for the purpose of extinguishing such fire.

362. It shall be the duty of all police officers and of all municipal officers and servants to aid the fire-brigade in the execution of their duties. They may close any street in or near which a fire is burning and remove any persons who interfere by their presence with the operations of the fire-brigade.

Police and municipal officers and servants to aid the fire brigade.

363. Any damage occasioned by the fire-brigade in the due execution of their duties, or by any police or municipal officer or servant who aids the fire-brigade, shall be deemed to be damage by fire within the meaning of any policy of insurance against fire.

Damages done by fire-brigade to be deemed damage by fire.

364. A report of every fire which occurs in the city, shall be submitted by the chief or other officer in charge of the fire-brigade, not later than the day following the fire, to the commissioner, who shall make such further inquiry,

Reports of fires to be submitted.

The City of Bombay Municipal Act, 1888.

[Ch. XV.—Sanitary Provisions, Sects. 365—370]

if any, as he may deem necessary and shall furnish a weekly return of all fires which occur in the city to the standing committee.

CHAPTER XV.

SANITARY PROVISIONS.

Scavenging and Cleansing.

365. For the purpose of securing the efficient scavenging and cleansing of all streets and premises, the commissioner shall take measures for securing :

Commissioner to provide for cleansing of streets and removal of refuse.

(a) the daily surface-cleansing of all streets in the city and the removal of the sweepings therefrom ;

(b) the removal of the contents of all receptacles and depôts and of the accumulations at all places provided or appointed by him under section 367 or 368 for the temporary deposit of any of the matters specified in the said sections.

366. All matters collected by municipal servants or contractors in pursuance of the last preceding section and of section 369 shall be the property of the corporation.

Refuse, &c., to be the property of the corporation.

369 shall be the property of the corporation.

367. (1) The commissioner shall provide or appoint in proper and convenient situations, public receptacles, depôts and places for the temporary deposit or final disposal of :

Provision and appointment of receptacles, depôts and places for refuse, &c.

- (a) dust, ashes, refuse and rubbish ;
- (b) carcasses of dead animals, and excrementitious and polluted matter :

(2) Provided that :

(c) the said matters shall not be finally disposed of in any place or manner in which the same have not heretofore been so disposed of, without the sanction of the corporation or in any place or manner which Government think fit to disallow ;

(d) any power conferred by this section shall be exercised in such manner as to create the least practicable nuisance.

368. (1) It shall be incumbent on the occupiers of all premises to cause all dust, ashes, refuse and rubbish to be collected from their respective premises and to be deposited at such times as the commissioner, by public notice, from time to time prescribes, in the public receptacle, depôt or place provided or appointed under clause (a) of the last preceding section for the temporary deposit thereof :

Duty of occupiers to collect and deposit dust, &c.

(2) Provided that the commissioner may, if he thinks fit, by written notice, require the occupier or owner of any land to cause all dust, ashes, refuse and rubbish to be collected daily, or otherwise periodically, from the said land and from any building standing thereon and deposited temporarily upon any place forming a part of the said land which the commissioner appoints in this behalf, and it shall be incumbent on the said occupier to cause the said matters to be collected and deposited accordingly.

369. When the commissioner has given public notice, under clause (a) of section 142, of his intention to provide, in a certain portion of the city, for the collection, removal and disposal, by municipal agency, of all excrementitious and polluted matter from privies, urinals and cesspools, it shall be lawful for the commissioner to take measures for the daily collection, removal and disposal of such matter from all premises situate in the said portion of the city.

Provision may be made by commissioner for collection, &c., of excrementitious and polluted matter

370. It shall be incumbent on the occupier of any premises situate in any portion of the city for which the commissioner has not given a public notice under clause (a) of section 142 and in which there is not a water-closet or privy connected with a municipal drain, to cause all excrementitious and polluted matter accumulating upon his premises to be collected and to be conveyed to the nearest receptacle or depôt provided for this purpose under clause (b) of section 367, at such times, in such vehicle or vessel, by such route and with such precautions, as the commissioner by public notice from time to time prescribes.

Collection and removal of excrementitious and polluted matter when to be provided for by occupiers

370. It shall be incumbent on the occupier of any premises situate in any portion of the city for which the commissioner has not given a public notice under clause (a) of section 142 and in which there is not a water-closet or privy connected with a municipal drain, to cause all excrementitious and polluted matter accumulating upon his premises to be collected and to be conveyed to the nearest receptacle or depôt provided for this purpose under clause (b) of section 367, at such times, in such vehicle or vessel, by such route and with such precautions, as the commissioner by public notice from time to time prescribes.

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[Ch. XV.—Sanitary Provisions, Sects. 371—375]

371. In any portion of the city in which the commissioner has given a public notice under clause (a) of section 142 and in any premises, wherever situate, in which there is a water-closet or privy connected with a municipal drain, it shall not be lawful, except with the written permission of the commissioner, for any person, who is not employed by or on behalf of the commissioner, to discharge any of the duties of halalkhors.

372. No person :

Prohibition of : (a) who is bound, under section 368 or section 370, to cause the removal of dust, ashes, refuse and rubbish, or of excrementitious or polluted matter, shall allow the same to accumulate on his premises for more than twenty-four hours or neglect to cause the same to be removed to the depôt, receptacle or place provided or appointed for the purpose ;

(b) shall remove any dust, ashes, refuse or rubbish, or any excrementitious or polluted matter, otherwise than in conformity with the requirements of any public or written notice at the time being in force under section 368, or use for the removal of any excrementitious or polluted matter any vehicle or vessel not having a covering proper for preventing the escape of any portion of the contents thereof or of the stench therefrom ;

(c) shall, whilst engaged in the removal of any dust, ashes, refuse or rubbish, or of any excrementitious or polluted matter, fail forthwith thoroughly to sweep and cleanse the spot in any street upon which, during removal, any portion thereof may fall, and entirely to remove the sweepings ;

(d) shall place or set down in any street any vehicle or vessel for the removal of excrementitious or pol-

luted matter, or suffer the same to remain in any street for any greater length of time than is reasonably necessary ;

(e) shall throw or place any dust, throwing or placing ashes, refuse, or refuse, &c., in any place not assigned for the purpose ; excrementitious or polluted matter, on any street, or in any place not provided or appointed for this purpose under section 367 or 368 ;

(f) who is the owner or occupier of any building or land, shall allow any filthy matter to flow, soak, or be thrown therefrom or keep or suffer to be kept therein or thereupon, anything so as to be a nuisance to any person, or negligently suffer any privy-receptacle or other receptacle or place for the deposit of filthy matter or rubbish on his premises to be in such a state as to be offensive or injurious to health.

373. If it shall in any case be shown that dust, ashes, refuse or rubbish, or any excrementitious or polluted matter has or have been thrown or placed on any street or place, in contravention of clause (e) of the last preceding section, from some building or land, it shall be presumed, until the contrary is proved, that the said offence has been committed by the occupier of the said building or land.

Inspection and Sanitary regulation of premises.

374. The commissioner may inspect any building, or other premises for the purpose of ascertaining the sanitary condition thereof.

375. If it shall appear to the commissioner necessary for sanitary reasons so to do, he may, by written notice, require the owner or occupier of any building so inspected, to cause the same or some portion thereof to be limewashed or otherwise cleansed, either externally, or internally, or both externally and internally.

The City of Bombay Municipal Act, 1888.

[Ch. XV.—Sanitary Provisions, Sects. 376—380.]

376. If any premises, by reason of their being abandoned or unoccupied premises, or unoccupied, become a resort of disorderly persons or, in the opinion of the commissioner, a nuisance, the commissioner, after such inquiry as he deems necessary, may give written notice to the owner of such premises, if he be known and resident within the city, or to any person who is known or believed to claim to be the owner, if such person is resident within the city, and shall also affix a copy of the said notice on some conspicuous part of the said premises, requiring all persons having any right of property or interest therein to take such order with the said premises as shall, in the opinion of the commissioner, be necessary to prevent the same from being resorted to as aforesaid or from continuing to be a nuisance.

377. (1) If it shall appear to the commissioner that any premises are overgrown with rank and noisome vegetation or are otherwise in an unwholesome or filthy condition or, by reason of their not being properly enclosed, are resorted to by the public for purposes of nature, or are otherwise a nuisance to the neighbouring inhabitants, the commissioner may, by written notice, require the owner or occupier of such premises to cleanse, clear, or enclose the same or, with the approval of the standing committee, may require him to take such other order with the same as the commissioner thinks necessary:

(2) Provided that, in so far as the unwholesome or filthy condition of such premises or such nuisance as above mentioned is caused by the discharge from, or by any defect in the municipal drains or appliances connected therewith, it shall be incumbent on the commissioner to cleanse such premises.

378. (1) If, for any reason, any building intended for or used as a dwelling shall appear to the commissioner to be unfit for human habitation, he may apply to the Chief Presidency Magistrate to prohibit the further use of such building for such purpose; and the said magistrate, after such inquiry as he thinks fit to make, may, by written order, make a prohibition as aforesaid or may

pass such other order as he shall deem just and proper.

(2) When any such prohibition has been made, no owner or occupier of such building shall use or suffer the same to be used for human habitation until the commissioner certifies in writing that the causes rendering it unfit for human habitation have been removed to his satisfaction or the Chief Presidency Magistrate, by a written order, withdraws the prohibition aforesaid.

379. (1) If it shall appear to the commissioner that any overcrowded dwellings are so overcrowded as to endanger the health of the inmates thereof, he may apply to the Chief Presidency Magistrate to prevent such overcrowding; and the said magistrate, after such inquiry as he thinks fit to make, may, by written order, require the owner of the building, within a reasonable time not exceeding six weeks, to be prescribed in the said order, to abate the overcrowding thereof, by reducing the number of lodgers, tenants, or other inmates of the said building, or may pass such other order as he shall deem just and proper.

(2) If the owner of the said building shall have sub-let the same, the landlord of the lodgers, tenants or other actual inmates of the same shall, for the purposes of this section, be deemed to be the owner of the building.

(3) It shall be incumbent on every tenant, lodger or other inmate of the building to vacate on being required by the owner so to do in pursuance of any such requisition.

380. If the commissioner is of opinion that any hut or shed, insanitary huts and sheds, used either as a dwelling or as a stable or for any other purpose, is likely, by reason of its being built without a plinth or upon a plinth of insufficient height or without proper means of drainage, or on account of the impracticability of scavenging, or owing to the manner in which it and other huts or sheds are crowded together, to cause risk of disease to the inmates thereof or to the inhabitants of the neighbourhood, or is for any reason likely to endanger the public health or safety;

he may, by written notice, which shall be affixed to some conspicuous part of such

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[Ch. XV.—Sanitary Provisions, Sects. 381—385 (1) (b).]

hut or shed, require the owner or occupier thereof or the owner of the land on which such hut or shed stands to remove or alter such hut or shed or to take such order for the improvement thereof as the commissioner shall deem necessary.

381. If, in the opinion of the commissioner, any pool, ditch, tank, pond, well, quarry-hole, low ground, or stagnant water is or is likely to become a nuisance, the commissioner may, with the approval of the standing committee, by notice in writing, require the owner thereof to cleanse, fill up, drain off, or remove the same or to take such other order therewith as the commissioner shall deem necessary.

382. If, in the opinion of the commissioner, the working of any quarry or the removal of stone, earth or other material from any place, is dangerous to persons residing in or having legal access to the neighbourhood thereof or creates or is likely to create a nuisance, the commissioner may, with the approval of the standing committee, by written notice, require the owner of the said quarry or place to discontinue working the same or to discontinue removing stone, earth or other material from such quarry or place, or to take such order with such quarry or place, as he shall deem necessary for the purpose of preventing danger or of abating the nuisance arising or likely to arise therefrom.

383. (1) If, in the opinion of the commissioner:

(a) any hedge is at any time insufficiently cut or trimmed, or overgrown with prickly-pear or other rank vegetation; or

(b) any tree or shrub has fallen or is likely to fall, to the danger of public safety, or overhangs or obstructs any street to the inconvenience or danger of passengers therein;

the commissioner may, by written notice, require the owner or occupier of the land on which such hedge, tree or shrub is or has been growing:

(c) to cut down such hedge to a height not exceeding four feet and to a width not

exceeding three feet and to remove any such prickly-pear or other rank vegetation therefrom; or

(d) to remove, cut, lop, or trim such tree or shrub, as the case may be.

(2) In any case falling under clause (b), the commissioner may, if for the public safety it shall appear to him necessary so to do, cause any tree or shrub to be removed, cut, lopped or trimmed, without previously giving the said owner or occupier notice as aforesaid, and the expenses thereof shall, nevertheless, be paid by the owner or occupier.

Keeping and destruction of animals and disposal of carcasses.

384. (1) No person shall:

(a) without the written permission of the commissioner, or otherwise than in conformity with the terms of such permission, keep any swine in any part of the city;

(b) keep any animal on his premises so as to be a nuisance or dangerous to any person;

(c) feed any animal, or suffer or permit any animal to be fed, or to feed with or upon excrementitious matter, dung, stable-refuse or other filthy matter.

(2) Any swine found straying may be forthwith destroyed and the carcass thereof disposed of as the commissioner shall direct. No claim shall lie for compensation for any swine so destroyed.

385. (1) The occupier of any premises in or upon which any animal shall die or upon which the carcass of any animal shall be found and the person having the charge of any animal which dies in a street or in any open place, shall, within three hours after the death of such animal, or if the death occurs at night, within three hours after sunrise, either:

(a) remove the carcass of such animal to some receptacle, depôt or place appointed by the commissioner, under clause (b) of section 367 for the temporary deposit or final disposal of such carcasses, or

(b) report the death of the animal to an officer of the health department of the division of the city in which the death

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[Ch. XV.—Sanitary Provisions, Sects. 385 (2)—390 (2).]

occurred, with a view to his causing the same to be removed.

(2) When any carcass is so removed by the health department, a fee for the removal of such amount as shall be fixed by the commissioner shall be paid by the owner of the animal or, if the owner is not known, by the occupier of the premises in or upon which, or by the person in whose charge, the same died.

Regulation of public bathing, washing, &c.

386. The commissioner may from time to time set apart portions of the seashore or other suitable places vesting in the corporation for use by the public for bathing, for the washing of animals or for drying clothes, and may from time to time, by public notice, prohibit the use by the public of any portion of the seashore or place not vesting in the corporation for any of the said purposes.

387. (1) The commissioner may, by public notice, regulate the use by the public:

(a) of any portion of the seashore or other place vesting in the corporation set apart by him for any purpose under the last preceding section;

(b) of any portion of the seashore or other place not vesting in the corporation used with his acquiescence, for any purpose mentioned in the last preceding section;

(c) of any work and of the water in any work assigned and set apart under section 270 for any particular purpose;

(2) In the case of any portion of the seashore or of any place or work set apart, assigned or used as aforesaid for bathing, the commissioner may, in such notice, prescribe the times and places of bathing for persons of each sex.

388. Except as permitted by any order or regulation made under section 270, 386 or 387, no person shall:

(a) bathe in or near any lake, tank, reservoir, fountain, cistern, duct, standpipe, stream or well or on any part of the seashore or other place vesting in the corporation;

(b) wash or cause to be washed in or near any such place or work, any animal, clothes or other article;

(c) throw, put or cause to enter into the water in any such place or work, any animal or other thing;

(d) cause or suffer to drain into or upon any such place or work or to be brought thereinto or thereupon, anything, or do anything, whereby the water shall be in any degree fouled or corrupted;

(e) dry clothes in or upon any such place.

And no person shall:

(f) in contravention of any prohibition made by the commissioner under section 386, use any portion of the seashore or any place not vesting in the corporation for any purpose mentioned in the said section;

(g) contravene any regulation made by the commissioner under section 387 for the use of any such portion of the seashore or place for any such purpose.

389. No person shall:

(a) steep in any tank, reservoir, stream, well, or ditch, any animal, vegetable or mineral matter likely to render the water thereof offensive or dangerous to health;

(b) whilst suffering from any contagious or loathsome disease, bathe in or near any lake, tank, reservoir, fountain, cistern, duct, standpipe, stream or well or on any part of the seashore.

Regulation of factories, trades, &c.

390. (1) No person shall newly establish in any place in which it is intended that steam, water or other mechanical power shall be employed, without the previous written permission of the commissioner.

(2) The commissioner may refuse to give such permission, if he shall be of opinion that the establishment of such factory, workshop or workplace in the proposed position is objectionable by reason of the density of the population in the neighbourhood thereof or will be a nuisance to the inhabitants of the neighbourhood.

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[Ch. XV.—Sanitary Provisions, Sects. 391 (1)—394 (2) (f)].

391. (1) No person shall:

Furnaces used in trade or manufacture to consume their own smoke.

(a) use or permit to be used any furnace employed for the purpose of any trade or manufacture, which does not, so far as practicable, consume its own smoke; or

(b) so negligently use or permit to be used any such furnace as that it shall not, as far as practicable, consume its own smoke.

(2) Nothing in this section shall be deemed to apply to a locomotive engine used for the purpose of traffic upon any railway or for the repair of streets.

392. (1) Whenever it shall appear to the commissioner that

Sanitary regulation of factories, bakehouses, &c.

any factory, bakehouse, workshop or workplace or any building or place, in which steam, water or other mechanical power is employed, is not kept in a cleanly state or is not ventilated in such a manner as to render harmless, as far as practicable, any gas, vapour, dust or other impurity generated in the course of the work carried on therein, which is a nuisance,

or is so overcrowded while work is carried on as to be dangerous or injurious to the health of the persons employed therein,

or that any engine, mill-gearing, hoist or other machinery therein is so fixed or so insecurely fenced as to be dangerous to life or limb;

the commissioner may, by written notice, require the owner of such factory, bakehouse, workshop, workplace or other building or place to take such order for putting and maintaining the same in a cleanly state or for ventilating the same, or for preventing the same from being overcrowded, or for preventing danger to life or limb from any engine, mill-gearing, hoist or other machinery therein, as he shall think fit,

(2) Nothing in this section shall be deemed to affect any provision of the Bombay Boiler Inspection Act, 1887, and nothing in this section which relates to the fixing or fencing of any engine, mill-gearing, hoist or other machinery shall apply in any factory to which the provisions of the Indian Factory Act, 1881, are applicable.

393. (1) No person shall, without the written permission of the commissioner, use or employ in any factory or any other place, any steam-whistle or steam-trumpet for the purpose of summoning or dismissing workmen or persons employed.

(2) The commissioner may at any time revoke any permission which he has given for the use of any such instrument as aforesaid, on giving one month's notice to the person using the same:

(3) Provided that nothing in sub-section (2) shall be deemed to require one month's notice to be given by the commissioner, if he suspends or revokes any such permission for any reason specified in sub-section (3) of section 479.

394. (1) No person shall use any premises for any of the purposes hereinbelow mentioned, without or otherwise than in conformity with the terms of a license granted by the commissioner in this behalf, namely:

(a) any of the purposes specified in schedule M;

(b) any purpose which is, in the opinion of the commissioner, dangerous to life, health or property, or likely to create a nuisance;

(c) keeping horses, cattle or other fourfooted animals for sale or hire or for sale of the produce thereof;

(d) storing for other than domestic use, or selling, timber, firewood, charcoal, coal, coke, ashes, hay, grass, straw or any other combustible thing.

(2) Every person to whom a license is granted by the commissioner to use any premises for any of the purposes mentioned in sub-section (1) shall keep affixed in a conspicuous part of the said premises a board upon which shall be legibly written in English, and also in either Maráthi, Gujaráthi or Urdu, the following particulars (namely):

(e) the licensee's name;

(f) the purpose for which and the limitations and conditions subject to which the license is granted;

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[Ch. XV.—Sanitary Provisions, Sects. 394 (2) (g)—398.]

(g) any other details relating to the license or the terms thereof, which the commissioner from time to time thinks fit to require.

(3) Nothing in this section shall be deemed to apply to mills for spinning or weaving cotton, wool, silk or jute.

395. (1) No person engaged in any trade or manufacture of chemicals, &c., shall:

(a) wilfully cause or suffer to be brought, or to flow into any lake, tank, reservoir, cistern, well, duct or other place for water belonging to the corporation or into any drain or pipe communicating therewith, any washing or other substance produced in the course of any such trade or manufacture as aforesaid;

(b) wilfully do any act connected with any such trade or manufacture as aforesaid, whereby the water in any such lake, tank, reservoir, cistern, well, duct or other place for water is fouled or corrupted.

(2) The commissioner may, after giving not less than twenty-four hours' previous notice in writing to the owner or to the person who has the management or control of any works, pipes or conduits connected with any such manufacture or trade as aforesaid, lay open and examine the said works, pipes or conduits;

and if, upon such examination, it appears that sub-section (1) has been contravened by reason of anything contained in or proceeding from the said works, pipes or conduits, the expenses of such laying open and examination and of any measure which the commissioner shall, in his discretion, require to be adopted for the discontinuance of the cause of such contravention, shall be paid by the owner of the said works, pipes or conduits or by the person who has the management or control thereof or through whose neglect or fault the said sub-section has been contravened;

but if it appear that there has been no contravention of the said sub-section, the said expenses and compensation for any damage occasioned by the said laying open and examination shall be paid by the commissioner.

iv.—44

396. (1) The commissioner may at any time, by day or by night, without notice, enter into or upon any premises used for any of the purposes mentioned in section 394 and upon any premises in which a furnace is employed for the purpose of any trade or manufacture and into any bake-house, in order to satisfy himself as to whether any provision of this Act or any by-law made under this Act at the time in force or any condition of any license granted under this Act is being contravened, and as to whether any nuisance is created upon such premises.

(2) No claim shall lie against any person for compensation for any damage necessarily caused by any such entry or by the use of any force necessary for effecting such entry: provided that force shall not be used for effecting an entry, unless when there is reason to believe that an offence is being committed against some provision of this Act or some by-law made under this Act.

397. (1) The commissioner may, by public notice, prohibiting the washing of clothes by washermen in the exercise of their calling, except at such places as he shall appoint for this purpose; and when any such prohibition has been made, no person who is, by calling, a washerman, shall wash clothes at any place not appointed for this purpose by the commissioner, except for such person himself or for the owner or occupier of such place.

(2) The commissioner shall provide suitable places for the exercise by washermen of their calling and may require payment of such fees for the use of any such place as shall from time to time be determined by the commissioner, with the approval of the standing committee.

Maintenance and regulation of markets and slaughter-houses.

398. All markets and slaughter-houses which belong to or are maintained by the municipal corporation shall be called "municipal markets" or "municipal slaughter-houses." All other

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[Ch. XV.—Sanitary Provisions, Sects. 399 (1)—403 (3).]

markets and slaughter-houses shall be deemed to be private.

399. (1) The commissioner, when authorized by the corporation in this behalf, may construct, purchase or take on lease any building or land for the purpose of establishing a new municipal market or a new municipal slaughter-house or of extending or improving any existing municipal market or slaughter-house, and may from time to time build and maintain such municipal markets and slaughter-houses and such stalls, shops, sheds, pens and other buildings or conveniences for the use of the persons carrying on trade or business in, or frequenting, such municipal markets or slaughter-houses, and provide and maintain in such municipal markets, such buildings, places, machines, weights, scales and measures for weighing and measuring goods sold therein, as he shall think fit.

(2) Municipal slaughter-houses may be situate within or, with the sanction of Government, without the city.

400. The commissioner may, with the sanction of the corporation and of Government, at any time close any municipal market or slaughter-house; and the premises occupied for any market or slaughter-house so closed may be disposed of as the property of the corporation.

401. (1) No person shall, without a license from the commissioner, sell or expose for sale any animal or article in any municipal market.

(2) Any person contravening this section may be summarily removed by the commissioner or by any municipal officer or servant.

402. (1) The corporation shall from time to time determine whether the establishment of new private markets shall be permitted in the city or in any specified portion of the city.

(2) No person shall establish a new private market for the sale of, or for the purpose of exposing for sale, animals intended for human food or any other article

of human food, except with the sanction of the commissioner, who shall be guided in giving such sanction by the decisions of the corporation at the time in force under sub-section (1).

(3) When the establishment of a new private market has been so sanctioned, the commissioner shall cause a notice of such sanction to be affixed in the English, Maráthi, Gujaráti and Urdu languages on some conspicuous spot on or near the building or place where such market is to be held.

403. (1) No person shall, without or otherwise than in conformity with the terms of a license granted by the commissioner in this behalf:

(a) keep open a private market;

(b) use any place in the city as a slaughter-house or for the slaughtering of any animal intended for human food;

(c) use any place without the city, whether as a slaughter-house or otherwise, for the slaughtering of any animal intended for human food to be consumed in the city:

(2) Provided that:

(d) the commissioner shall not refuse, cancel, or suspend any license for keeping open a private market for any cause other than the failure of the owner thereof to comply with some provision of this Act, or with some regulation framed under section 406, or with some by-law made under this Act at the time in force; and shall not cancel or suspend any such license without the approval of the standing committee;

(e) nothing in this section shall be deemed to prevent the commissioner from granting written permission for the slaughter of an animal in any place that he thinks fit, on the occasion of any festival or ceremony or under special circumstances.

(3) When the commissioner has refused, cancelled or suspended any license to keep open a private market, he shall cause a notice of his having so done to be affixed in the English, Maráthi, Gujaráti and Urdu languages on some conspicuous spot on or near the building or place where such market has been held.

The City of Bombay Municipal Act, 1883.

[Ch. XV.—Sanitary Provisions, Sects. 404—409.]

404. No person who knows that any private market has been established without the sanction of the commissioner or is kept open after a license for keeping the same open has been refused, cancelled or suspended by the commissioner, shall sell or expose for sale therein any animal or article of food.

405. The commissioner may, by written notice, require the owner, farmer or occupier of any private market or slaughter-house, to cause:

(a) the whole or any portion of the floor of the market-building, market-place or slaughter-house to be paved with dressed stone or other suitable material;

(b) such drains to be made in or from the market-building, market-place or slaughter-house, of such material, size and description, at such level and with such outfall as to the commissioner may appear necessary.

406. The commissioner may, with the approval of the standing committee, from time to time make regulations, not inconsistent with any provision of this Act or of any by-law made under this Act at the time in force:

(a) for preventing nuisances or obstruction in any market-building, market-place or slaughter-house or in the approaches thereto;

(b) fixing the days and the hours on and during which any market or slaughter-house may be held or kept open for use;

(c) for keeping every market-building, market-place and slaughter-house in a cleanly and proper state and for removing filth and refuse therefrom;

(d) requiring that any market-building, market-place or slaughter-house be properly ventilated and be provided with a sufficient supply of water;

(e) requiring that in market-buildings and market-places passages be provided between the stalls of sufficient width for the convenient use of the public.

407. The commissioner may:

Levy of stallages, rents and fees in municipal markets and slaughter-houses.

(a) charge for the occupation or use of any stall, shop, standing, shed or pen in a municipal market or slaughter-house, and for the right to expose goods for sale in a municipal market and for weighing and measuring goods sold in any such market and for the right to slaughter animals in any municipal slaughter-house, such stallages, rents and fees as shall from time to time be fixed by him, with the approval of the standing committee, in this behalf; or

(b) with the approval of the standing committee, farm the stallages, rents and fees leviable as aforesaid or any portion thereof, for any period not exceeding one year at a time; or

(c) put up to public auction, or, with the approval of the standing committee, dispose of, by private sale, the privilege of occupying or using any stall, shop, standing, shed or pen in a municipal market or slaughter-house for such term and on such conditions as he shall think fit.

408. (1) A printed copy of the regulations and of the table of stallages, rents and fees, if any, in force in any market or slaughter-house under the two last preceding sections, in the English, Maráthi, Gujaráti and Urdu languages, shall be affixed in some conspicuous spot in the market-building, market-place or slaughter-house.

(2) No person shall, without authority, destroy, pull down, injure or deface any copy of any regulation or table so affixed.

409. The commissioner may expel from any municipal market or slaughter-house any person, who or whose servant

has been convicted of contravening any by-law made under this Act or any regulation made under section 406 at the time in force in such market or slaughter-house and may prevent such person, by himself or his servants, further carrying on any trade or business in such market or slaughter-house or occupying any stall, shop, standing, shed, pen or other place therein and may determine any lease or tenure which such person may have in any such stall, shop, standing, shed, pen or place.

The City of Bombay Municipal Act, 1888.

[Ch. XV.—Sanitary Provisions, Sects. 410 (1)—415 (2).]

Sale of articles of food outside of markets.

410. (1) Except as hereinafter provided, no person shall, without a license from the commissioner, sell or expose for sale any fourfooted animal or any meat or fish intended for human food, in any place other than a municipal or private market:

(2) Provided that nothing in sub-section (1) shall apply to fresh fish sold from, or exposed for sale in a vessel in which it has been brought direct to the seashore after being caught at sea.

Licensing of butchers, &c.

411. No person shall, without or otherwise than in conformity with the terms of a license granted by the commissioner in this behalf.

(a) carry on within the city, or at any municipal slaughter-house, the trade of a butcher;

(b) use any place in the city for the sale of the flesh of any animal intended for human food, or any place without the city for the sale of such flesh for consumption in the city.

412. (1) No person shall, without the written permission of the commissioner, bring into the city any cattle, sheep, goat or swine intended for human food or the flesh of any such animal, which has been slaughtered at any slaughter-house or place not maintained or licensed under this Act.

(2) Any animal or flesh brought into the city in contravention of this section may be seized by the commissioner or by any municipal officer or servant and be sold or otherwise disposed of as the commissioner shall direct. The proceeds, if any, shall belong to the corporation.

(3) Nothing in this section shall be deemed to apply to cured or preserved meat.

Inspection of places of sale, &c.

413. (1) If the commissioner shall have reason to believe that any animal intended for slaughter or for human food is

being slaughtered, or that the flesh of any such animal is being sold or exposed for sale, in any place or manner not duly authorized under the provisions of this Act, the commissioner may at any time by day or by night, without notice, enter such place for the purpose of satisfying himself as to whether any provision of this Act or of any by-law made under this Act at the time in force is being contravened thereat.

(2) No claim shall lie against any person for compensation for any damage necessarily caused by any such entry or by the use of any force necessary for effecting such entry.

414. It shall be the duty of the commissioner to make provision for the constant and vigilant inspection of animals, carcasses, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, flour, milk, ghee, butter and any other article exposed or hawked about for sale or deposited in or brought to any place for the purpose of sale or of preparation for sale and intended for human food or for medicine, the proof that the same was not exposed or hawked about or deposited or brought for any such purpose or was not intended for human food or for medicine resting with the party charged.

415. (1) The commissioner may at all reasonable times inspect and examine any such animal or article as aforesaid and any utensil or vessel used for preparing, manufacturing or containing the same.

(2) If any such animal or article appears to the commissioner to be diseased or unsound or unwholesome or unfit for human food or for medicine, as the case may be, or is not what it is represented to be, or if any such utensil or vessel is of such kind or in such state as to render any article prepared, manufactured or contained therein unwholesome or unfit for human food or for medicine, as the case may be,

he may seize and carry away such animal, article, utensil or vessel, in order that the same may be dealt with as hereinafter provided.

The City of Bombay Municipal Act, 1888.

[Ch. XV.—Sanitary Provisions, Sects. 416—422.]

416. If any meat, fish, vegetable or other article of a perishable nature be seized under the last preceding section and the same is, in the opinion of the commissioner, diseased, unsound, unwholesome or unfit for human food or for medicine, as the case may be,

the commissioner shall cause the same to be forthwith destroyed in such manner as to prevent its being again exposed for sale or used for human food or for medicine, and the expenses thereof shall be paid by the person in whose possession such article was at the time of its seizure.

417. (1) Any animal and any article not of a perishable nature and any utensil or vessel seized under section 415 shall be forthwith taken before a presidency magistrate.

(2) If it shall appear to such magistrate that any such animal or article is diseased, unsound or unwholesome or unfit for human food, or for medicine, as the case may be, or is not what it was represented to be or that such utensil or vessel is of such kind or in such state as aforesaid,

he shall cause the same to be destroyed, at the charge of the person in whose possession it was at the time of its seizure, in such manner as to prevent the same being again exposed or hawked about for sale or used for human food or for medicine, or for the preparation or manufacture of, or for containing any such article as aforesaid.

Weights and Measures.

418. (1) The commissioner shall from time to time provide such local standards of measure and weight as he deems requisite for the purpose of verification of weights and measures in use in the city and shall make such arrangement as he shall think fit for the safe keeping of the said standards.

(2) The commissioner shall also provide from time to time proper means for verifying weights and measures by comparison with the said standards and for stamping the weights and measures so verified.

419. (1) The commissioner shall from time to time fix the times and places at which some municipal officer appointed by him in this behalf shall attend for the purpose of the verification of weights and measures.

(2) The municipal officer so appointed shall attend, with the local standards in his custody, at each time and place fixed and shall examine every measure or weight which is of the same denomination as one of such standards and is brought to him for the purpose of verification and compare the same with that standard and, if he find the same correct, shall stamp it with a stamp of verification in such manner as best to prevent fraud.

(3) The said municipal officer shall enter in a book kept by him minutes of every such verification and give, if required, a certificate under his hand of every such stamping.

420. There shall be payable to the corporation in respect of the verification and stamping of weights and measures by a municipal officer as aforesaid such fees as the commissioner, with the approval of the corporation, from time to time fixes in this behalf.

Prevention of spread of dangerous diseases.

421. Every medical practitioner who treats or becomes cognizant of the existence of any dangerous disease in any private or public dwelling, other than a public hospital, shall give information of the same with the least practicable delay to the executive health officer: The said information shall be communicated in such form and with such details as the executive health officer, with the consent of the commissioner, may from time to time require.

422. The commissioner may at any time, by day or by night, without notice, or after giving such notice of his intention as shall, in the circumstances, appear to him to be reasonable, inspect any place in which any dangerous disease is reputed or suspected to exist, and take such measures as he shall think fit to

The City of Bombay Municipal Act, 1888,

[Ch. XV.—Sanitary Provisions, Sects. 423—427.]

prevent the spread of the said disease beyond such place.

423. (1) If it shall appear to the commissioner that the water in any well, tank or other place is likely, if used for drinking, to engender or cause the spread of any dangerous disease, he may, by public notice, prohibit the removal or use of the said water for the purpose of drinking.

(2) No person shall remove or use for the purpose of drinking any water in respect of which any such public notice has been issued.

424. (1) The commissioner or any police officer empowered by him in this behalf may, on a certificate signed by the executive health officer or by any duly qualified medical practitioner, direct or cause the removal of any person who is, in the opinion of such executive health officer or other medical practitioner, without proper lodging or accommodation or who is lodged in a building occupied by more than one family and who is suffering from a dangerous disease, to any hospital or place at which patients suffering from the said disease are received for medical treatment.

(2) The person, if any, who has charge of a person in respect of whom an order is made under sub-section (1) shall obey such order.

425. (1) If the commissioner is of opinion that the cleansing or disinfecting of a building or of a part of a building or of any article therein likely to retain infection, would tend to prevent or check the spread of any dangerous disease, he may, by written notice, require the owner or occupier of such building to cleanse or disinfect such building or part thereof or article therein and, if it shall appear to the commissioner necessary, to vacate the said building for such time as shall be prescribed in the said notice:

(2) Provided that if, in the opinion of the commissioner, the owner or occupier is from poverty or other cause unable effectually to comply with such requisition, the commissioner may cause

the building or part of the building or article likely to retain infection to be cleansed or disinfected and defray the cost of so doing.

426. (1) If the commissioner is of opinion that the destruction of any hut or shed is necessary to prevent the spread of any dangerous disease, he may, after giving, to the owner or occupier of such hut or shed, such previous notice of his intention as may in the circumstances of the case appear to him reasonable, take measures for having such hut or shed and all the materials thereof destroyed.

(2) Compensation may be paid by the commissioner, in any case which he thinks fit, to any person who sustains substantial loss by the destruction of any such hut or shed; but except as so allowed by the commissioner, no claim for compensation shall lie for any loss or damage caused by any exercise of the power conferred by this section.

427. (1) The commissioner may provide a place, with all necessary apparatus and attendance, for the disinfection of clothing, bedding or other articles which have become infected and, in his discretion, may have articles brought to such place for disinfection, disinfected on payment of such fees as he shall from time to time fix, with the approval of the standing committee, in this behalf, or, in any case in which he thinks fit, free of charge.

(2) The commissioner may, from time to time, by public notice, appoint a place at which clothing, bedding, or other articles which have been exposed to infection from any dangerous disease may be washed; and no person shall wash any such article at any place not so appointed, without having previously disinfected the same.

(3) The commissioner may direct the disinfection or destruction of bedding, clothing, or other articles likely to retain infection.

(4) The commissioner may, in his discretion, give compensation for any article destroyed under sub-section (3).

The City of Bombay Municipal Act, 1888.

[Ch. XV.—Sanitary Provisions, Sects. 428—434 (1).]

428. (1) No person who is suffering from a dangerous disease shall enter a public conveyance without previously notifying to the owner, driver or person in charge of such conveyance that he is so suffering.

(2) Notwithstanding anything contained in any Act relating to public conveyances for the time being in force, no owner or driver or person in charge of a public conveyance shall be bound to carry any person suffering as aforesaid in such conveyance, unless payment or tender of sufficient compensation for the loss and expenses he must incur in disinfecting such conveyance is first of all made to him.

429. The commissioner, with the sanction of the corporation, may provide and maintain suitable conveyances for the free carriage of persons suffering from any dangerous disease; and when such conveyances have been provided, it shall not be lawful to convey any such person by any other public conveyance.

430. (1) No person who is suffering from a dangerous disease shall:

(a) without proper precautions against spreading such disease, cause or suffer himself to be carried in a public conveyance;

(b) cause or suffer himself to be carried in a public conveyance contrary to the provision of the last preceding section.

(2) No person shall go in company with, or take charge of, any person suffering as aforesaid, who causes or permits himself to be carried in a public conveyance in contravention of sub-section (1).

(3) No owner, or driver, or person in charge of a public conveyance shall knowingly carry or permit to be carried in such conveyance any person suffering as aforesaid, in contravention of the said sub-section.

431. The owner, driver or person in charge of a public conveyance in which any person suffering as aforesaid has been carried shall immediately provide for the disinfection of the same.

432. (1) No person shall, without previous disinfection of the same, give, lend, sell, transmit or otherwise dispose of any article which he knows or has reason to know has been exposed to infection from any dangerous disease.

(2) Nothing in this section shall be deemed to apply to a person who transmits, with proper precautions, any such article for the purpose of having the same disinfected.

433. (1) No person shall let a building or any part of a building, in which he knows or has reason to know that a person has been suffering from a dangerous disease, without first having such building or part thereof and every article therein likely to retain infection disinfected, to the satisfaction of the executive health officer or of some duly qualified medical practitioner, as testified by such officer's or medical practitioner's certificate.

(2) For the purpose of this section, the keeper of a hotel or inn shall be deemed to let part of his building to any person accommodated in such hotel or inn.

Special sanitary measures.

434. (1) In the event of the city being at any time visited or threatened with an outbreak of any dangerous disease, or in the event of any infectious disease breaking out or being likely to be introduced into the city amongst cattle—including under this expression sheep and goats,—

the commissioner, if he thinks the ordinary provisions of this Act or of any other law at the time in force are insufficient for the purpose, may, with the sanction of Government:

(a) take such special measures, and

(b) by public notice, prescribe such temporary regulations to be observed by the public or by any person or class of persons,

as he shall deem necessary to prevent the outbreak of such disease or the spread thereof.

The City of Bombay Municipal Act, 1888.

[Ch. XV—Sanitary Provisions, Sects. 434 (2)—439]

(2) The commissioner shall forthwith report to the corporation any measures taken and any regulations prescribed by him under sub-section (1).

Disposal of the dead.

435. Every owner or person having the control of a place used for burying, burning or otherwise disposing of the dead shall cause the same to be registered in a register which shall be kept by some municipal officer charged by the commissioner with this duty, and shall deposit in the municipal office at the time of registration a plan of the said place, showing the extent and boundaries thereof, bearing the signature of a licensed surveyor in token of its having been prepared by or under the supervision of such surveyor.

436. If the existing places for the disposal of the dead shall at any time appear to be insufficient, or if any such place is closed under the provisions of section 438, the commissioner shall, with the sanction of the corporation, provide other fit and convenient places for the said purpose, either within or without the city, and shall cause the same to be registered in the register kept under section 435 and shall deposit in the municipal office, at the time of registration of each place so provided, a plan thereof showing the extent and boundaries of the same and bearing the signature of the municipal executive engineer.

437. No place which has never previously been lawfully used as a place for the disposal of the dead and registered as such, shall be opened by any person for the said purpose without the written permission of the commissioner, who, with the approval of the corporation, may grant or withhold such permission.

438. (1) If, from information furnished by competent persons and after personal inspection, the commissioner shall at any time be of opinion:

(a) that any place of public worship is or is likely to become injurious to

health by reason of the state of the vaults or graves within the walls of, or underneath the same, or in any churchyard or burial-ground adjacent thereto, or

(b) that any other place used for the disposal of the dead is in such a state as to be or to be likely to become injurious to health,

he may submit his said opinion, with the reasons therefor, to the corporation, who shall forward the same, with their opinion, for the consideration of the Governor in Council.

(2) Upon receipt of such opinions, the Governor in Council, after such further inquiry, if any, as he shall deem fit to cause to be made, may, by notification published in the *Bombay Government Gazette* and in the local newspapers, direct that such place of public worship or other place for the disposal of the dead be no longer used for the disposal of the dead. Every order so made shall be noted in the register kept under section 435.

(3) On the expiration of two months from the date of any such order of the Governor in Council, the place to which the same relates shall be closed for the disposal of the dead.

(4) A copy of the said notification, with a translation thereof in the Maráthi, Gujaráti and Urdu languages, shall be affixed on a conspicuous spot on or near the place to which the same relates, unless such place be a place of public worship.

439. (1) If, after personal inspection, the commissioner shall at any time be of opinion that any place formerly used for the disposal of the dead which has been closed under the provisions of the last preceding section or under any other law or authority, has, by lapse of time, become no longer injurious to health and may, without risk of danger, be again used for the said purpose, he may submit his said opinion, with the reasons therefor, to the corporation, who shall forward the same, with their opinion, for the consideration of the Governor in Council.

(2) Upon receipt of such opinions, the Governor in Council, after such further inquiry, if any, as he shall deem fit to

The City of Bombay Municipal Act, 1888.

[Ch. XV.—Sanitary Provisions, Sects. 440—441.]

cause to be made, may by notification published as aforesaid direct that such place be re-opened for the disposal of the dead. Every order so made shall be noted in the register kept under section 435.

440. (1) No person shall, without the written permission of the commissioner under sub-section (2):

Burials within places of worship and exhumations not to be made without the permission of the commissioner.

(a) make any vault or grave or interment within any wall, or underneath any passage, porch, portico, plinth or verandah of any place of worship;

(b) make any interment or otherwise dispose of any corpse in any place which is closed for the disposal of the dead under section 438;

(c) build, dig or cause to be built or dug, any grave or vault, or in any way dispose of, or suffer or permit to be disposed of, any corpse at any place which is not registered in the register kept under section 435;

(d) exhume any body, except under the provisions of section 176 of the Code of Criminal Procedure, 1882, or of any other law for the time being in force, from any place for the disposal of the dead.

(2) The commissioner may in special cases grant permission for any of the purposes aforesaid, subject to such general or special orders as the Governor in Council may from time to time make in this behalf.

(3) An offence against this section shall be deemed to be a cognizable offence within the meaning of sections 149, 150, and 151 of the Code of Criminal Procedure, 1882.

441. No person shall:

(a) retain a connection with the corpse on any disposal of the dead premises, without burning, burying or otherwise lawfully disposing of the same, for so long a time after death as to create a nuisance;

(b) carry a corpse or part of a corpse along any street without having and keeping the same decently covered, or without taking such precautions to prevent risk of infection or injury to the public health as the commissioner may,

by public notice, from time to time think fit to require;

(c) except when no other route is available, carry a corpse or part of a corpse along any street, along which the carrying of corpses is prohibited by a public notice issued by the commissioner in this behalf;

(d) remove a corpse or part of a corpse which has been kept or used for purposes of dissection, otherwise than in a closed receptacle or vehicle;

(e) whilst conveying a corpse or part of a corpse, place or leave the same on or near any street, without urgent necessity;

(f) bury or cause to be buried any corpse or part of a corpse, in a grave or vault or otherwise, in such manner as that the surface of the coffin or, when no coffin is used, of the corpse or part of a corpse, shall be at a less depth than six feet from the surface of the ground;

(g) build or dig or cause to be built or dug, any grave or vault in any burial-ground at a less distance than two feet from the margin of any other grave or vault;

(h) build or dig or cause to be built or dug, a grave or vault in any burial-ground in any line not marked out for this purpose by or under the order of the commissioner;

(j) without the written permission of the commissioner, re-open for the interment of a corpse or of any part of a corpse, a grave or vault already occupied;

(k) after bringing or causing to be brought to a burning-ground any corpse or part of a corpse, fail to burn or cause the same to be burnt within six hours from the time of the arrival thereof at such ground;

(l) when burning or causing to be burnt any corpse or part of a corpse, permit the same or any portion thereof to remain without being completely reduced to ashes, or permit any cloth or other article used for the conveyance or burning of such corpse or part of a corpse, to be removed or to remain on or near the place of burning, without its being completely reduced to ashes.

The City of Bombay Municipal Act, 1888.

[Ch. XVI.—Vital Statistics, Sects. 442—448 (1).]

CHAPTER. XVI.

VITAL STATISTICS.

Registration of births and deaths.

442. For the purpose of registering births and deaths, the commissioner shall divide the city into such and so many districts and sub-districts as he shall from time to time think fit; and a municipal officer shall be registrar of births and deaths of each such district.

Appointment of registrars

Registrars to reside in their respective districts.

443. (1) Every registrar shall reside within the district of which he is registrar and shall cause his name, together with the words "Registrar of Births and Deaths for the district of" to be affixed in some conspicuous place at or near the outer door of his place of abode.

(2) A list showing the name and place of abode of every registrar in the city shall be kept at the municipal office and shall be open at all reasonable times to public inspection free of charge.

444. The commissioner shall provide and supply to the registrars a sufficient number of register-books of births and of register-books of deaths for the registration of the particulars specified in schedules N and O, respectively; and the pages of each of the said books shall be numbered progressively from the beginning to the end thereof.

Register-books to be supplied.

445. (1) Each registrar shall inform himself carefully of every birth and death which shall happen in his district and of the particulars concerning the same required to be registered according to the forms in the said schedules and shall, as soon after each such birth or death as conveniently may be, register the same in the book supplied for this purpose by the commissioner, without making any charge or demanding or receiving any fee or reward for so doing other than his remuneration as a municipal officer.

Registrars to inform themselves of all births and deaths.

(2) Other municipal officers, besides the registrars, may be appointed with the duty of informing themselves of every birth or of every death or of every birth and

every death in the district to which they are respectively appointed and of the particulars concerning the same required to be registered, and of submitting such information to the registrar of the said district or to such other person as the commissioner directs.

446. (1) It shall be the duty of the father and mother of every child born in the city and, in default of the father and mother, of the occupier of the premises in which to his knowledge the child is born and of each person present at the birth and of the person having charge of the child, to give, to the best of his knowledge and belief, to the registrar or other municipal officer appointed under section 445, within seven days after such birth, information of the particulars required to be registered concerning such birth:

Information of birth to be given within seven days.

(2) Provided that, in the case of an illegitimate child, no person shall, as father of such child, be required to give information under this Act concerning the birth of such child, and the registrar shall not enter in the register the name of any person as father of such child, unless at the joint request of the mother and of the person acknowledging himself to be the father of such child, and such person shall in such case sign the register together with the mother.

Saving for father of illegitimate child.

447. In case any new-born child is found exposed, it shall be the duty of any person finding such child and of any person in whose charge such child may be placed, to give, to the best of his knowledge and belief, to the registrar or other municipal officer aforesaid, within seven days after the finding of such child, such information of the particulars required to be registered concerning the birth of such child as the informant possesses.

Information respecting finding of new-born child to be given.

448. (1) For every place for the disposal of the dead registered in the register kept under section 435, a municipal officer shall be appointed, whose duty it shall be to receive information of the particulars required

Officers to be appointed to receive information of deaths at places for disposal of the dead.

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[Ch. XVI.—Vital Statistics, Sects. 448 (2)—453 (1)]

to be registered concerning the death of every person whose corpse is disposed of at such place.

(2) If the commissioner shall not think fit to require the municipal officer so appointed to be in constant attendance at any place for the disposal of the dead for which he is so appointed, there shall be affixed to a conspicuous part of the entrance to such place a notice specifying the name of the officer so appointed for the said place and the place where he may be found.

449. (1) It shall be the duty of the nearest relatives of any person dying in the city present at the death or in attendance during the last illness of the deceased and, in default of such relatives, of each person present at the death and of the occupier of the premises in which, to his knowledge, the death took place and, in default of the persons hereinbefore in this section mentioned, of each inmate of such premises and of the undertaker or other person causing the corpse of the deceased person to be disposed of, to give, to the best of his knowledge and belief, to the officer appointed under the last preceding section, information of the particulars required to be registered concerning such death.

(2) The said information shall be given at or about the time that the corpse of the deceased person is disposed of and it shall be given in writing, if the informant can write and, otherwise, orally, and the informant shall make known to the officer aforesaid his name, designation and place of abode and shall attest the correctness of the information which he gives, to the best of his knowledge and belief, by his signature or mark.

450. (1) In the case of a person who has been attended in his last illness by a duly qualified medical practitioner, that practitioner shall sign and forward to the commissioner a certificate of the cause of such person's death, in the form of schedule P, or in such other form as shall from time to time be prescribed by the commissioner in this behalf, and the cause of death as stated in such certificate shall be entered in the register, together with the name of the certifying medical practitioner.

(2) The commissioner shall provide printed forms of the said certificates and any duly qualified medical practitioner resident in the city shall be supplied, on application, with such forms, free of charge.

451. (1) The information concerning deaths received by every officer appointed under section 448 shall be entered by him in a register-sheet, which shall contain the particulars specified in schedule O, and shall be forwarded, at such intervals as shall be prescribed by the commissioner, through the registrar of the district, to the municipal office.

(2) From the said register-sheets and from the certificates furnished to him under section 450, the commissioner shall cause the register-books of deaths to be prepared and shall have prepared and published such tabular returns and statements as shall appear to him to be useful for sanitary or other purposes.

452. (1) Any clerical error which may at any time be discovered in a register of births or in a register of deaths may be corrected by any person authorized in that behalf by the commissioner.

(2) An error of fact or substance in any such register may be corrected by any person authorized as aforesaid by entry in the margin, without any alteration of the original entry, upon production to the commissioner by the person requiring such error to be corrected, of a declaration on oath setting forth the nature of the error and the true facts of the case, made before a magistrate by two persons required by this Act to give information concerning the birth or death with reference to which the error has been made or, in default of such persons, by two credible persons having knowledge of the case, and certified by such magistrate to have been made in his presence.

(3) Except as aforesaid, no alteration shall be made in any such register.

453. (1) When the birth of any child has been registered and the name, if any, by which it was registered is altered or, if it was registered without a name, when a

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[Ch. XVI.—Vital Statistics, Sects. 453 (2)—459 (1)]

name is given to, the parent or guardian of, such child or other person procuring such name to be altered or given may, within twelve months next after the registration of the birth, deliver to the registrar such certificate as hereinafter mentioned, and the registrar, upon the receipt of that certificate, shall, without any erasure of the original entry, forthwith enter in the register-book the name mentioned in the certificate as having been given to the child.

(2) The certificate shall be in the form of schedule Q, or as near thereto as circumstances admit, and, in the case of a christian, shall be signed by the minister or person who performed the rite of baptism upon which the name was given or altered, or, if the child is not baptized or is not a christian, shall be signed by the father, mother or guardian of the child or other person procuring the name of the child to be given or altered.

(3) Every minister or person who performs the rite of baptism shall deliver the certificate required by this section on demand, on payment of a fee not exceeding one rupee.

Taking of a census.

454. At such time and in such manner as shall be directed from time to time by the commissioner, with the sanction of the corporation and of Government, an enumeration shall be made of the persons who at the time of making such enumeration shall be within the city: Provided always that, one clear month previous to such enumeration being commenced, notice of the intention to make the same, with the date or dates upon or within which it is intended to be made, and all other necessary particulars, shall be given by advertisement in the *Bombay Government Gazette* and in the local newspapers.

455. The commissioner shall superintend the taking of such enumeration, and shall appoint such enumerators or other subordinate officers and make such arrangements generally as may seem to him necessary for the purpose of such enumeration.

456. Each enumerator or other subordinate officer appointed under the last preceding section shall, agreeably to his instructions, leave at each building or place of residence within his district, four days at least before the time appointed for the collection of the completed returns or census, a blank schedule or return, of such form and containing such particulars as Government may approve, to be duly filled up and signed by the owner, tenant, or principal occupant of the said building or place of residence.

457. (1) Every person at whose building or place of residence any such blank schedule or return is left shall correctly fill up the same and affix his signature thereto and return it, when called upon so to do, to the enumerator or other subordinate officer aforesaid;

or, if such person is unable to write, he shall furnish to an enumerator, when called upon so to do, the information required for correctly filling up such schedule or return.

(2) Any person who fails to comply with any provision of sub-section (1) may be detained in custody until he complies therewith or the requisite information is otherwise obtained.

(3) It shall be the duty of an enumerator, if so required by any person who is unable to write, to fill up any such schedule or return as aforesaid from information supplied by such person.

458. If any enumerator or other subordinate officer employed in the collection of such schedules or returns shall find any of the same defective or in any respect improperly filled in, he may return the same to the occupant of the building or residence to which the same relates, together with a written notice requiring that the same be duly filled in or amended within a period of forty-eight hours.

459. (1) Any military or naval officer, or any officer of the Bombay city police, or any master or person in charge of a merchant vessel, or nacoda, or tinda of a

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[Ch. XVI.—Vital Statistics, Sects. 459 (2)—460.] [Ch. XVII.—By-Laws, Sect. 461—461 (q).]

vessel or boat, or any person in charge of a lunatic asylum, hospital, or prison, or of any public or private charitable or scholastic institution, or any keeper of a hotel or lodging-house, shall, if required, act as an enumerator for the purpose of taking account of persons under his command or charge, or abiding in any building in his possession, charge or control, on the night immediately preceding the day to be appointed for the making of such enumeration.

(2) Every person so required to act as an enumerator shall receive and conform to all instructions in writing which may be issued to him by the commissioner in that behalf.

460. The commissioner shall obtain, by such means as shall appear to him best adapted for the purpose and as shall be sanctioned by Government, returns of the particulars required for the purpose of the census with respect to all houseless persons, and all persons who during the said night preceding the day to be appointed for the making of such enumeration were on out-door night-duty, or for any other reasons were not abiding in any building, of which account is to be taken by the enumerators.

CHAPTER XVII.

BY-LAWS.

461. The corporation may from time to time make by-laws, not inconsistent with this Act, with respect to the following matters, (namely):

(a) regulating, in any particular not specifically provided for in this Act, the construction, maintenance and control of drains, ventilation-shafts or pipes, cesspools, water-closets, privies, latrines, urinals, drainage-works of every description, whether belonging to the corporation or to other persons, municipal water works, private communication-pipes and public streets;

(b) regulating all matters and things connected with the supply and use of water;

(c) the structure of walls, foundations, roofs and chimneys of new buildings, for securing stability and the prevention of fires and for purposes of health;

(d) the provision and maintenance of sufficient open space, either external or internal, about buildings to secure a free circulation of air and of other means for the adequate ventilation of buildings;

(e) the provision and maintenance of house-gulches;

(f) the control and supervision of all premises used for any of the purposes mentioned in section 394 and of all trades and manufactures carried on therein;

(g) the inspection of milch-cattle and prescribing and regulating the construction, dimensions, ventilation, lighting, cleansing, drainage and water-supply of dairies and cattle-sheds in the occupation of persons following the trade of dairymen or milksellers;

(h) securing the cleanliness of milk-stores, milk-shops and milk-vessels used by such persons for containing milk;

(j) requiring notice to be given whenever any milch-animal is affected with any contagious disease and prescribing precautions to be taken for protecting milch-cattle and milk against infection or contamination;

(k) securing the efficient inspection of markets and slaughter-houses and of shops in which articles intended for human food are kept or sold;

(l) the control and supervision of butchers carrying on business within the city or at a municipal slaughter-house without the city;

(m) regulating the use of any municipal market-building, market-place or slaughter-house or any part thereof;

(n) controlling and regulating the sanitary condition of markets and slaughter-houses, and preventing the exercise of cruelty therein;

(o) preventing the use in any market of false or defective weights, scales or measures and publishing a price current

(p) regulating the disposal of the dead and the maintenance of all places for the disposal of the dead in good order and in a safe sanitary condition, due regard being had to the religious usages of the several classes of the community;

(q) facilitating and securing complete and accurate registration of births and deaths;

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[Ch. XVII.—By-Laws, Sects. 461 (r)—468 (3).]

(r) the registration of marriages ;
 (s) facilitating, when requisite, the taking of a census and securing accurate returns ;

(t) regulating the delegation of the powers and duties of the standing committee to sub-committees ;

(u) assigning the functions of the Joint Schools' Committee under sub-section (10) of section 39, regulating the exercise by the said committee of its functions so assigned and of the functions assigned to it under sub-section (9) of the said section, and regulating the administration by the said committee of the school-fund under sub-section (7) of the said section ;

(v) determining the constitution, powers and duties of any committee which the corporation may appoint under section 40 or 41 ;

(w) carrying out generally the provisions and intentions of this Act.

462. In making a by-law under the last preceding section, the corporation may provide that a breach of it shall be punishable with fine which may extend to twenty rupees and, in the case of a continuing breach, with fine which may extend to ten rupees for every day after conviction for the first breach or after receipt of written notice from the commissioner to discontinue the breach, during which the breach continues.

463. No by-law, made under either of the two last preceding sections, shall have any validity, unless and until it is confirmed by Government.

464. It shall be the duty of the commissioner from time to time to lay before the corporation for their consideration a draft of any by-law which he shall think necessary or desirable for the furtherance of any purpose of this Act.

465. (1) No by-law shall be finally approved by the corporation, unless notice of the intention of the corporation to take the same into their consideration has been given by advertisement in the *Bombay Government Gazette* and in the local newspapers

six weeks at least before the day of the meeting at which the corporation finally consider such by-law.

(2) The corporation shall, before approving the by-law, receive and consider any objection or suggestion which may be made in writing by any person with respect thereto before the day of the said meeting ; and any person desiring to object to a by-law, on giving written notice to the president of the corporation, not less than ten days before the day of the said meeting, of the nature of his said objection, may, by himself or his counsel, attorney or agent, be heard by the corporation thereon at the said meeting, but not so as that more than one person be heard on the same matter of objection.

466. (1) For one month at least before the day of the meeting at which the corporation finally consider a by-law, a printed copy of such by-law shall be kept at the chief municipal office for public inspection, and every person shall be permitted at any reasonable time to peruse the same, free of charge.

(2) Printed copies of the proposed by-law shall also be delivered to any person requiring the same on payment of such fee not exceeding one rupee for each copy as shall be prescribed by the commissioner.

467. When any by-law has been confirmed by Government, it shall be published in the *Bombay Government Gazette*, and thereupon shall have the force of law.

468. (1) The commissioner shall cause all by-laws from time to time in force to be printed and shall cause printed copies thereof to be delivered to any person requiring the same, on payment of a fee of two annas for each copy.

(2) Notice of the fact of copies of the by-laws being obtainable at the said price and of the place where and the person from whom the same are obtainable shall be given by the commissioner from time to time by advertisement in the local newspapers.

(3) Boards, with the by-laws printed thereon or with printed copies of the by-laws affixed thereto, shall be hung or affixed in some conspicuous part of the municipal office and in such places of public resort,

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[Ch. XVII.—By-Law, Sects. 469 (1)—470 (4).] [Ch. XVIII.—Penalties, Sect. 471.]

markets, slaughter-houses and other works or places affected thereby, as the commissioner thinks fit, and the said boards shall from time to time be renewed by the commissioner.

469. (1) No municipal officer or servant shall at any reasonable time prevent the inspection of any board provided by the commissioner under the last preceding section by any person desiring to inspect the same.

Boards for exhibiting by-laws to be open to inspection and not to be injured.

(2) No person shall, without lawful authority, destroy, pull down, injure or deface any such board.

470. (1) If it shall at any time appear to the Governor in Council that any by-law should be repealed either wholly or in part, he shall cause his reasons for such opinion to be communicated to the corporation and prescribe a reasonable period within which the corporation may make any representation with regard thereto which they shall think fit.

(2) After receipt and consideration of any such representation or, if in the meantime no such representation is received, after the expiry of the prescribed period, the Governor in Council may at any time, by notification in the *Bombay Government Gazette*, repeal such by-law either wholly or in part: provided that no by-law shall be repealed by the Governor in Council in part only, if, within the period aforesaid, the corporation have objected to a partial repeal thereof.

(3) The repeal of a by-law under subsection (2) shall take effect from such date as the Governor in Council shall in the said notification direct or, if no such date is specified, from the date of the publication of the said notification in the *Bombay Government Gazette*, except as to anything done or suffered or omitted to be done before such date.

(4) The said notification shall also be published in the local newspapers.

CHAPTER XVIII.

PENALTIES.

471. Whoever contravenes any provision of any of the sections, sub-sections and clauses of this

Certain offences punishable with fine.

Act hereinbelow in this section mentioned or of any regulation made thereunder, or fails to comply with any requisition lawfully made upon him under any of the said sections, sub-sections or clauses shall be punished, for each such offence, with fine which may extend to the amount hereinbelow in this section specified as the maximum amount of fine to be inflicted in respect of offences against the said sections, sub-sections and clauses, respectively, namely:—

Sections.	Maximum amount of fine that may be inflicted
349, 368, 371, 385, sub-sec. (1), 388, cls. (e), (f) and (g), 408, sub-sec. (2), 469, sub-sec. (2)	Ten rupees.
270, sub-sec. (2), 280, 311, 316, sub-sec. (1), 327, sub-sec. (2), 328, 356, 357, 358, 370, 394, sub-sec. (2) 397, sub-sec. (1)	Twenty rupees.
149, 150, 152, 188, 226, sub-sec. (2), 231, 232, 233, cl (b) 236, 243, sub-sec. (2), 248, sub-sec. (1), 250, sub-sec. (1), 251, 257, sub-sec. (1), 269, sub-sec. (3), 274, 278, sub-sec. (2), 319, sub-sec. (2), 321, sub-sec. (2), 322, sub-sec. (1), 323, 324, sub-sec. (1), 326, 329, sub-sec. (1), 334, sub-sec. (1), 372, 375, 377, 380, 381, 383, sub-sec. (1), 384, sub-sec. (1), 393, sub-sec. (1), 401, sub-sec. (1), 403, cl. (a), 404, 406, 410, sub-sec. (1), 418, sub-sec. (1), 457, sub-secs (1) and (3), 469, sub-sec. (1), 479, sub-sec. (5) ...	Fifty rupees,
136, sub-sec. (2), 138, 223, sub-sec. (1), 229, 235, 258, 268, sub-sec. (1), 275, 281, 282, 283, sub-sec. (1), 284, 305, 312, sub-sec. (1), 313, sub-sec. (1), 315, 331, 335, sub-sec. (1), 411, 412, sub-sec. (1), 421, 424, sub-sec. (2), 425, sub-sec. (1), 427, sub-secs. (2) and (3), 435, 441, 446, sub-sec. (1), 447, 449, 450, sub-sec. (1), 459 ...	One hundred rupees.

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[Ch. XVIII.—Penalties, sects. 472—474]

Sections	Maximum amount of fine that may be inflicted.
240, 241, 247, 249, 273, 308, sub-secs. (1) and (2), 309, sub-sec. (1), 325, 379, sub-secs. (1) and (3), 392, sub-sec. (1), 403, sub-sec. (1), 405, 423, sub-sec. (2), 458, 507, sub-sec. (3)...	Two hundred rupees.
234, 304, sub-sec. (1), 354, 378, sub-sec. (2), 382, 394, sub-sec. (1), 430, 431, 432, sub-sec. (1), 433, sub-sec. (1), 437, 440, sub-sec. (1)	Five hundred rupees.
333, sub-secs (1), (2), and (3), 347, sub-sec. (1), 353, 390, sub-sec. (1), 395, sub-sec. (1), 402, sub-sec. (1)	One thousand rupees.

472. Whoever, after having been convicted of contravening any provision of any of the sections, sub-sections or clauses of this Act hereinbelow in this section mentioned, or of any regulation made thereunder, or of failing to comply with any requisition lawfully made upon him under any of the said sections, sub-sections, or clauses, continues to contravene the said provision or to neglect to comply with the said requisition, as the case may be, shall be punished, for each day that he continues so to offend, with fine which may extend to the amount hereinbelow in this section specified, as the maximum amount of daily fine to be inflicted in respect of offences against the said sections, sub-sections and clauses, respectively, namely:—

Sections.	Maximum amount of daily fine that may be inflicted.
226, sub-sec. (2), 231, 232, 233, cl. (b), 236, 243, sub-sec. (2), 248, sub-sec. (1), 250, sub-sec. (1), 251, 257, sub-sec. (1), 329, sub-sec. (1), 349, 375, 377, 380, 381, 383, sub-sec. (1), 384, sub-sec. (1), 394, sub-sec. (2), 397, sub-sec. (1)	Five rupees.

Sections.	Maximum amount of daily fine that may be inflicted
223, sub-sec. (1), 229, 268, sub-sec. (1), 305, 312, sub-sec. (1), 313 sub-sec. (1), 315, 324, sub-sec. (1), 334, sub-sec. (1), 335, sub-sec. (1), 372, cl. (f), 411, 425, sub-sec. (1), 479, sub-sec. (5) ..	Ten rupees.
249, 326, 379, sub-secs (1) and (3)	Twenty rupees.
322, sub-sec. (1), 323, 394, sub-sec. (1), 403, sub-sec. (1), 405, 507, sub-sec. (3)	Fifty rupees.
354, 382, 392, sub-sec. (1)	One hundred rupees
395, sub-sec. (1) ..	Five hundred rupees.

473. Whoever contravenes any provision of any of the sections, sub-sections or clauses of this Act hereinbelow in this section mentioned, or of any regulation made thereunder, and whoever fails to comply with any requisition lawfully made upon him under any of the said sections, sub-sections or clauses shall be deemed to have committed an offence punishable under the section of the Indian Penal Code hereinbelow in this section respectively specified as the section of the said code under which such person shall be punishable, namely:—

Act XI
1888

Sections of this Act.	Sections of the Indian Penal Code under which offenders are punishable.
28, clause (j) ...	177.
155, sub-sections (1) & (2) 187,	176 or 177, as the case may be.
388, cls. (a), (b), (c) and (d), 389.	277.
434, sub-sec. (1) ...	188.

474. Any councillor who knowingly acquires directly or indirectly any share or interest in any contract, &c, with interest in any contract or employment with, by or on behalf of the corporation, not being a share or interest such as, under section 16, it is permissible for a councillor to have, without being thereby disqualified for being a councillor, and any commissioner, deputy commissioner, municipal

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[Ch. XVIII.—Penalties, Sects. 475 (1)—478.]
 officer or servant who knowingly acquires directly or indirectly any share or interest in any contract or employment with, by or on behalf of the corporation, not being a share or interest such as, under clauses (h) and (k) of section 16, it is permissible for a councillor to have, without being thereby disqualified for being a councillor, shall be deemed to have committed the offence made punishable by section 168 of the Indian Penal Code.

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475. (1) Whoever contravenes any provision of sub-section (1) of section 267 shall be punished with imprisonment which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

(2) When any person is convicted under sub-section (1), the magistrate who convicts him may order the immediate removal of any building or the immediate discontinuance of the operation or use of the land in respect of which such conviction has been held.

(3) If any order made under sub-section (2) is disobeyed or the execution thereof resisted, the offender shall be punished with imprisonment which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

476. Whoever contravenes any provision of section 391, whether the person so offending be the owner or occupier of the premises in which a furnace is situated or the agent or some person employed by the owner or occupier for managing the same, shall be punished with fine which may extend, on a first conviction, to one hundred rupees and, on a second or subsequent conviction, to a sum equal to double the amount to which it might have extended on the last preceding conviction.

477. No person, who receives the rent of any premises in any capacity described in sub-clauses (i), (ii) and (iii) of clause (m) of section 3, shall be liable to any penalty under this Act for omitting to do any act as the owner of such premises, if he shall prove that his default was caused by his not having funds of, or due to, the owner

Extent of penal responsibility of agents and trustees of owners

[Ch. XIX.—Procedure, Sects. 479 (1)—479 (3)]
 sufficient to defray the cost of doing the act required.

478. The law for the time being in force for the punishment of offences relating to town-duties, of offences relating to the levy or payment of customs-duties and the grant of drawbacks in connection therewith and for the reward of informers shall, as far as may be, apply to similar offences committed in respect of the levy, payment and refund of town-duties, and any omission or misdescription in passing for export any goods in respect of which refund of town-duties may be claimable, shall be punishable as if such omission or misdescription had been made in passing the said goods for import.

Punishment of offences relating to town-duties.

CHAPTER XIX.

PROCEDURE.

Licenses.

479. (1) Whenever it is provided in this Act that a license or written permission to specify or a written permission may be given for any purpose, such license or written permission shall specify the period for which and the restrictions and conditions subject to which the same is granted and shall be given under the signature of the commissioner or of a municipal officer empowered under section 68 to grant the same.

(2) For every such license or written permission a fee may be charged at such rate as shall from time to time be fixed by the commissioner, with the sanction of the corporation.

(3) Subject to the provisions of clause (d) of section 403, any license or written permission granted under this Act may at any time be suspended or revoked by the commissioner, if any of its restrictions or conditions is infringed or evaded by the person to whom the same has been granted, or if the said person is convicted of an infringement of any of the provisions of this Act or of any regulation or by-law made hereunder in any matter to which such license or permission relates.

Licenses and written permissions may be revoked, &c.

The City of Bombay Municipal Act, 1888.[*Ch. XIX.—Procedure, Sects. 479 (4)—484 (d).*]

(4) When any such license or written permission is suspended or revoked or when the period for which the same was granted has expired, the person to whom the same was granted shall, for all purposes of this Act, be deemed to be without a license or written permission, until the commissioner's order for suspending or revoking the license or written permission is cancelled by him, or until the license or written permission is renewed, as the case may be.

(5) Every person to whom any such license or written permission has been granted shall at all reasonable times, while such written permission or license remains in force, if so required by the commissioner, produce such license or written permission.

Public Notices and Advertisements.

480. Whenever it is provided by this Act that public notice shall or may be given of anything, such public notice shall be in writing under the signature of the commissioner or of a municipal officer empowered under section 68 to give the same and shall be widely made known in the locality to be affected thereby, by affixing copies thereof in conspicuous public places within the said locality, or by publishing the same by beat of *bataki*, or by advertisement in the local newspapers, or by any two or more of these means and by any other means that he shall think fit.

481. Whenever it is provided by this Act that notice shall be given by advertisement in the local newspapers, or that a notification or any information shall be published in the local newspapers, such notice, notification or information shall be inserted, if practicable, in at least two English newspapers, one Maráthi newspaper and one Gujaráthi newspaper published in the city.

482. Whenever under this Act the doing or the omitting to do anything or the validity of anything depends upon the consent, approval, de-

claration, opinion or satisfaction of the commissioner or of a deputy commissioner or any municipal officer, a written document signed by the commissioner or by such deputy commissioner or municipal officer, purporting to convey or set forth his consent, approval, declaration, opinion or satisfaction shall be sufficient evidence of such consent, approval, declaration, opinion or satisfaction.

Service of Notices, &c.

483. Notices, bills, schedules, summonses and other notices, &c., by whom such documents required by this Act or by any regulation or by-law made under this Act to be served upon, or issued, or presented or given to any person, shall be so served, issued, or presented or given by municipal officers or servants or by other persons authorized by the commissioner in this behalf.

484. When any notice, bill, schedule, summons or other such document is required by this Act or by any regulation or by-law made under this Act, to be served upon or issued or presented to any person, such service, issue or presentation shall, except in the cases otherwise expressly provided for in section 485, be effected :

(a) by giving or tendering to such person the said notice, bill, schedule, summons or other document; or

(b) if such person is not found, by leaving the said notice, bill, schedule, summons or other document at his last known place of abode in the city, or by giving or tendering the same to some adult male member or servant of his family; or

(c) if such person does not reside in the city and his address elsewhere is known to the commissioner, by forwarding the said notice, bill, schedule, summons or other document to him by post under cover bearing the said address; or

(d) if none of the means aforesaid be available, by causing the said notice, bill, schedule, summons or other document, to be affixed on some conspicuous part of the building or land, if any, to which the same relates.

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[Ch. XIX.—Procedure, Sects. 485—489 (1).]

485. When any notice, bill, schedule, summons or other such document is required by this Act, or by any regulation or by-law made under this Act, to be served upon or issued, or presented to the owner or occupier of any building or land, it shall not be necessary to name the owner or occupier therein and the service, issue or presentation thereof shall be effected, not in accordance with the provisions of the last preceding section, but as follows, namely :

Service on "owner or occupier" of premises how to be effected.

(a) by giving or tendering the said notice, bill, schedule, summons or other document to the owner or occupier, or if there be more than one owner or occupier, to any one of the owners or occupiers of such building or land ; or

(b) if the owner or occupier or no one of the owners or occupiers is found, by giving or tendering the said notice, bill, schedule, summons or other document to some adult male member or servant of the family of the owner or occupier or of any one of the owners or occupiers ; or

(c) if none of the means aforesaid be available, by causing the said notice, bill, schedule, summons or other document to be affixed on some conspicuous part of the building or land to which the same relates.

486. Nothing in the three last preceding sections applies to any summons issued under this Act by a magistrate.

The three last sections inapplicable to magistrates' summonses.

487. (1) Every license, written permission, notice, bill, schedule, summons, or other such document, required by this Act or by any regulation or by-law framed under this Act, to bear the signature of the commissioner or of any municipal officer, shall be deemed to be properly signed if it bears a facsimile of the signature of the commissioner or of such municipal officer, as the case may be, stamped thereupon.

(2) Nothing in this section shall be deemed to apply to a cheque drawn upon the municipal fund under section 113.

Power of entry.

488. The commissioner may enter into or upon any building or land, with or without assistants or workmen, in order to make any inspection or survey or to execute any work which is authorized by this Act or by any regulation or by-law framed under this Act, to be made or executed, or which it is necessary for any of the purposes, or in pursuance of any of the provisions of this Act or of any such regulation or by-law, to make or execute :

Provided that :

(a) except when it is in this Act otherwise expressly provided, no such entry shall be made between sunset and sunrise ;

(b) except when it is in this Act otherwise expressly provided, no building which is used as a human dwelling shall be so entered, unless with the consent of the occupier thereof, without giving the said occupier not less than twenty-four hours' previous written notice of the intention to make such entry, and unless for any sufficient reason it shall be deemed inexpedient to furnish such information, of the purpose thereof ;

(c) sufficient notice shall, in every instance be given, even when any premises may otherwise be entered without notice, to enable the inmates of any apartment appropriated to females to remove to some part of the premises where their privacy need not be disturbed ;

(d) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the premises entered.

Enforcement of orders to execute works, &c.

489. (1) When any requisition or order is made, by written notice, by the commissioner or by any municipal officer empowered under section 68 in this behalf, under any section, sub-section or clause of this Act mentioned in sub-section (2), a reasonable period shall be prescribed in such notice for carrying such requisition or order

Works, &c., which any person is required to execute may in certain cases be executed by the commissioner at such person's cost.

The City of Bombay Municipal Act, 1888.

[Ch. XIX.—Procedure, Sects. 489 (2)—492 (1)]

into effect and if, within the period so prescribed, such requisition or order or any portion of such requisition or order is not complied with, the commissioner may take such measures or cause such work to be executed or such thing to be done as shall, in his opinion, be necessary for giving due effect to the requisition or order so made, and, unless it is in this Act otherwise expressly provided, the expenses thereof shall be paid by the person or by any one of the persons to whom such requisition or order was addressed.

(2) The sections, sub-sections and clauses of this Act referred to in sub-section (1) are the following (namely) :—

Section 226, sub-section (2)	Section 329, sub-section (1)
„ 230, „ (5)	„ 334 „ (1)
„ 231 „	„ 349 „ (2)
„ 232 „	„ 352 „
„ 233, clause (b)	„ 353 „
„ 243 „ (2)	„ 354 „
„ 248 „ (1)	„ 368, sub-section (2)
„ 257 „ (1)	„ 375 „
„ 271 „ (2)	„ 376 „
„ 278 „ (2)	„ 377 „
„ 305 „	„ 380 „
„ 308, sub-section (2)	„ 381 „
„ 309 „ (1)	„ 382 „
„ 311 „	„ 383, sub-section (1)
„ 315 „	„ 392 „ (1)
„ 325 „	„ 405 „
„ 326, sub-section (3)	„ 425, sub-section (1)

(3) The commissioner may take any measure, execute any work or cause anything to be done under this section, whether or not the person who has failed to comply with the requisition or order is liable to punishment or has been prosecuted or sentenced to any punishment for such failure.

490. (1) The expenses incurred by the commissioner in effecting any removal under sections 314, 315, 354 and 380, or, in the event of a written notice

issued under sub-section (1) of section 315 or section 354 or 380 not being complied with, under section 489, shall be recoverable by sale of the materials removed, and if the proceeds of such sale do not suffice, the balance shall be paid by the owner of the said materials.

(2) But if the expenses of removal are in any case paid before the materials are sold, the commissioner shall restore the materials to the owner thereof on his claiming the same at any time before they are sold or otherwise disposed of and on his paying all other expenses, if any, incurred by the commissioner in respect thereof or in respect of the intended sale or disposal thereof.

(3) If the materials are not claimed by the owner thereof, they shall be sold by auction or otherwise disposed of as the commissioner thinks fit, as soon as conveniently may be after one month from the date of their removal, whether the expenses of the removal have in the mean time been paid or not; and the proceeds, if any, of the sale or other disposal, shall, after defraying therefrom the costs of the sale or other disposal, and, if necessary, of the removal, be paid to the credit of the municipal fund, and shall be the property of the corporation.

Recovery of expenses by the Commissioner.

491. (1) Whenever under this Act or any regulation or by-law made under this Act to be payable on demand; and this Act, the expenses of any work executed or of any measure taken or thing done by or under the order of the commissioner or of any municipal officer empowered under section 68 in this behalf are payable by any person, the same shall be payable on demand.

(2) If not paid on demand, the said expenses shall be recoverable by the commissioner, subject to the provisions of sub-section (2) of section 503, by distress and sale of the goods and chattels of the defaulter, as if the amount thereof were a property-tax due by the said defaulter.

492. (1) If the said expenses are due in respect of some work executed or thing done to, upon, or in connection with, some building or land or of some measure taken with respect to some building or land, and the defaulter is the owner of such building or land, the amount thereof may be demanded from any person who at any time before the said expenses have been paid, occupies the said building or land under the said owner; and in the event of the said person failing to pay the same, they may be recovered, by distress and sale of the goods and chattels of the said person, as if the amount thereof were a property-tax due by him:

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[Ch. XIX.—Procedure, Sects. 492 (2) (a)—496 (3).]

(2) Provided as follows, namely :

(a) unless the said person neglects or refuses, at the request of the commissioner, truly to disclose the amount of the rent payable by him in respect of the said land or building and the name and address of the person to whom the same is payable, the said person shall not be liable to pay on account of the said expenses any larger sum than, up to the time of demand, is payable by him to the owner on account of rent of the said land or building; but it shall rest upon the said person to prove that the amount of the expenses demanded of him is in excess of the sum payable by him to the owner;

(b) the said person shall be entitled to credit in account with the owner for any sum paid by or recovered from him on account of the said expenses;

(c) nothing in this section shall affect any agreement made between the said person and the owner of the building or land in his occupation respecting the payment of the expenses of any such work, thing or measure as aforesaid.

493. Instead of recovering any such expenses as aforesaid in any manner hereinbefore provided, the commissioner may, if he thinks fit and with the approval of the standing committee, take an agreement from the person liable for the payment thereof, to pay the same in instalments of such amounts and at such intervals as will secure the payment of the whole amount due, with interest thereon at the rate of nine per centum per annum, within a period of not more than five years.

494. If the expenses to be recovered have been incurred in respect of any work mentioned in any of the sections 227, clause (c), 230, 231, 233, clause (b), 248, sub-section (1), 257, 272, 274, sub-section (1), 305, 352, sub-section (1), 376, 381 and 405, the commissioner may, if he thinks fit and with the approval of the corporation, declare such expenses to be improvement expenses.

495. (1) Improvement expenses shall be a charge on the premises in respect of which or for the be-

nefit of which the same have been incurred and shall be recoverable in instalments of such amounts, not being less for any premises than twelve rupees per annum, and at such intervals as will suffice to discharge such expenses, together with interest thereon at the rate of six per centum per annum, within such period not exceeding thirty years as the commissioner, with the approval of the corporation, may in each case determine.

(2) The said instalments shall be payable by the occupier of the premises on which the expenses are so charged or, in the event of the said premises becoming unoccupied at any time before the expiration of the period fixed for the payment of such expenses or before the same, with interest as aforesaid, are fully paid off, by the owner for the time being of the said premises, so long as the same continue to be unoccupied.

496. (1) Where the occupier by whom any improvement expenses are paid holds the premises, on which the expenses are charged, at a rent not less than the rack-rent, he shall be entitled to deduct three-fourths of the amount paid by him on account of such expenses from the rent payable by him to his landlord, and if he hold at a rent less than the rack-rent, he shall be entitled to deduct from the rent so payable by him such proportion of three-fourths of the amount paid by him on account of such expenses as his rent bears to the rack-rent.

(2) And if the landlord from whose rent any deduction is so made is himself liable to the payment of rent for the premises in respect of which the deduction is made and holds the same for a term of which less than twenty years is unexpired (but not otherwise), he may deduct from the rent so payable by him such proportion of the sum deducted from the rent payable to him as the rent payable by him bears to the rent payable to him, and so in succession with respect to every landlord (holding for a term of which less than twenty years is unexpired) of the same premises both receiving and liable to pay rent in respect thereof:

(3) Provided that nothing in this section shall be construed to entitle any person to deduct from the rent payable by him more

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[Ch XIX.—Procedure, Sects. 497—504.]

than the whole sum deducted from the rent payable to him.

497. At any time before the expiration of the period for the payment of any improvement expenses, the owner or occupier of the premises on which they are charged may redeem such charge by paying to the commissioner such part of the said expenses as may not have been defrayed by sums already levied in respect of the same.

498. Any instalment payable under section 493 or section 495, which is not paid when the same becomes due, may be recovered by the commissioner by distress and sale of the goods and chattels of the person by whom it is due as if it were a property-tax due by the said person.

499. Whenever the owner of any building or land fails to execute any work which he is required to execute under this Act or under any regulation or by-law made under this Act, the occupier, if any, of such building or land may, with the approval of the commissioner, execute the said work and he shall be entitled to recover the reasonable expenses incurred by him in so doing from the owner and may deduct the amount thereof from the rent which from time to time becomes due by him to the owner.

500. No person who receives the rent of any premises in any capacity described in sub-clauses (i), (ii) and (iii) of clause (m) of section 3, shall be liable to do any thing which is by this Act required to be done by the owner, unless he have sufficient funds of or due to the owner to pay for the same.

Payment of Compensation.

501. In any case not otherwise expressly provided for in this Act, the commissioner may, with the approval of the standing committee, pay compensation to any person who sustains damage by reason of the exercise of any of the powers vested

by this Act in the commissioner or in any municipal officer or servant.

502. (1) If, on account of any act or omission, any person has been convicted of an offence against this Act or against any regulation or by-law made under this Act, and, by reason of the same act or omission of the said person, damage has occurred to any property of the corporation, compensation shall be paid by the said person for the said damage, notwithstanding any punishment to which he may have been sentenced for the said offence.

(2) In the event of dispute, the amount of compensation payable by the said person shall be determined by the magistrate before whom he was convicted of the said offence, and on non-payment of the amount of compensation so determined the same shall be recovered under a warrant from the said magistrate as if it were a fine inflicted by him on the person liable therefor.

Recovery of Expenses or Compensation, in case of dispute.

503. (1) If, when the commissioner demands payment of any expenses under section 491, his right to demand the same or the amount of the demand is disputed, or if in the case of expenses incurred by the commissioner in taking temporary measures under sub-section (2) of section 329, the necessity for such temporary measures is disputed, the commissioner shall refer the case for the determination of the Chief Judge of the Small Cause Court.

(2) Pending the chief judge's decision, the commissioner shall defer further proceedings for the recovery of the sum claimed by him and, after the decision, shall proceed to recover only such amount, if any, as shall be thereby ascertained to be due.

504. If, in any case not falling under section 491, any person is required by the Act or by any regulation or by-law framed under this Act, to pay any expenses

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[Ch. XIX.—Procedure, Sects. 505—509 (1) (a).]

or any compensation, the amount to be so paid and, if necessary, the apportionment of the same, shall, in case of dispute, be determined, except as is otherwise provided in sections 502 and 515, by the Chief Judge of the Small Cause Court, on application being made to him for this purpose at any time within one year from the date when such expenses or compensation first became claimable.

505. If the amount of any expenses or compensation awarded by chief judge of the small cause court to be recovered, if necessary, as if they were due under a decree of the court.

compensation ascertained in accordance with the last preceding section is not paid by the person liable to pay the same on demand, it shall be recoverable as if the same were due under a decree of the Small Cause Court.

506. Instead of proceeding in any manner aforesaid for the recovery of any expenses or compensation, of which the amount due has been ascertained, as hereinbefore provided, or after such proceedings have been taken unsuccessfully or with only partial success, the sum due, or the balance of the sum due, as the case may be, may be recovered by a suit brought against the person liable for the same in any court of competent jurisdiction.

Persons liable for expenses or compensation may be sued for recovery thereof.

Proceedings before the Chief Judge of the Small Cause Court.

507. (1) If the owner of any building or land is prevented by the occupier thereof from complying with any provision of this Act or of any regulation or by-law made under this Act or with any requisition made under this Act or under any such regulation or by-law, in respect of such building or land, the owner may apply to the Chief Judge of the Small Cause Court.

Remedy of owner of building or land against occupier who prevents his complying with any provision of this Act.

(2) The said chief judge, on receipt of any such application, may make a written order requiring the occupier of the building or land to afford all reasonable facilities to the owner for complying with the said provision or requisition and may also, if he thinks fit, direct that the costs of such

application and order be paid by the occupier.

(3) After eight days from the date of any such order, it shall be incumbent on the said occupier to afford all such reasonable facilities to the owner for the purpose aforesaid as shall be prescribed in the said order; and in the event of his continued refusal so to do, the owner shall be discharged, during the continuance of such refusal, from any liability which he would otherwise incur by reason of his failure to comply with the said provision or requisition.

508. (1) For the purposes of any inquiry or proceeding under this Act, the Chief Judge of the Small Cause Court may summon and enforce the attendance of witnesses and compel the production of documents.

Small Cause Court may summon and enforce the attendance of witnesses and compel them to give evidence and compel the production of documents, by the same means and, as far as is possible, in the same manner as is provided in the case of the Small Cause Court by the Presidency Small Cause Court Act, XV of 1882; and in all matters relating to any such inquiry or proceeding the said chief judge shall be guided generally by the provisions of the said Act so far as the same are applicable.

(2) If, in any such inquiry or proceeding, the person against whom the complaint or application has been made, fails to appear, notwithstanding that he has been duly summoned for this purpose, the said chief judge may hear and determine the case in his absence.

(3) The costs of every such inquiry or proceeding, as determined by the said chief judge, shall be payable by such parties and in such proportions, as the said chief judge shall direct and the amount thereof shall, if necessary, be recoverable as if the same were due under a decree of the Small Cause Court.

509. (1) The Governor in Council may, from time to time, by notification in the *Bombay Government Gazette*, prescribe what fee, if any, shall be paid:

(a) on any application, appeal or reference made under this Act to the Chief Judge of the Small Cause Court; and

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[Ch. XIX.—Procedure, Sects. 509 (1) (b)—515 (2) (a).]

(b) previous to the issue, in any inquiry or proceeding of the said chief judge under this Act, of any summons or other process.

Provided that the fees, if any, prescribed under clause (a) shall not, in cases in which the value of the claim or subject-matter is capable of being estimated in money exceed the fees at the time being levied, under the provisions of the Presidency Small Cause Court Act, 1882 in cases in which the value of the claim or subject-matter is of like amount.

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(2) The Governor in Council may from time to time by a like notification determine by what person any fee prescribed under clause (a) shall be payable.

(3) No application, appeal or reference shall be received by the said chief judge, until the fee, if any, prescribed therefor under clause (a) has been paid.

510. The Chief Judge of the Small Cause Court may, whenever he thinks fit, receive an application, appeal or reference made under this Act by or on behalf of a poor person and may issue process on behalf of any such person, without payment, or on a part payment of the fees prescribed under section 509.

511. Whenever any application, appeal or reference made to the Chief Judge of the Small Cause Court under this Act is settled by agreement of the parties before the hearing, half the amount of all fees paid up to that time shall be repaid by the said chief judge to the parties by whom the same have been respectively paid.

Authority to the Chief Judge of the Small Cause Court to delegate certain powers and to make rules.

512. The Chief Judge of the Small Cause Court may :

(a) delegate either generally or specially to any other judge of the said court, power to receive applications, appeals and references under this Act and to discharge any other duty in connection with such applications, appeals and references, except the hearing and adjudication thereof ;

(b) if for any reason, it shall be necessary so to do in order to secure the disposal of any application made to him under section 20 within the limited period prescribed in the said section, delegate to any other judge of the said court the hearing and adjudication of the said application ;

(c) from time to time, with the approval of Government, make rules, not inconsistent with this Act, providing for any matter connected with the exercise of the jurisdiction conferred upon him by this Act, which is not herein specifically provided for.

Proceedings before Magistrates.

513. All offences against this Act, or against any regulation or by-law made under this Act, whether committed within or without the city, shall be cognizable by a presidency magistrate; and no such magistrate shall be deemed to be incapable of taking cognizance of any such offence or of any offence against any enactment hereby repealed, by reason only of his being liable to pay any municipal tax or of his being benefited by the municipal fund to the credit of which any fine inflicted by him will be payable.

514. No person shall be liable to punishment for any offence made punishable by this Act, unless complaint of such offence is made before a presidency magistrate within three months, or if the offence be against the provisions of section 155, within six months, next after the commission of such offence.

515. (1) Any person who resides in the city may complain to a presidency magistrate of the existence of any nuisance, or that in the exercise of any power conferred by sections 224, 244, 245, 246, or 367 more than the least practicable nuisance has been created.

(2) Upon receipt of any such complaint, the magistrate, after making such inquiry as he thinks necessary, may, if he sees fit, direct the commissioner :

(a) to put in force any of the provisions of this Act or to take such mea-

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[Ch. XIX.—Procedure, Sects. 515 (2) (b)—517 (1) (k).]

sure as to such magistrate shall seem practicable and reasonable for preventing, abating, diminishing or remedying such nuisance;

(b) to pay to the complainant such reasonable costs of and relating to the said complaint and order as the said magistrate shall determine, inclusive of compensation for the complainant's loss of time in prosecuting such complaint

(3) It shall be incumbent on the commissioner to obey every such order.

(4) Nothing in this Act contained shall interfere with the right of any person who may suffer injury or whose property may be injuriously affected by any act done in the exercise of any power conferred by sections 224, 244, 245, 246, or 367 to cover damages for the same.

Arrest of Offenders.

516. (1) Any police officer may arrest any person who commits in his view any offence against this Act or against any regulation or by-law made under this Act, if the name and address of such person be unknown to him and if such person, on demand, declines to give his name and address or gives a name and address which such officer has reason to believe to be false.

(2) No person so arrested shall be detained in custody after his true name and address are ascertained or, without the order of a magistrate, for any longer time, not exceeding, at the most forty hours from the arrest, than is necessary for bringing him before a magistrate competent to take cognizance of his offence.

Legal Proceedings.

Provisions respecting institution, &c., of civil and criminal actions and obtaining legal advice.

517. (1) The commissioner may:

(a) take, or withdraw from, proceedings against any person who is charged with:

(i) any offence against this Act;

(ii) any offence which affects or is likely to affect any property or interest of the corporation or the due administration of this Act;

(iii) committing any nuisance whatsoever;

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(b) compound any offence against this Act, which under the law at the time in force may legally be compounded;

(c) defend any election petition brought under section 33;

(d) defend, admit or compromise any appeal against a rateable value or tax, brought under section 217;

(e) take, withdraw from, or compromise, proceedings, under sections 502, sub-section (2), 503, 504 and 505, for the recovery of expenses or compensation claimed to be due to the corporation;

(f) withdraw or compromise any claim for a sum not exceeding five hundred rupees against any person in respect of a penalty payable under a contract entered into with such person by the commissioner, or, with the approval of the standing committee, any such claim for any sum exceeding five hundred rupees;

(g) defend any suit or other legal proceeding brought against the corporation or against the commissioner or a deputy commissioner or a municipal officer or servant, in respect of anything done or omitted to be done by them, respectively, in their official capacity;

(h) with the approval of the standing committee, admit or compromise any claim, suit or legal proceeding brought against the corporation or against the commissioner or a deputy commissioner or a municipal officer or servant, in respect of anything done or omitted to be done as aforesaid;

(j) with the like approval, institute and prosecute any suit or withdraw from or compromise any suit or any claim, other than a claim of the description specified in clause (f), which has been instituted or made in the name of the corporation or of the commissioner;

(k) obtain such legal advice and assistance as he may from time to time think it necessary or expedient to obtain or as he may be desired by the corporation or the standing committee to obtain, for any of the purposes mentioned in the foregoing clauses of this section or for securing the lawful exercise or discharge of any power or duty vesting in or imposed upon any municipal authority or any municipal officer or servant;

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[Ch. XIX.—Procedure, Sect. 517 (2).

Ch. XX.—Control, Sects. 518—520

Ch. XXI.—Supplemental Provisions, Sect. 521]

(2) Provided that the commissioner shall not defend any suit or legal proceeding under clause (g) without first of all taking legal advice with regard thereto, and shall institute and prosecute any suit which the corporation shall determine, to have instituted and prosecuted.

CHAPTER XX.

CONTROL.

518. (1) If, upon complaint being made to him and after such inquiry as he thinks fit to make, it shall at any time appear to the Governor in Council that any of the provisions of sections 61, 62, 134, 225, 434 and 438, have not been or are not being duly carried out or enforced, the Governor in Council may make an order prescribing a period within which such provision shall be carried out or enforced:

(2) Provided that, except in any case which appears to the Governor in Council to be one of emergency, no such order shall be made until after the expiry of one month from the date of service of a written notice on the corporation, and, if the Governor in Council shall think fit, on the commissioner, requiring cause to be shown why such order should not be made, nor until the cause, if any, so shown has been considered by the Governor in Council.

(3) If, within the period prescribed in an order made under sub-section (1) the provision is not carried out or enforced, the Governor in Council may appoint some person to carry out or enforce the same and may direct that the expense of carrying out or enforcing such provision, together with such reasonable remuneration to the person carrying out or enforcing the same as the Governor in Council shall determine and the costs of the proceedings under this section, shall be paid out of the municipal fund.

519. (1) If, from the report of any person appointed by Government under section 264 to inspect the Vehar water-works, it shall appear to Government that any portion of the said waterworks is not in a sound and effective condition, Government may by notice under the signature of a secre-

tary to Government, require that the said portion of the said works be repaired, improved or otherwise rendered sound and effective, within a reasonable time to be prescribed in the notice.

(2) The said notice shall be addressed to the corporation and to the commissioner and it shall be incumbent on the corporation and on the commissioner, within the limits of their respective powers, to give effect thereto. If effect be not given thereto, Government may cause the required work to be done and may direct that the expenses thereof shall be paid by the commissioner.

520. (1) When any such order as is mentioned in sub-section (3) of section 518, or in sub-section (2) of section 519 shall have been made, the corporation shall cause to be paid to Government the sum or sums of money of which payment shall from time to time be required, in pursuance of the said order, in any requisition signed by a secretary to Government.

(2) And if, within fourteen days from the delivery of any such requisition, the same is not complied with, Government may, by a written order signed by one of their secretaries, authorize and direct some person to receive from the bank in which the municipal fund is lodged, the sum or sums mentioned in the said order.

(3) The said bank shall, upon production of the said written order, forthwith pay the said sum or sums to the person therein authorized to receive the same, and the said written order shall be a sufficient discharge to the said bank from all liability to the corporation in respect of any sum or sums so paid by it out of the municipal fund.

CHAPTER XXI.

SUPPLEMENTAL PROVISIONS.

521. The commissioner and deputy commissioner and every councillor and every municipal officer or servant appointed under this Act, and every contractor or agent for the collection of any municipal tax, and every servant or other person

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(Ch. XXI.—Supplemental Provisions, Sects. 522—527 (1) (a).]

employed by any such contractor or agent, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Act XLV of 1880.

522. (1) The police commissioner shall, as far as may be, co-operate, by himself and through his subordinates, with the commissioner for carrying into effect and enforcing the provisions of this Act and for the maintenance of good order in the city.

(2) It shall be the duty of every police officer in the city to communicate without delay to the proper municipal officer any information which he receives of a design to commit or of the commission of any offence against this Act or against any regulation or by-law made under this Act, and to assist the commissioner or any municipal officer or servant, reasonably demanding his aid for the lawful exercise of any power vesting in the commissioner or in such municipal officer or servant under this Act.

523. (1) In computing any limited time before, or from or after any date or event which is appointed or allowed by or under this Act for the doing of any act or the taking of any proceeding, such time shall be taken as exclusive of the day of that date or of the happening of that event and as ending or commencing, as the case may be, at the end of the last preceding day, or the beginning of the next following day.

(2) Where the limited time is to be computed from or after any date or event, the act or proceeding shall be done or taken at the latest, on the last day of the limited time computed as aforesaid, unless the last day is a Sunday or a public holiday or unless, in the case of a proceeding to be taken before the Chief Judge of the Small Cause Court, the said court is closed on such last day, in which events any act or proceeding shall be deemed to be done or taken in due time if it is done or taken on the next day after such Sunday or after the close of such public holiday or on the first day when such Court re-opens, as the case may be.

(3) Where by this Act any act or proceeding is directed or allowed to be done or taken on a certain day and such day happens to be a Sunday or a public holiday, the act or proceeding shall be considered

as done or taken in due time if it is done or taken on the next day after such Sunday, or after the close of such public holiday.

524. The distances mentioned in this Act shall be measured in a straight line on a horizontal plane.

525. (1) Any informality, clerical error, omission or other defect in any assessment, or in any distress levied or in any notice, bill, schedule, summons or other document issued under this Act or under any regulation or by-law made under this Act, may at any time, as far as possible, be rectified.

(2) No such informality, clerical error, omission or other defect shall be deemed to render the assessment, distress, notice, bill, schedule, summons or other document invalid or illegal, if the provisions of this Act and of the regulations and by-laws made hereunder have in substance and effect been complied with; but any person who sustains any special damage by reason of any such informality, clerical error, omission or other defect shall be entitled to recover compensation for the same by suit in a court of competent jurisdiction.

526. The Governor in Council may at any time call upon the corporation to furnish him with any extract from any proceedings of the corporation or standing committee or of any committee constituted under this Act or from any record under the control of the corporation and with any statistics concerning or connected with the administration of this Act; and the corporation shall furnish the same without unreasonable delay.

527. (1) No suit shall be instituted against the corporation or against the commissioner, or a deputy commissioner, or against any municipal officer or servant, in respect of any act done in pursuance or execution or intended execution of this Act or in respect of any alleged neglect or default in the execution of this Act:

(a) until the expiration of one month next after notice in writing has been, in the case of the corporation, left at

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[Ch. XXI.—Supplemental Provisions, Sects. 527 (1) (b)—528. Schedule A.]

the chief municipal office and, in the case of the commissioner or of a deputy municipal commissioner or of a municipal officer or servant delivered to him or left at his office or place of abode, stating with reasonable particularity the cause of action and the name and place of abode of the intending plaintiff and of his attorney or agent, if any, for the purpose of such suit; nor .

(b) unless it is commenced within six months next after the accrual of the cause of action.

(2) At the trial of any such suit:

(c) the plaintiff shall not be permitted to go into evidence of any cause of action except such as is set forth in the notice delivered or left by him as aforesaid;

(d) the claim, if it be for damages, shall be dismissed if tender of sufficient

amends shall have been made before the suit was instituted or if, after the institution of the suit, a sufficient sum of money is paid into court with costs.

(3) Where the defendant in any such suit is a municipal officer or servant, payment of the sum or of any part of any sum payable by him in or in consequence of the suit, whether in respect of costs, charges, expenses, compensation for damages or otherwise, may be made, with the sanction of the standing committee, from the municipal fund.

528. The provisions contained in schedule R for regulating the constitution of the corporation and other matters until this Act is brought fully into operation shall be of the same effect as if they were enacted in the body of this Act.

SCHEDULE A.

(SEE SECTION 2.)

Enactments repealed.

No. and year of Act.	Title or Subject.	Extent of Repeal.
<i>Act of the Governor General in Council.</i>		
XLVIII of 1860...	An Act to amend Act XIII of 1856 ..	Section 17, as amended by Bombay Act IV of 1882 and clause (16) of section 19.
<i>Acts of the Governor of Bombay.</i>		
VI of 1863 ...	An Act for the regulation of public conveyances in the town, suburbs and harbour of Bombay.	In section 7, the words "by the Commissioner of Police to the credit of the Municipal Commissioners of Bombay, and"
III of 1870 ..	An Act to secure the payment to Government of certain sums of money by the Corporation of the Justices of the Peace for the City of Bombay.	The whole.
III of 1872 ...	The Bombay Municipal Act of 1872	The whole.
IV of 1878 ...	The Bombay Municipal Act Amendment and Continuance Act, 1878.	The whole.
VI of 1878 ...	An Act to remove doubts as to the time when certain portions of the Bombay Municipal Act Amendment and Continuance Act, 1878, were intended to come into force.	The whole.
II of 1880 ...	The Bombay Municipality's Consolidated Loan Act, 1880.	The whole.
II of 1881 ...	An Act to confirm the jurisdiction of Presidency Magistrates in municipal cases	The whole.
VI of 1882 ...	An Act to amend the Bombay Municipal Acts of 1872 and 1878.	The whole.

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[Schedules A and B.]

SCHEDULE A—continued.

No and year of Act	Title or Subject.	Extent of Repeal
II of 1885	.. An Act to empower the Municipal Corporation of the City of Bombay to subscribe to the Guarantee Funds of the Bombay International Exhibition and for other purposes.	So much as has not already been repealed.
III of 1885	... An Act to provide for the occasional appointment of a Deputy Municipal Commissioner for the City of Bombay.	The whole.
I of 1886°	.. An Act to remove certain doubts in the construction of section 9 B. of the Bombay Municipal Acts of 1872 and 1878.	The whole.
II of 1886	.. An Act to enable the Municipal Corporation of the City of Bombay to raise increased revenue from town-duties	The whole

SCHEDULE B.

(SEE SECTION 24)

Division of the City into Wards.

Consecutive Number	Name of Ward.	BOUNDARIES				Number of members of the corporation to be elected for each Ward
		On the North	On the South	On the East	On the West	
1	Fort and Harbour Ward (includes the southern portion of the island within the boundaries here specified and the entire harbour)	A line starting from the harbour and extending along the north wharf of Carnac Basin, the south side of Carnac Road, and of First Marine Street, and continuing thence to Back Bay	The sea	The harbour	Back Bay	Six
2	Mandvi Ward	A line starting from the harbour and extending along the north wharf of Clerk Basin, the south side of Wari Bandar Road, and the east side of Hancock Bridge and of Mazgaon Road to the junction of the latter with Babula Tank Road, thence along the south side of Babula Tank Road to Bhendy Bazar, Parel Road	A line starting from the harbour and extending along the north wharf of Carnac Basin, and the north side of Carnac Road, as far as Abdul Rehman Street	The harbour from the south wharf of Clerk Basin to the north wharf of Carnac Basin	A line starting from Babula Tank Road and extending along the east side of Bhendy Bazar, Parel Road, and the east side of Abdul Rehman Street as far as Carnac Road	Eight
3	Bhuleshwar Ward	A line starting from the west side of Bhendy Bazar, Parel Road, and extending along the south side of Grant Road as far as the north west corner of Northbrook Garden	The north side of Carnac Road from Abdul Rehman Street, and the north side of First Marine Street and a line continuing thence to Back Bay	The west side of Bhendy Bazar, Parel Road, and of Abdul Rehman Street as far as Carnac Road	A line starting from the north-west corner of Northbrook Garden, Grant Road, and extending along the east side of Trimbak Parashram Street, Ardesir Dady Street, passing thence along the north east side of part of Bhuleshwar Street to the junction of that street and Thakurdwar Street and extending along the south side of the latter as far as Queen's Road and continuing thence to Back Bay	Eight
4	Girgaon Ward	A line starting from the north-west corner of Trimbak Parashram Street and extending along the south side of Grant Road as far as the B B & C I Railway, and again from the B B & C I Railway level crossing on Clerk Road along the south side of Clerk Road as far as the south end of Hornby Vellaid	Back Bay from a point opposite to Thakurdwar Street to Malabar Point	A line starting from Back Bay at a point opposite Thakurdwar Street, and extending along the north side of Thakurdwar Street, south west side of part of Bhuleshwar Street as far as the southern end of Ardesir Dady Street, thence along the west side of the latter and Trimbak Parashram Street as far as Grant Road again from the Grant Road Railway Bridge along the west side of the B B & C I Railway Line as far as the Clerk Road level crossing	The sea from Malabar Point to the south end of Hornby Vellaid	Five

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[Schedules B and C.]

SCHEDULE B—continued.

Consecutive Number	Name of Ward	BOUNDARIES				Number of members of the corporation to be elected for each Ward
		On the North	On the South	On the East	On the West	
5	Byculla Ward	A line starting from the harbour and extending along the south wharf of Bellair Basin, the south side of Siwri Road and the south side of Kala Chokl Road as far as the Chunchpokli Station level crossing on Arthur Road	A line starting from the harbour, and extending along the north wharf of Clerk Basin, the north side of Wari Bandar Road, the west side of Hancock Bridge and of Mazaon Road to the junction of the latter with Babula Tank Road, thence along the north side of Babula Tank Road and Grant Road as far as the east side of the B B & C I Railway Line	The harbour from the north wharf of Clerk Basin to the south wharf of Bellair Basin	A line starting from the Grant Road Railway Bridge and extending along the east side of the B B & C I Railway Line as far as the Clerk Road level crossing, thence along the south side of Clerk Road and the east side of Arthur Road as far as the Chunchpokli Station level crossing	Five
6	Parel Ward	The northern boundary of the city from the east side of the G I P Railway Line as far as the harbour	A line starting from the harbour and extending along the north wharf of Bellair Basin, the north side of Siwri Road, and the north side of Kala Chokl Road as far as the Chunchpokli Station level crossing on Arthur Road.	The harbour from the north wharf of the Bellair Basin as far as the northern boundary of the city.	The east side of the G I P Railway Line from the Chunchpokli Station level crossing as far as the northern boundary of the city.	Two
7	Máhim Ward	The northern boundary of the city from the west side of the G. I P Railway Line as far as Máhim Causeway	The north side of Arthur Road and Clerk Road from the Chunchpokli Station level crossing to the south end of Hornby Vellard	The west side of the G I P Railway Line from the Chunchpokli Station level crossing as far as the northern boundary of the city.	The sea from the south end of Hornby Vellard as far as Máhim Causeway	Two

SCHEDULE C.

(SEE SECTION 110.)

Form of Debenture.

No.

for Rs.

By virtue of the City of Bombay Municipal Act, 1888, we, the Municipal Corporation of the city of Bombay, in consideration of the sum of _____ paid to us by *A. B.* of _____ for the purposes of the said Act, promise to pay to the said *A. B.*, his heirs, executors, administrators and assigns the said sum of _____, together with interest at the rate of _____ per centum per annum, payable half-yearly on the _____ day of _____ and the _____ day of _____.

And by way of security for the said payment, we do hereby grant and assign unto the said *A. B.*, his heirs, executors, administrators and assigns such proportion of the moneys arising or accruing by virtue of the said Act from (the taxes mortgaged) as the sum aforesaid doth or shall bear to the whole sum which is or shall be borrowed on the credit of the said (taxes), to hold to the said *A. B.*, his heirs, executors, administrators and assigns from the day of the date hereof until the sum aforesaid with interest for the same at the rate aforesaid shall be fully paid and satisfied;

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[Schedules O, D. and E.]

and it is hereby declared that the said principal sum shall be repaid
on the _____ day of _____ 18 ____ at (place of payment).
Dated this _____ day of _____ 18 ____ .

(To be sealed with the
common seal of the Corporation.)

(Signed)
Municipal Commissioner,
on behalf of the Corporation.

This debenture has been sealed with
the common seal of the Municipal Corporation
of the city of Bombay in our presence :

(Signed)
1 _____ } Members of the Standing Committee.
2 _____ }

SCHEDULE D.

(SEE SECTION 110.)

Form of endorsement for transfer of Debenture.

I, A. B., in consideration of the sum of _____ paid to me by C. D. of
, do hereby transfer to the said C. D., his heirs, executors, adminis-
trators and assigns the within security, and all my right, estate and interest in
and to the money thereby secured and in and to the (taxes) thereby assigned.]

Dated this _____ day of _____ 18 ____ .
(Signed) A. B.

SCHEDULE E.

(SEE SECTION 150.)

Form of Notice of Transfer to be given when the transfer has been effected by Instrument.

To the Municipal Commissioner for the city of Bombay.

I, A B., hereby give notice, as required by section 149 of the City of Bombay Municipal
Act of 1888, of the following transfer of property :—

Date of Notice	Date of Instrument	Name of Vendor or Assignor	Name of Purchaser or Assignee	Amount of consideration.	Description of the Property.						If Instrument has been registered, the date of Registration	Remarks.
					Of what it consists.	Situation	No. in Assessment Book.	Collector's No.	Dimensions of Land	Boundaries		

(Signed) A. B.

The City of Bombay Municipal Act, 1888.

[Schedules F, G. and H]

SCHEDULE F.

(SEE SECTION 150.)

Form of Notice of Transfer to be given when the transfer has taken place otherwise than by Instrument.

To the Municipal Commissioner for the city of Bombay.

I, *A. B.*, hereby give notice, as required by section 149 of the City of Bombay Municipal Act of 1888, of the following transfer of property:—

Date of Notice.	Name in which the Property is at present entered in the Commissioner's Records	To whose name it is to be transferred.	Description of the Property					Remarks
			Of what it consists.	Situation	No. in Assessment-Book	Collector's No	Dimensions of Land		Boundaries

(Signed) *A. B.***SCHEDULE G.**

(SEE SECTION 180.)

Tax on Vehicles and Animals.

Description of Vehicle or Animal.	Maximum Amount of Tax per Quarter
	Rs. a. p.
Each four-wheeled vehicle, drawn or impelled by horses, ponies, mules, donkeys, bullocks or machinery ...	5 0 0
Each two-wheeled vehicle, drawn or impelled by do. do. ...	3 0 0
Each vehicle drawn or impelled otherwise than by horses, ponies, mules, donkeys, bullocks or machinery ..	2 0 0
Each horse, pony or mule of a height of 12 hands or upwards ...	6 0 0
Each horse, pony or mule of a height of less than 12 hands ..	2 0 0
Each bullock or buffalo kept for draft or pack purposes ...	1 0 0
Each donkey kept for draft or pack purposes or for riding ...	1 0 0

SCHEDULE H.

(SEE SECTION 192.)

Articles liable to payment of Town-duties.

Articles.	Maximum Rates of Town-duties leviable.
Grain of all sorts ...	6 annas per khandi
Flour of all sorts ...	75 per centum of the rate at the time being levied on the grain from which the flour is prepared
Wines and spirits ...	4 annas per imperial gallon
Beer ..	6 pies per do.
Petroleum, as defined in the Petroleum Act, 1886 ...	6 pies per do
Sugar, molasses and gúr ..	8 annas per cwt.
Ghi ..	10 annas per Bombay maund.
Timber, exclusive of railway sleepers ...	2½ per cent. of its market value.
Firewood ..	2 annas per khandi.

The City of Bombay Municipal Act, 1888.

[Schedules I. and J.]

SCHEDULE I.

(SEE SECTION 202.)

Form of Notice of Demand.

To

A. B.

residing at

Take notice that the Municipal Commissioner for the city of Bombay demands from (you) the sum of _____ due from (you) on account of (here describe the premises, vehicle or animal on account of which the tax is leviable) for the half-year (or quarter) commencing (or ending) on the day of _____ 18 ; and that if the said sum is not paid into the municipal office at _____, or if sufficient cause for non-payment of the sum is not shown to the satisfaction of the commissioner within fifteen days from the service of this notice, a warrant of distress will be issued for the recovery of the same, with costs.

Dated this _____ day of _____ 18 .

(Signed)

Municipal Commissioner
for the city of Bombay.

SCHEDULE J.

(SEE SECTION 203.)

Form of Distress Warrant.

To (here insert the name of the officer charged with the execution of the warrant).

Whereas A. B., of _____, has not paid, or shown sufficient cause, to my satisfaction, for the non-payment of the sum of _____ due for the tax* mentioned in the margin for the half-year (or quarter) commencing (or terminating) on the _____ day of _____ 18 ; although the said sum has been duly demanded in writing from the said A. B., and fifteen days have elapsed since the service of the notice of demand ;

This is to command you to distrain the goods and chattels of the said A. B. (or, as the case may be, any goods and chattels found on the premises in respect of which the said tax is due) to the amount of the said sum of _____, and such further sum as may be sufficient to defray the costs of recovering the said amounts ; and if within five days next after such distress the said sum shall not be paid, together with such further sum as shall be sufficient to defray the said costs, to sell the said goods and chattels : and having paid and deducted out of the proceeds of the sale the said sum of _____ and the costs of recovering the same, to return the surplus, if any, and if the same be demanded within one year from the date of the sale, to the person whom you shall find in possession of the said goods and chattels.

If sufficient distress cannot be found of the goods and chattels of the said A. B. (or on the said premises, as the case may be) you are to certify the same to me together with this warrant.

Dated this _____ day of _____ 18 .

(Signed)

Municipal Commissioner
for the city of Bombay.

The City of Bombay Municipal Act, 1888.

[Schedules K, L. and M.]

SCHEDULE K.

(SEE SECTION 205.)

Form of Inventory and Notice.

To

A. B.

residing at

Take notice that I have this day seized the goods and chattels specified in the inventory beneath this, for the sum of _____ due for the tax mentioned

* Here describe the tax. _____ in the margin* for the half-year (or quarter) commencing (or terminating) on the _____ day of

18 ; and that unless you pay into the municipal office at the amount due, together with the costs of recovery, within five days from the day of the date of this notice, the goods and chattels will be sold.

Dated this _____ day of _____ 18 .

(Signature of the officer
executing the warrant.)

Inventory.

(Here state particulars of the goods and chattels seized.)

SCHEDULE L.

(SEE SECTION 207.)

Table of Fees payable in Distraints.

Sum distrained for.							Fee.
							Rs. a.
Under 5 Rupees	...	...	...	...	...	...	0 4
Rupees 5 and under 10 Rupees	...	...	...	...	...	...	0 8
" 10	" 15	"	...	...	...	...	0 12
" 15	" 20	"	...	...	...	...	1 0
" 20	" 25	"	...	...	...	...	1 4
" 25	" 30	"	...	...	...	...	1 8
" 30	" 35	"	...	...	...	...	1 12
" 35	" 40	"	...	...	...	...	2 0
" 40	" 45	"	...	...	...	...	2 4
" 45	" 50	"	...	...	...	...	2 8
" 50	" 60	"	...	...	...	...	3 0
" 60	" 80	"	...	...	...	...	3 12
" 80	" 100	"	...	...	...	...	4 8
Above 100 Rupees			...	...	...	...	5 0

The above fees are to include all expenses except when peons are kept in charge of property distrained, in which case four annas must be paid daily for each peon so employed.

SCHEDULE M.

(SEE SECTIONS 394 AND 395.)

Purposes for which premises shall not be used without a license.

- (1) Casting metals;
- (2) Manufacturing bricks or tiles;
- (3) Packing, pressing, cleansing, preparing or manufacturing, by any process whatever, any of the following articles, viz. :—

Cloths in indigo or other colours.
Paper,

Pottery.
Silk

The City of Bombay Municipal Act, 1888.

[Schedules M. and N.]

(4) Storing, packing, pressing, cleansing, preparing or manufacturing, by any process whatever, any of the following articles, *viz.* :—

Blood.	Kerosine oil.
Bones.	Lime.
Candles.	Matches for lighting.
Catgut	Manure.
Chemical preparations.	Meat.
China grass.	Nitro-glycerine.
Cocconut fibre.	Oil.
*Cotton and cotton refuse or seed.	Oil-cloth.
Dammer.	Offal.
Dynamité.	Petroleum oil.
Fat.	Paraffin oil.
Fins.	Rags.
Fish.	Rosin.
Fireworks.	Rangoon or Burmah oil.
Flax.	Soap.
Fulminate of mercury.	Sulphur.
Gas.	Saltpetre.
Gun cotton.	Spirits.
Gunpowder or blasting powder.	Skins.
Hemp.	Tallow.
Hides.	Tar or pitch.
Horns.	Tow.
Hoofs.	Turpentine.
Hair.	Wool.
Jute.	

SCHEDULE N.

(SEE SECTION 444.)

Particulars to be specified in the Register of Births.

Serial number.	
Date of birth.	
Place of birth...	{ District, Sub-district, Ward-No. of house (<i>i.e.</i> its distinguishing number under cl. (a) of s. 156). Street or wádi, No. of house in street or wádi.
Parents	{ Names (and surnames, if any), Occupation or profession, Place of birth, Duration of residence in Bombay... { Years, Months, Days.
Mother being ...	{ Only wife now alive. One of two wives, both now alive. One of three or more wives, all now alive.
Mother being unmarried.	
Child ...	{ Born alive. Still-born. Sex. Race, caste or nationality. Name, if any.

NOTE.—In the case of the birth of a Hindu, the particular subdivision of his caste should be given. Christians should be separated into those of pure European parentage; those of mixed blood, *viz.* Indo-Europeans; and those of pure Asiatic parentage, *viz.* Native Christians. Negro-Africans or Siddis should be registered as such, and not as Mussulmans. In the case of Europeans, their religion should be specified

* The storing of pressed bales of cotton is excepted.

The City of Bombay Municipal Act, 1888.

[Schedules O. and P.]

SCHEDULE O.

(SEE SECTION 444.)

Particulars to be specified in the Register of Deaths.

Serial number.

Date of death.

Abode ... { District,
Sub-district,
Ward-No. of house (i.e. its distinguishing number under cl. (a) of s. 156).
Street or wādi,
No. of house in street or wādi,

Duration of residence in Bombay. { Years,
Months,
Days,

If a stranger to Bombay, or lately arrived, wherefrom ... { Village,
Tāluka,
District,

Name (and surname, if any),

Sex,

Race, caste or nationality,

Age ... { Years,
Months,
Days,
Still-born,

Occupation or profession of deceased or of his or her family,

Place of birth... { If in Bombay ... { District,
Street or wādi,
No. of house,
If out of Bombay ... { Village,
Tāluka,
District,

Country to which family belongs,

Cause of death,

Duration of disease. { Years,
Months,
Days,
Hours,

Name and residence of medical attendant,

Place of disposal of dead, No. { Buried,
Burnt,
Exposed,

SCHEDULE P.

(SEE SECTION 450.)

Certificate of Cause of Death.

I do hereby certify that I attended the deceased during his last illness, and that the cause of his death was, to the best of my belief, (here state particulars)

Date

(Signed)

Medical Designation or Diploma.

The City of Bombay Municipal Act, 1888.

[Schedules Q. and R.]

SCHEDULE Q.

(SEE SECTION 453.)

Form certifying Name given in Baptism.

I _____ of _____, do hereby certify, that on the
18 _____, I baptized by the name of _____ a male child produced to me by
as the _____ of _____, and declared by the said _____ to have been born at
_____, on the _____ 18 _____.

(Signed by Officiating Minister.)

Date _____

Form certifying Name given not in Baptism.

I _____ do hereby certify that the male child born on the _____ 18 _____
at _____, to _____ and _____ his wife, and registered in the district of _____
on the _____ 18 _____, has received the name of _____

(Signed by father or mother, &c.)

Date _____

SCHEDULE R.

(SEE SECTION 528.)

Transitory Provisions.

1. (1) The corporation in existence on the day before this Act comes into force shall be the corporation for the purposes of this Act until the first day of April, 1889; and every casual vacancy which occurs in the said corporation after the passing of this Act shall be filled up in the same manner in which it would have been filled up if this Act had not been passed.

(2) On the first day of April, 1889, the members of the said corporation shall retire from office, but unless disqualified, they shall be eligible for being councillors after the said date.

2. For the purpose of any election to fill a casual vacancy in the corporation under sub-section (1) of the last preceding section, the list prepared under section 9D. of the Bombay Municipal Acts of 1872 and 1878 during the first half of the year 1887-88 shall continue in operation until the first day of April, 1889.

Bo III of 1872 and IV of 1878.

3. The person who, on the day before this Act comes into force, is the chairman of the corporation shall, until the first day of April, 1889, be deemed to be the president of the corporation for the purposes of this Act, unless in the meantime a casual vacancy occurs in the office. If any such casual vacancy occurs before the last-mentioned day, it shall be filled up in accordance with the provisions of sub-section (3) of section 37.

The City of Bombay Municipal Act, 1888.

[Schedule B—continued.]

4. The town council in existence on the day before this Act comes into force shall be deemed to be the standing committee for the purposes of this Act until the first appointment of a standing committee under section 43; and every casual vacancy which occurs in the said committee after the passing of this Act shall be filled up in the same manner in which a vacancy in the town council would have been filled up if this Act had not been passed.

The town council in existence when this Act comes into force to be the standing committee till the first standing committee is appointed under this Act.

5. The person who, on the day before this Act comes into force, is the chairman of the town council shall be the chairman of the standing committee until the first appointment of a standing committee under section 43, unless in the meantime a casual vacancy occurs in the office. If any such casual vacancy occurs, it shall be filled up in accordance with the provisions of sub-section (3) of section 44.

Chairman of the standing committee until the first standing committee is appointed under this Act.

6. The commissioner and the deputy commissioner, if any, and all municipal officers and servants holding office on the day before this Act comes into force, shall be deemed to have been appointed under this Act and, until an order to the contrary is passed by competent authority under this Act, shall continue to hold, respectively, the same or the corresponding offices under this Act and to receive the same emoluments.

Continuance of present commissioner and municipal officers and servants in office.

7. The standing committee may, with the approval of the corporation, grant to the municipal secretary, in addition to his maximum monthly salary of one thousand rupees, a personal allowance not exceeding two hundred rupees monthly in consideration of such secretary's long and approved service, so long as the office is held by the same person who on the day when the Bombay Municipal Acts Amendment Act, 1882, came into force was secretary of the town council and clerk of the municipal corporation.

Personal allowance to present municipal secretary.

Bo VI of 1882.

8. Any budget-estimate adopted by the corporation under the provisions of the Bombay Municipal Acts of 1872 and 1878, which, if this Act had not been passed, would have had operation after the date on which this Act comes into force, shall, subject to the provisions of sections 131 to 134, both inclusive, continue in operation as if this Act had not been passed.

Bo III of 1872 and IV of 1878.

Continuance in operation of budget-estimate adopted before the passing of this Act.

9. The decision of the corporation under the said Acts as to the rates at which property-taxes and the rates at which and the articles on which town-duties shall be levied, during the time for which any such budget-estimate is in operation, shall, subject to the provisions of section 196, have the same validity as if this Act had not been passed.

Sanction of property-taxes and town-duties given before this Act comes into force to continue valid.

10. Any assessment-book made by the commissioner under the said Acts, which, if this Act had not been passed, would have had effect after the date on which this Act comes into force, shall, subject to the provisions of sections 167, 217, 218 and 219, have the same effect as if this Act had not been passed.

Assessment-book made before this Act comes into force to continue valid.

11. The amount of contribution towards the protection of the city from fire, which has been determined by the town council under section 122 of the Bombay Municipal Acts of 1872 and 1878, to be due by any insurance company carrying on business in Bombay or having an agency for such

Bo III of 1872 and IV of 1879

Contributions towards the fire-brigade in the year in which this Act comes into force.

The City of Bombay Municipality Act, 1888.

[Schedule B—concluded.]

purpose for the official year in which this Act comes into force, shall continue due as if this Act had not been passed.

12. In preparing, on or before the first day of October, 1888, the first ward lists under section 19, the qualifying-tax in clause (c) of section 11, shall be taken to mean either of the taxes or the aggregate of the taxes specified in sub-section (3) of section 11 levied for the half-year from the first day of April to the thirtieth day of September, 1888, whether according to the provisions of this Act or of the Bombay Municipal Acts of 1872 and 1878 and the consolidated tax levied under the last-named Acts shall be deemed to be the general tax specified in sub-section (3) of section 11.

Preparation of first ward lists under section 19.

Bo. III of 1872 and IV of 1878.

13. (1) All proceedings instituted under any Act hereby repealed and still pending when this Act comes into force before the Chief Presidency Magistrate, shall be continued and determined by the said magistrate as if this Act had not been passed; and every decision of the said magistrate in any such proceeding shall have the same validity as if this Act had not been passed.

Disposal of proceedings pending before the Chief Presidency Magistrate

(2) Any legal proceeding which might, but for the passing of this Act, have been instituted before the Chief Presidency Magistrate, but which under this Act is within the cognizance of the Chief Judge of the Small Cause Court, shall, if commenced on or after the first day of November, 1888, be instituted before the Chief Judge of the Small Cause Court.

Legal proceedings which might, before the passing of this Act, have been heard by the Chief Presidency Magistrate, to be instituted, on and after 1st November, 1888, before the Chief Judge of the Small Cause Court

(3) Any such legal proceeding as aforesaid which is commenced before the said date and any legal proceeding commenced after the date when this Act comes into force but before the first day of November, 1888, which under the provisions of this Act should be instituted before the Chief Judge of the Small Cause Court, shall be instituted before the Chief Presidency Magistrate and be heard and determined by the said magistrate; and the decision of the said magistrate in every such proceeding shall have the same validity as if this Act had not been passed or as if such decision had been made by the Chief Judge of the Small Cause Court, as the case may be.

Jurisdiction of Chief Presidency Magistrate continued till 1st November, 1888.

(4) If an application of the nature specified in section 504 is made to the Chief Presidency Magistrate or to the Chief Judge of the Small Cause Court in respect of any expenses or compensation which became claimable before this Act comes into force, such application shall be deemed to be in time if it is made within one year from the date of this Act coming into force.

Period of limitation for applications under section 504 in respect of claims which arose before this Act comes into force.

By order of His Excellency the Right Honourable the Governor in Council,

J. J. HEATON,
Acting Under Secretary to Government.

Poona, 13th September 1888.

THE



Bombay Government Gazette.

Published by Authority.

THURSDAY, 4TH, OCTOBER 1888.

Separate paging is given to this Part, in order that it may be filed as a separate compilation.

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 20th September 1888, and is hereby promulgated for general information.

Act No. X of 1888.

An Act to amend the Code of Civil Procedure and the Presidency Small Cause Courts Act, 1882.

WHEREAS it is expedient to amend the Code of Civil Procedure and the Presidency Small Cause Courts Act, 1882; It is hereby enacted as follows:—

1. For the second schedule to the Code of Civil Procedure there shall be substituted the schedule in the first schedule to this Act.

2. (1) To section 23 of the Presidency Small Cause Courts Act, 1882, the following shall be added, namely:—“Subject to such control, the Court may modify or cancel any notification under this section as occasion may appear to it to require.”

(2) For the second schedule to the same Act there shall be substituted the schedule in the second schedule to this Act.

(3) Any declaration which has been notified under the proviso to section 23 of the Presidency Small Cause Courts Act, 1882, before the day on which this Act is passed, and which was in

force immediately before that day, shall, subject to the powers of the Court under that section, be construed, so far as may be, as referring to the schedule which has been substituted by the last foregoing sub-section for the second schedule to that Act.

3. To section 589 of the Code of Civil Procedure the following shall be added, namely:—

“Provided that an appeal from an order specified in section 588, clause (17), shall be—

(a) to the District Court where the order was passed by a Court subordinate to that Court, and

(b) to the High Court in any other case.”

4. Act VIII of 1880 (an Act to correct a clerical error in the Indian Limitation Act, XV of 1877) and section 26 of the Provincial Small Cause Courts Act, 1887, are hereby repealed.

THE FIRST SCHEDULE TO THIS ACT.

THE SECOND SCHEDULE TO THE CODE OF CIVIL PROCEDURE

(See section 5.)

CHAPTERS AND SECTIONS OF THIS CODE EXTENDING TO PROVINCIAL COURTS OF SMALL CAUSES.

PRELIMINARY: Sections 1, 2, 3 and 5.

- CHAPTER I.—Of the Jurisdiction of the Courts and *Res Judicata*, except section 11 and the last paragraph of section 14.
- CHAPTER II.—Of the Place of Suing, except section 20, paragraph 4, and sections 22 to 24 (both inclusive).
- CHAPTER III.—Of Parties and their Appearances, Applications and Acts.
- CHAPTER IV.—Of the Frame of the Suit, except section 42 and section 44, rule a.
- CHAPTER V.—Of the Institution of Suits.
- CHAPTER VI.—Of the Issue and Service of Summons, except section 77.
- CHAPTER VII.—Of the Appearance of the Parties and Consequences of Non-appearance.
- CHAPTER VIII.—Of Written Statements and Set-off.
- CHAPTER IX.—Of the Examination of the Parties by the Court, except section 119.
- CHAPTER X.—Of Discovery and the Admission, &c, of Documents.
- CHAPTER XII.—Section 155, first paragraph, Judgment where either party fails to produce his evidence.
- CHAPTER XIII.—Of Adjournments.
- CHAPTER XIV.—Of the Summoning and Attendance of Witnesses.
- CHAPTER XV.—Of the Hearing of the Suit and Examination of Witnesses, except sections 182 to 188 (both inclusive).
- CHAPTER XVI.—Of Affidavits.
- CHAPTER XVII.—Of Judgment and Decree, except sections 204, 207, 211, 212, 213, 214 and 215.
- CHAPTER XVIII.—Of Costs, sections 220, 221 and 222.
- CHAPTER XIX.—Of the Execution of Decrees, sections 223 to 236 (both inclusive), 239 to 258 (both inclusive), 259 (except so far as relates to the recovery of wives), 266 (except so far as relates to immoveable property), 267 to 272 (both inclusive), 273 (so far as relates to decrees for moveable property), 275 to 283 (both inclusive), 284 (so far as relates to moveable property), 285, 286, 287, 288, 289, 290 (so far as relates to moveable property), 291, 292, 293 (so far as relates to re-sales under 297), 294 to 303 (both inclusive), 328 to 333 (both inclusive, so far as relates to moveable property), 336 to 343 (both inclusive).
- CHAPTER XX.—Section 360, Power to invest certain Courts with Insolvency jurisdiction.
- CHAPTER XXI.—Of the Death, Marriage and Insolvency of Parties.
- CHAPTER XXII.—Of the Withdrawal and Adjustment of Suits.
- CHAPTER XXIII.—Of Payment into Court.
- CHAPTER XXIV.—Of requiring Security for Costs.
- CHAPTER XXV.—Of Commissions, except section 396.
- CHAPTER XXVI.—Suits by Paupers.
- CHAPTER XXVII.—Suits by and against Government or Government Servants.
- CHAPTER XXVIII.—Suits by Aliens and by and against Foreign and Native Rulers.
- CHAPTER XXIX.—Suits by and against Corporations and Companies.
- CHAPTER XXX.—Suits by and against Trustees, Executors and Administrators.
- CHAPTER XXXI.—Suits by and against Minors and Persons of Unsound Mind.
- CHAPTER XXXII.—Suits by and against Military Men.
- CHAPTER XXXIII.—Interpleader.
- CHAPTER XXXIV.—Of Arrest and Attachment before Judgment, except as regards Immoveable Property.
- CHAPTER XXXVI.—Appointment of Receivers.
- CHAPTER XXXVII.—Reference to Arbitration.
- CHAPTER XXXVIII.—Of Proceedings on Agreement of Parties.
- CHAPTER XLVI.—Reference to and Revision by High Court.
- CHAPTER XLVII.—Of Review of Judgment, sections 623, 626 and 630.
- CHAPTER XLIX.—Miscellaneous.

THE SECOND SCHEDULE TO
THIS ACT

THE SECOND SCHEDULE TO THE PRESIDENCY
SMALL CAUSE COURTS ACT, 1882
(See section 23)

PORTIONS OF CIVIL PROCEDURE CODE
EXTENDING TO COURTS

PRELIMINARY: Section 2, Interpretation-clause.

- CHAPTER I.—Of the Jurisdiction of the Courts and *Res Judicata*, except section 11.
- CHAPTER II.—Of the Place of Suing, except sections 15 to 19 (both inclusive), section 20, paragraph 4, sections 22, 23 and 24, and section 25, paragraphs 2 and 3.
- CHAPTER III.—Of Parties and their Appearances, Applications and Acts, except section 37, clause (b), and the last paragraph.
- CHAPTER IV.—Of the Frame of the Suit, except section 42 and section 44, rule a.
- CHAPTER V.—Of the Institution of Suits, except section 53, clause (b), sub-clause (iv), section 55, section 57, clause (b), and sections 58 and 62.
- CHAPTER VI.—Of the Issue and Service of Summons, except, in section 64, the words "and the copies or concise statements required by section 58 have been filed," and sections 65 and 66.
- CHAPTER VII.—Of the Appearance of the Parties and Consequence of Non-appearance.
- CHAPTER VIII.—Of Written Statements and Set-off, except sections 110, 112 and 113.
- CHAPTER IX.—Of the Examination of the Parties by the Court, except section 119
- CHAPTER X.—Sending for Records and Production, &c, of Documents, sections 137 (except paragraph 2), 138, 140 (except the proviso and the last six words), 141, 141A, 142, 142A, sub-section (1), 143 and 145
- CHAPTER XI.—Settlement of Issues, sections 150 and 151
- CHAPTER XII.—Disposal of the Suit at the first Hearing, except sections 154 and 155.
- CHAPTER XIII.—Of Adjournments.
- CHAPTER XIV.—Of the Summoning and Attendance of Witnesses, except sections 168, 169, 170 and 175.
- CHAPTER XV.—Of the Hearing of the Suit and Examination of Witnesses, except sections 182 to 191 (both inclusive) and the second paragraph of section 193.
- CHAPTER XVI.—Of Affidavits.
- CHAPTER XVII.—Of Judgment and Decree, except sections 200, 201, 202, 204, 207 and 211 to 215 (both inclusive)
- CHAPTER XVIII.—Of Costs.
- CHAPTER XIX.—Of the Execution of Decrees, sections 229, 229A and 229B, section 230, first two clauses, sections 231 to 236 (both inclusive), 243 to 259 (both inclusive), 266 (so far as relates to the attachment of moveable property or decrees therefor), 267 to 272 (both inclusive), 273 (so far as relates to decrees for moveable property), 275 to 303 (both inclusive), 328 to 333 (both inclusive), 336 (except the last three clauses), and 337 to 343 (both inclusive).
- CHAPTER XXI.—Of the Death, Marriage and Insolvency of Parties.
- CHAPTER XXII.—Of the Withdrawal and Adjustment of Suits.
- CHAPTER XXIII.—Of Payment into Court.
- CHAPTER XXIV.—Of requiring Security for Costs.
- CHAPTER XXV.—Of Commissions, except section 396.
- CHAPTER XXVII.—Suits by or against Government or Public Officers.
- CHAPTER XXVIII.—Suits by Aliens and by and against Foreign and Native Rulers, except section 433, sub-sections (1), (2), (4) and (5)
- CHAPTER XXIX.—Suits by and against Corporations and Companies
- CHAPTER XXX.—Suits by and against Trustees, Executors and Administrators
- CHAPTER XXXI.—Suits by and against Minors and Persons of Unsound Mind.
- CHAPTER XXXII.—Suits by and against Military Men.
- CHAPTER XXXIII.—Interpleader.
- CHAPTER XXXIV.—Of Arrest and Attachment before Judgment, except as regards the attachment of immoveable property
- CHAPTER XXXV.—Interlocutory Orders, sections 498, 499, 500 and 502
- CHAPTER XXXVI.—Appointment of Receivers, section 503.
- CHAPTER XXXVII.—Reference to Arbitration, except the provisions of section 522 as to appeals.
- CHAPTER XXXVIII.—Of Proceedings on Agreement of Parties, except so much of section 527, clause (b), as relates to immoveable property
- CHAPTER XLVI.—Of Reference to and Revision by High Court.
- CHAPTER XLIX.—Miscellaneous.

S HARVEY JAMES,
Secretary to the Government of India.



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PART IV.

ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

Erratum.

No. 212 of 1888.

LEGISLATIVE DEPARTMENT.

Poona, 9th October 1888.

The City of Bombay Municipal Act, 1888.

In Section 471, amongst the list of sections for breach of the provisions of which the maximum fine is Rs. 50, for "418-sub-section (1)" read "428 sub-section (1)."

By order of His Excellency the Right Honourable the Governor in Council,

J. J. HEATON,

Acting Under Secretary to Government.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 5th October 1888, and is hereby promulgated for general information:—

Act No. XI of 1888.

An Act to make an addition to the Indian Telegraph Act, 1885.

WHEREAS it is expedient to make an addition of 1885. to the Indian Telegraph Act, 1885, It is hereby enacted as follows:—

1. The following section shall be added to that Act, namely:—

“34. (1) This Act, in its application to the presidency-towns, shall be read as if for the words ‘District Magistrate’ in section 16, sub-section (1), and section 17, sub-sections (2) and (3), for the words ‘Magistrate of the first or second class’

in section 18, sub-section (1) and for the word ‘Magistrate’ in section 18, sub-section (2), there had been enacted the words ‘Commissioner of Police’, and for the words ‘District Judge’ in section 16, sub-sections (3), (4) and (5), the words ‘Chief Judge of the Court of Small Causes’

(2) Section 16, in its application to the town of Rangoon, shall be read as if for the words ‘District Judge’, wherever they occur in that section, there had been enacted the words ‘Judge of the Court of Small Causes.’

(3) The fee in respect of an application to the Chief Judge of a Presidency Court of Small Causes under sub-section (3) of section 16 shall be the same as would be payable under the Court-fees Act, 1870, in respect of such an application to a District Judge beyond the limits of a presidency-town, and fees for summonses and other processes in proceedings before the Chief Judge under sub-section (3) or sub-section (4) of that section shall be payable according to the scale set forth in the fourth schedule to the Presidency Small Cause Courts Act, 1882.”

VII of 1870

XV of 1882

S. HARVEY JAMES,
Secretary to the Government of India.

THE



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PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor General on the 12th October 1888, and is hereby promulgated for general information:—

Act No. XII of 1888.

An Act to supplement certain provisions of the City of Bombay Municipal Act, 1888, and of the Calcutta Municipal Consolidation Act, 1889.

WHEREAS it is expedient to supplement by legislation in the Council of the Governor-General for making Laws and Regulations certain provisions of the City of Bombay Municipal Act, 1888, and of the Calcutta Municipal Consolidation Act, 1889; It is hereby enacted as follows:—

1. The City of Bombay Municipal Act, 1888,

Confirmation of the City of Bombay Municipal Act, 1888, and the Calcutta Municipal Consolidation Act, 1889, so far as regards Benches, Magistrates and Courts of Small Causes.

and the Calcutta Municipal Consolidation Act, 1889, shall, so far as regards—

(a) the jurisdiction thereby conferred upon Appellate Benches of Municipal Authorities and upon Presidency and other Magistrates and Courts of Small Causes or any Judge of such a Court, and

(b) the decisions, orders and other proceedings of those Benches, Magistrates and Courts or of any such Judge, be as valid as if they had been passed by the

Governor-General of India in Council at a meeting for the purpose of making Laws and Regulations.

2. (1) If before or on the hearing of an appeal under section 217 of the City of Bombay Municipal Act, 1888, any question of law or usage having the force of law, or the construction of a document, which construction may affect the merits, arises, on which the Chief Judge of the Court of Small Causes of Bombay entertains reasonable doubt, the Chief Judge may, either of his own motion or on the application of either or any of the parties, draw up a statement of the facts of the case and the point on which doubt is entertained, and refer the statement, with his own opinion on the point, for the decision of the High Court of Judicature at Bombay.

(2) When a reference is made to the High Court under sub-section (1), the provisions of sections 618 to 621, both inclusive, of the Code of Civil Procedure shall, so far as they can be made applicable, apply to the Chief Judge of the Court of Small Causes and to the High Court, respectively.

3. (1) An appeal shall lie to the High Court of Judicature at Bombay from a decision passed by the Chief Judge of the Court of Small Causes of Bombay under section 503 or section 504 of the City of Bombay

Appeal to the Bombay High Court from certain orders of the Chief Judge of the Bombay Small Cause Court.

Municipal Act, 1888, when the amount of the claim in respect of which the decision is passed exceeds two thousand rupees.

XIV of 1882.

(2) The provisions of the Code of Civil Procedure with respect to appeals from original decrees shall, so far as they can be made applicable, apply to appeals under sub-section (1), and orders passed therein by the High Court may, on application to the Chief Judge of the Court of Small Causes, be executed by him as if they were decrees made by himself.

(3) A decision passed by the Chief Judge of the Court of Small Causes of Bombay under section 503 or section 504 of the City of Bombay Municipal Act, 1888, shall, if an appeal does not lie therefrom under sub-section (1), be final.

4. (1) An appeal shall lie to the High Court of Judicature at Bombay from an order passed by a Presidency Magistrate under section 515 of the City of Bombay Municipal Act, 1888.

Appeal to the Bombay High Court from orders of Presidency Magistrates in Bombay

of Judicature at Bombay from an order passed by a Presidency Magistrate under section 515 of the City of Bombay Municipal Act, 1888.

(2) The High Court may from time to time make rules for regulating the admission of appeals under sub-section (1) and the procedure to be followed in the adjudication thereof.

(3) When an appeal has been preferred to the High Court under this section, the Municipal Commissioner for the City of Bombay shall

defer action upon the order of the Presidency Magistrate until the appeal has been disposed of:

(4) But, when the appeal has been disposed of, he shall forthwith give effect to the order passed therein by the High Court, or, if the order of the Presidency Magistrate has not been disturbed by the High Court, then to his order.

(5) When disposing of an appeal under this section the High Court may direct by whom the costs of the appeal are to be paid, and whether in whole or in what part or proportion.

(6) Costs so directed to be paid may, on application to a Presidency Magistrate, be recovered by him, in accordance with the direction of the High Court, as if they were a fine imposed by himself.

5. An appeal to the High Court of Judicature at Bombay under either of the two last foregoing sections shall, for the purposes of No. 156 of the second schedule to

the Indian Limitation Act, 1877, be deemed to be an appeal under the Code of Civil Procedure in a case not provided for by No. 151 and No. 153 of that schedule.

S. HARVEY JAMES,
Secretary to the Government of India



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PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 26th October 1888, and is hereby promulgated for general information.—

Act No. XVI of 1888.

An Act to repeal certain enactments relating to the purchase of regimental necessaries from soldiers.

WHEREAS it is expedient to repeal the enactments specified in the schedule to this Act; It is hereby enacted as follows—

1 The enactments specified in the schedule are hereby repealed.

SCHEDULE

Number and year	Subject or title	Extent of repeal.
<i>Act of the Governor General in Council.</i>		
VII of 1867.	Purchase of regimental necessaries from soldiers	So much as has not been repealed
<i>Regulation of the Madras Code</i>		
XIV of 1832.	Purchase of regimental necessaries from soldiers	So much as has not been repealed

S HARVEY JAMES,
Secretary to the Government of India

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 26th October 1888, and is hereby promulgated for general information :—

Act No. XVII of 1888.

An Act to amend the Indian Marine Act, 1887

WHEREAS it is expedient to amend the Indian Marine Act, 1887; It is hereby enacted as follows :—

1. For sub-section (2) of section 2 of the Indian Marine Act, 1887, XIV of 1887. Amendment of section 2, the following shall be substituted, namely :—

“(2) The Governor General in Council may, by notification in the Gazette of India, vary any of the definitions in clauses (b), (c) and (d) of sub-section (1) as occasion may appear to him to require, and the references to those clauses in the definition of the expression ‘superior officer’ in clause (e) of that sub-section shall be construed to be references to them as varied by any notification published under this sub-section and for the time being in force.”

S. HARVEY JAMES,
Secretary to the Government of India.

THE



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PART IV.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 15th October 1888, and the assent of His Excellency the Viceroy and Governor General on the 8th December 1888, and is published for general information:—

Bombay Act No. IV of 1888.

An Act to amend the City of Bombay Municipal Act, 1888.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 20th December 1888.)

WHEREAS it is expedient to amend the City of Bombay Municipal Act, 1888, in manner hereinafter appearing; It is enacted as follows:—

1. This Act may be cited as "The City of Bombay Municipal Act Amendment Act, 1888."

Section 7 shall come into force on the first day of April, 1889; the rest of this Act shall come into force at once.

2. In section 106 of the City of Bombay Municipal Act, 1888, the words "General of India" shall be inserted after the word "Governor".

3. In clause (a) of section 109 of the said Act, the words "the Governor-General of India" in

Council" shall be substituted for the word "Government".

4. In sub-section (1) of section 138 of the said Act, the word "and" shall be substituted for the words "provided

that" and the words "as determined by the Governor in Council, shall" for the words "shall not, without the consent of the corporation".

5. (1) The words "Her Majesty" shall be substituted for the words "the Secretary of State for India in Council"

(a) whenever they occur in sections 89, 100, 181, clause (e) and 299, sub-section (2) of the said Act;

(b) the first time they occur in section 143, clause (b) of the said Act; and

(c) the first and last times they occur in section 144, sub-section (2) of the said Act.

(2) In section 144, sub-section (1) of the said Act the words "Her Majesty" shall be substituted for the word "him."

6. In section 308, sub-section (2) of the said Act, after the word "section", the words "or of section 196 of the Bombay Municipal Act, 1872," shall be inserted.

Bom Act III of 1872.

7. In the schedule H annexed to the said Act, the lines

"Petroleum, as defined in the Petroleum Act, 1886, shall be repealed.

8. For Section 9 of the Schedule R annexed to the said Act the following Section shall be deemed to have been substituted from the date on which that Act came into force, viz. :—

"9. (1). The several rates, taxes, tolls

and duties the rates for levy of which were fixed by the Corporation under the said Acts for the period during which any such budget estimate is in operation shall, subject to the provisions of Section 196, be leviable in respect of the said period, as if the rates for levy thereof had been determined by the Corporation under this Act, notwithstanding that the said rates, taxes, tolls and duties, or any of them, may have been fixed at rates or on articles at or on which corresponding taxes are not imposable under this Act.

(2). Sections 144 and 145 shall have operation on and from the first day of April 1889, only; and the sums payable to the Corporation in respect of the period aforesaid by the Secretary of State for India in Council or by the Trustees of the Port of Bombay in lieu of property rates, under the said Acts or under Section 36 of the Bombay Port Trust Act, 1879, respectively, shall be paid as if this Act had not been passed."

By order of His Excellency the Right Honourable the Governor in Council,

J. J. HEATON,

Acting Under Secretary to Government.

Bombay Castle, 19th December, 1888.

THE



Bombay Government Gazette.

1889.

PART IV.

ACTS

PASSED BY THE

GOVERNMENT OF INDIA

AND BY THE

GOVERNMENT OF BOMBAY.

Bombay:

PRINTED AT THE GOVERNMENT CENTRAL PRESS.

MDCCCXC.

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PART IV.

ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 26th October 1888, and the assent of His Excellency the Viceroy and Governor General on the 8th January 1889, and is published for general information:—

Bombay Act No. V of 1888:

THE ADEN PORT TRUST ACT, 1888

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 19th January 1889)

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Bombay Act No. V of 1888.

An Act to vest the Port of Aden in a Trust.

WHEREAS it is expedient to vest the port of Aden in a trust and to provide for the management of the affairs of the said port by trustees; It is enacted as follows:—

I.—PRELIMINARY.

Short title. 1. This Act may be called "The Aden Port Trust Act, 1888."

2. In this Act, unless there be something repugnant in the subject or context,—

Definitions.

(a) "port" means the port of Aden as defined for the purposes of this Act;

(b) "high-water mark" means a line drawn through the highest points reached by ordinary spring-tides at any season of the year;

(c) "low-water mark" means a line drawn through the lowest points reached by ordinary spring-tides at any season of the year;

(d) "land" includes the bed of the sea below high-water mark, and also things attached to the earth or permanently fastened to anything attached to the earth;

(e) "master," when used in relation to any vessel, means any person having for the time being the charge or control of such vessel;

(f) the word "goods" includes wares and merchandise of every description;

(g) "owner," when used in relation to goods, includes any consignor, consignee, shipper or agent for the sale or custody of such goods; and when used in relation to any vessel, includes any part-owner, charterer, consignee, or mortgagee in possession thereof.

3. (1) The Governor in Council may, by notification in the *Bombay Government Gazette*, define the power to define and alter limits of port.

limits of the port for the purpose of this Act, and may from time to time by a like notification alter such limits.

(2) Such limits may extend to any part of the navigable approaches to the port, and may include any wharves, tramways, warehouses, sheds and other works made on behalf of the public for convenience of traffic, for safety of vessels, or for the improvement, maintenance, and good government of the port, whether within or without high-water mark, and, subject to any rights of property therein, any portion of the shore within fifty yards of high-water mark.

II.—OF THE BOARD OF TRUSTEES.

Constitution of Board.

4. The duty of carrying out the provisions of this Act shall, subject to such conditions and limitations as are hereinafter contained, be vested in a board to be called "The Trustees of the Port of Aden"; and such board, hereinafter referred to as "the board," shall be a body corporate and have perpetual succession and a common seal, and shall sue and be sued by the name first aforesaid.

5. The board shall consist of such number of trustees as shall from time to time be fixed by Government, the same being not less than six.

6. The First Assistant Resident at Aden, the Executive Engineer, Aden, the Port Surgeon, Aden, and the senior officer of the Royal Engineers for the time being stationed at Aden, or in the absence of any of the abovementioned officers the officer acting for him, shall be *ex-officio* trustees, and the First Assistant Resident at Aden, or in his absence the officer acting for him, shall be *ex-officio* chairman of the board.

7. The rest of the trustees shall be appointed by Government, and of these such number as shall from time to time be fixed by Government, shall not be public officers.

8. The names of all trustees other than the *ex-officio* trustees shall be published in the *Bombay Government Gazette*.

9. The term of office of the first trustees shall commence on such date as shall be notified in this behalf by the Governor in Council.

10. Every trustee, other than the *ex-officio* trustees, shall, unless he becomes in the meantime disqualified, hold office for a term of two years.

11. (1) In the event of the death, resignation or disqualification of a trustee other than an *ex-officio* trustee, or of his becoming incapable of acting previous to the expiry of his term of office, the vacancy shall be filled up, as soon as it conveniently may be, by the appointment of a person thereto, who shall hold office so long only as the trustee in whose place he is appointed would have held it, if the vacancy had not occurred.

(2) If a trustee other than an *ex-officio* trustee departs from Aden with an intention of being absent for a longer period than three months, or if a trustee shall have been absent from Aden for such period, a person shall be appointed to act for such trustee during his absence, or until he shall cease to be a trustee, and the person so acting shall be deemed for all the purposes of this Act to be a trustee.

12. A person who has already been a trustee on one or more occasions shall, if not disqualified under section 13, be again eligible at any time for appointment.

Disqualifications of Trustees.

13. (1) No person shall be qualified to be a trustee:

(a) who, under any law for the time being in force is an uncertificated bankrupt or an undischarged insolvent, or

(b) who, unless he is an *ex-officio* trustee, holds any office or place of profit under the board, or

(c) who, unless as aforesaid, has, directly or indirectly, any share or interest in any work done by order of the board,

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or in any contract, or employment with, by, or on behalf of the board; or

(d) who has been sentenced by a criminal court to imprisonment or to whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence not having been subsequently reversed or quashed, and whose disqualification on account of such sentence has not been removed by an order, which the Governor in Council is hereby empowered to make, if he shall think fit, in this behalf;

and any trustee who—

(e) becomes disqualified for any of the aforesaid reasons, or

(f) is absent from the meetings of the board for a period exceeding six consecutive months, or, without the permission of the board, from six consecutive meetings of the board,

shall cease to be a trustee, and his office shall thereupon become vacant:

(2) Provided always that no trustee shall vacate his office by reason only of his—

(g) having a share in any joint-stock company which shall contract with or be employed by, or on behalf of, the board, or

(h) having a share or interest in any newspaper in which any advertisement relating to the affairs of the board may be inserted, or

(i) being interested in any loan of money to the board.

Remuneration of Trustees.

14. Every trustee who is not a public officer shall be entitled to a fee of such amount as shall from time to time be prescribed by Government, for each meeting of the board at which a quorum is present and business is transacted, and which he attends from the beginning to the end thereof: Provided that if more than one such meeting is held in any one month no more than one fee shall be paid to any trustee for his attendance at all or any such meetings during that one month.

Proceedings of Board.

15. The following provisions shall be observed with respect to the proceedings of the board (namely)—

Provisions concerning the board's proceedings.

(1) During any vacancy in the board the continuing trustees may act as if no vacancy had occurred.

Vacancy, not to affect board's proceedings.

(2) The board shall meet together and shall from time to time make such arrangements, not inconsistent with this Act, with respect to the place, day, hour, notice, management, and adjournment of such meetings, and generally with respect to the transaction of business, as they think fit, subject to the following conditions (namely):—

Board to meet together and arrange for transaction of business as they think fit, but

(a) that two ordinary meetings in each month, and at least shall be held in every month;

there must be two ordinary meetings in each month, and

(b) that the chairman may, whenever he thinks fit, and shall, upon the written request of not less than three trustees, call a special meeting;

a special meeting may be called whenever necessary, and

(c) that no business shall be transacted at any meeting unless at least three trustees are present from the beginning to the end of such meeting;

three trustees shall form a quorum, and

(d) that every meeting shall be presided over by the chairman, if he is present at the time appointed for holding the same, and, if he is absent, by such one of the trustees present as may be chosen by the meeting;

every meeting shall be presided over by the chairman, and

(e) that all questions shall be decided by a majority of votes of the trustees present, the president having a second or casting vote in all cases of equality of votes;

all questions must be decided by a majority of votes, and

(f) that if a poll be demanded, the names of the trustees voting and the nature of their votes shall be recorded by the president;

votes must be recorded if a poll is demanded, and

(g) that minutes shall be kept of the names of the trustees present and of the proceedings at each meeting, in a book to be provided for this purpose, which shall be signed, as soon as practicable, by the president of such meeting, and shall be open to inspection by any trustee during office hours.

minutes of proceedings must be kept.

(3) The board may delegate any of their powers to committees consisting of such trustees as they think fit. Any committee so formed shall conform to any instructions that may from time to time be given to them by the board, and the board may at any time discontinue or alter the constitution of any committee so formed.

Board may delegate powers to committees.

(4) A committee may elect a chairman of their meetings, and, if no such chairman is elected, or if he is not present at the time appointed for holding the same, the members present shall choose one of their number to be chairman of such meeting.

Committees' meetings to be presided over by a chairman.

(5) Committees may meet and adjourn as they think proper, but the chairman of the board may, whenever he thinks fit, and shall, upon the written request of not less than two members of a committee, call a special meeting of such committee.

Committees when to meet.

(6) Questions at any meeting of a committee shall be decided by a majority of votes of the members present, and, in case of an equal division of votes, the chairman of the meeting shall have a second or casting vote, but no business shall be transacted at any such meeting unless at least two-thirds of the members of the committee are present from the beginning to the end thereof.

Questions how to be decided at committees' meetings.

(7) No act of the board, or of any committee, or of any person acting as trustee, shall be deemed to be invalid by reason only of some defect in the appointment of such board, committee, or trustee, or on the ground that they, or any of them, were disqualified for the office of trustee.

16. (1) The chairman may, on behalf of the board, enter into any contract or agreement, whereof the value or amount shall not exceed one thousand rupees, in such manner and form as, according to the law for the time being in force, would bind him if such contract or agreement were on his own behalf; but every other contract and agreement on behalf of the board shall be in writing, and shall be signed by the chairman and by two other trustees, and shall be sealed with the common seal of the board.

(2) No contract or agreement not executed as aforesaid shall be binding on the board:

(3) Provided that the signatures of the chairman and two other trustees may be engraved, lithographed, or impressed by any mechanical process, on coupons attached to debentures which the board is at any time authorized to issue under the Local Authorities Loan Act, 1879, or other law for the time being in force, and the signatures so engraved, lithographed or impressed shall have the same validity as if they were written in the proper handwriting of the chairman and other trustees.

17. The board may compound or compromise for or in respect of any claim or demand made against them for such sum of money, or other compensation, as they shall deem sufficient.

The Chairman.

18. The chairman shall—

(a) attend every meeting of the board, unless prevented by sickness or other reasonable cause;

(b) exercise supervision and control over the acts and proceedings of all officers and servants of the board in matters of executive administration, and in mat-

ters concerning the accounts and records of the board; and, subject to the regulations at the time being in force framed by the board under section 20, dispose of all questions relating to the service of the said officers and servants, and their pay, privileges, and allowances;

(c) furnish to Government a copy of the minutes of any of the board's proceedings, and any returns or other information which Government may from time to time call for.

III.—OF THE OFFICERS AND SERVANTS OF THE BOARD.

Strength of Staff.

19. (1) The board shall from time to time prepare and sanction a schedule of the staff of officers and servants whom they shall deem it necessary and proper to maintain for the purposes of this Act. Such schedule shall also set forth the amount and nature of the salaries, fees, and allowances which the board sanctions for each such officer or servant.

(2) Until a schedule is prepared and sanctioned under this section, the staff of officers and servants maintained, on the day previous to the date notified by the Governor in Council under section 9, under the authority of Government, on the establishment of the Aden port fund, and the officers and servants, if any, maintained on the said day by Government at the cost of the provincial revenues for employment in the Aden harbour, shall be deemed to be the staff sanctioned by the board under the foregoing provisions.

(3) And all officers and servants holding any office on the said day on the establishment of the Aden port fund, and the officers and servants aforesaid, if any, employed by Government on the said day, shall be deemed to have been appointed under this Act, and shall continue to hold the same office, and to receive the same remuneration under the board, until it is otherwise directed under this Act:

Provisoes. (4) Provided:

(a) that artisans, porters, and labourers, and mukadams of porters and labour-

ers, and persons temporarily employed in the engineering department, shall not be deemed to be officers or servants within the meaning of this section, or of section 20, clauses (a) to (d), both inclusive, or of section 21;

(b) that if an officer is lent to the board by Government, the board shall make such contributions, if any, on account of his pension and leave allowances, as may be required by the rules in this behalf from time to time in force, and shall not, except with the consent of Government, dispense with his further services at any time, without giving to Government six months' previous notice;

(c) that every officer and servant, if any, maintained by Government on the day aforesaid at the cost of the provincial revenues, for employment in connection with the Aden harbour, shall, if he is entitled as a Government servant to pension and leave allowances, be deemed to be lent to the board on and from the date notified by the Governor in Council under section 9,

Board to frame regulations.

20. The board shall from time to time frame regulations:

(a) for regulating the grant of leave to the officers and servants of the board;

(b) for authorizing the payment of allowances to the said officers and servants, or to certain of them, whilst absent on leave;

(c) for determining the remuneration to be paid to the persons appointed to act for any such officers or servants during their absence on leave;

(d) for regulating the period of service of all such officers and servants;

(e) for determining whether any of the said officers and servants, and if so which of them, shall on retirement receive pensions, gratuities or compassionate allowances, and whether compassionate allowances shall be paid to the surviving relatives of any of the said officers and servants who are

killed in the execution of their duty, and if so to which of them, and the conditions under which such pensions, gratuities or compassionate allowances shall be payable and the amount of the same;

(f) for authorizing the payment of contributions at certain prescribed rates, and subject to certain prescribed conditions, to any provident fund which may be established by the board for the benefit of their officers and servants, or which, with their approval, may be established by their officers and servants themselves;

Provided that:

(a) no regulation framed by the board under clause (e) shall have validity, unless or until the same has been sanctioned by Government;

(b) any pension or leave allowance payable to any officer or servant of Government employed in connection with the Aden harbour prior to the date notified by the Governor in Council under section 9, shall, in so far as the same has been earned during such employment, be a charge on the port fund and shall be defrayed thereout, on the requisition of Government, by the board.

Powers of Appointment, &c.

21. (1) Subject to the provisions of the said regulations and Appointments, &c., of the schedule for by whom to be made. the time being in force framed by the board under section 19, the power of appointing, promoting, suspending, dismissing for misconduct, fining, reducing, or granting leave to the officers and servants of the board, shall be exercised by the chairman in the case of officers and servants whose monthly salary does not exceed one hundred rupees, and in every other case by the board.

(2) An appointment so made by the board shall not be held to be a contract or agreement within the meaning of section 16.

(3) The power of dispensing with the services of any officer or servant of the board, otherwise than by reason of such officer's or servant's own misconduct, or of permitting any such officer or servant to retire on a pension, gratuity, or compassionate allowance, shall, subject to the aforesaid provisions, be exercised by the board alone.

Every order of the chairman dismissing for misconduct an officer or servant whose monthly salary exceeds thirty rupees shall be subject to the approval of the board.

22. Every order or regulation made by the board under any of the three last preceding sections shall, so far as the same relates to any officer whose monthly salary is three hundred rupees or more, be subject to the previous sanction of the Political Resident at Aden.

Sanction of Political Resident at Aden, when necessary.

IV.—OF THE PROPERTY AND LIABILITIES OF THE BOARD.

General Powers as to Property.

23. (1) The board shall, for the purposes of this Act, have power to acquire and hold moveable and immoveable property, whether within or without the limits of the port or settlement of Aden; and shall also have power to lease, sell or otherwise convey any moveable or immoveable property which may have become vested in or been acquired by them:

(2) Provided that no sale of immoveable property, and no lease of any such property for a term exceeding twenty-one years, shall be valid unless such sale or lease shall have been made with the previous sanction of Government.

24. (1) When the board are unable to acquire by agreement any immoveable property required for the purposes of this Act, Government may, in their discretion, order proceedings to be taken for acquiring the same on behalf of the board as if such property were land needed for a public purpose within the meaning of the Land Acquisition Act, 1870.

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(2) The amount of compensation awarded and all other charges incurred in the acquisition of any such property shall be forthwith defrayed by the board, and thereupon the said property shall vest in the board.

25. (1) The property specified in schedule A shall, upon and after the date notified by the Governor in Council under section 9, vest in the board:

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Proviso. (2) Provided that—

(a) if any question arises between the Government and the board as to the boundaries of any portion of such property, Government may define and demarcate such boundaries, and the decision of Government in respect to such boundaries shall be final;

(b) any portion of the land specified in the said schedule which shall be required by Government for a public purpose may be resumed by Government without claim to compensation on the part of the board, except for buildings or other permanent structures erected by the board thereon;

(c) any work which the Governor-General in Council may consider necessary in the public interests, may be executed by Government in or upon any of the property specified in the said schedule, without claim to compensation on the part of the board, except for buildings or other permanent structures erected by the board which it shall be necessary to clear away for the purposes of such work.

26. All debts and obligations incurred, all contracts entered into, and all matters and things engaged to be done by, with, or for the Political Resident on behalf of the Aden port fund, shall be deemed to have been incurred, entered into, or engaged to be done by, with, or for the board;

and all sums of money due to the said Aden port fund, shall be deemed to be due to the board;

and all suits or other legal proceedings, civil or criminal, instituted, or which might but for the passing of this Act have been instituted, by or against the said Political Resident as manager of the Aden port fund, may be continued or instituted by or against the board.

V.—OF THE POWERS AND DUTIES OF THE BOARD.

Works.

27. (1) The works to be constructed and carried out by the board may include the following:—

(a) cleaning, deepening, and improving any portion of the port, and the con-

struction, procuring, and application, of dredges and other machinery for that purpose;

(b) wharves, quays, stages, jetties, piers and docks, with all necessary and convenient arches, drains, landing-places, stairs, fences, roads, railways, and approaches;

(c) tramways, warehouses, sheds, engines, and other appliances for conveying, receiving, and storing goods landed, or to be shipped, or otherwise;

(d) light-houses, light-ships, beacons, pilot-boats, and other appliances necessary for the safe navigation of the port and of the approaches thereto within a distance of three miles from the limits of the port;

(e) laying down moorings, and the erection of cranes, scales, and all means and appliances necessary for berthing, loading and unloading vessels;

(f) reclaiming, excavating, enclosing, and raising any part of the foreshore of the port vested in the board;

(g) procuring and employing steam-vessels for towing vessels into, out of, or within the port;

(h) the construction of such works, without the limits of the port, as shall be necessary for the protection of works executed by the board within the port, and all such other works and appliances as may, in the opinion of the board, be necessary or desirable for carrying out the purposes of this Act:

(2) Provided always that no new work, the estimated cost of which exceeds one thousand rupees, shall be commenced by the board, nor shall any contract be entered

But no new work to be commenced without a plan and estimate, if its cost shall exceed Rs. 1,000;

into by the board in respect of any such new work, until a plan and estimate of such work shall have been submitted to the board and considered and approved by them; nor shall any new work, the estimated cost of which exceeds fifty thousand rupees, or which forms part of a projected work, the whole of

nor without the sanction of Government to such plan and estimate, if the cost shall exceed Rs. 50,000.

which is estimated or is likely to cost more than fifty thousand rupees, be commenced, until such plan and estimate shall have been submitted to, and approved by, Government.

28. The board shall provide such number of public landing-places as shall, in the opinion of the Political Resident at Aden, be sufficient, from and upon which the public shall be permitted to embark and to land free of charge.

29. The board may occupy, or remove, or alter any public bathing-place or landing-place within the port, and prohibit the public from resorting to or using the same:

Removal of bathing and landing-places
 Proviso. Provided that the board shall provide for the use of the public such other bathing-places or landing-places, if any, as the Political Resident at Aden may direct.

Landing and Shipping of Goods.

30. When any wharf, quay, stage, jetty or pier has been made and completed, with sufficient warehouses, sheds and appliances for landing or for shipping goods from and in sea-going vessels, the board may, with the previous sanction of the Political Resident at Aden, by a notification published in three consecutive numbers of the *Bombay Government Gazette*, declare that such wharf, quay, stage, jetty or pier is ready for receiving, landing and shipping, or for landing or for shipping, as the case may be, goods from and in sea-going vessels.

31. When a sufficient number of wharves, quays, stages, jetties, piers, warehouses, sheds, and appliances have been provided as

aforsaid, the board may, with the previous sanction of Government, by an order published in three consecutive numbers of the *Bombay Government Gazette*, direct that no goods, or that no goods other than a particular class or classes of goods, shall be landed or shipped from or in any sea-going vessel within the port, save at such wharves, quays, stages, jetties and piers, and may, in like manner, alter, vary or revoke any such order: Provided that no order shall

Proviso. be made under this section in respect of the landing or shipping of coals.

32. (1) When any wharf, quay, stage, jetty or pier for receiving, landing, or shipping goods from or in vessels, not being sea-

Inland vessels compelled to use wharves, &c.

going vessels, has been made and completed by the board, with sufficient warehouses, sheds and appliances in that behalf, the board may, with the sanction of the Political Resident at Aden, by an order published in three consecutive numbers of the *Bombay Government Gazette*, declare :

(a) that such wharf, quay, stage, jetty or pier is ready for receiving, landing and shipping goods from or in vessels, not being sea-going vessels; and

(b) that, within certain prescribed limits within the port to be specified in such order, it shall not be lawful to land or ship any goods from or in any vessel not being a sea-going vessel of any class specified in such order, except at such wharf, quay, stage, jetty or pier, nor for any such vessel, while within such limits, to anchor, fasten or lie within fifty yards of low-water mark, without the consent of the board.

(2) If after such publication any such vessel, while within such limits, so anchors, fastens or lies, the board may cause the same to be removed out of the said limits.

(3) The board may in like manner, and with the like sanction, alter, vary or revoke any such order.

Exemptions from obligation to use wharves, &c.

33. (1) Notwithstanding anything contained in sections 31 and 32 :

(a) the Political Resident at Aden may, by notification in the *Bombay Government Gazette*, from time to time permit certain specified vessels or classes of vessels to discharge or ship cargo, or certain specified cargo or classes of cargo, at such part of the port, in such manner, during such period, subject to such payments, and on such conditions, as he may think fit, and otherwise grant exemption from the provisions of the said sections ;

(b) military or naval munitions or stores may be landed or shipped at any time and at any place within the limits of the port which the Political Resident at Aden may deem convenient.

(2) The Political Resident at Aden may, by like notification, cancel or modify any notification made by him under clause (a) of sub-section (1).

(3) The Political Resident at Aden may also at any time require that troops and their baggage, and military or naval munitions or stores, be landed or shipped with

the least practicable delay, in preference to all other passengers or goods at the time awaiting landing or shipping; and it shall be incumbent on the board to give effect to any such requisition.

34. (1) Whenever any goods are landed by the board from any vessel, the board shall, if so required, give to the master of such vessel a receipt in the form or to the effect set forth in schedule B, and may in any such receipt include all goods landed from such vessel during one day.

(2) No master or owner of a vessel from which the goods in respect of which such receipt is given may have been landed, shall be liable for any loss or damage to such goods which may occur after they have been so landed.

Customs wharves, &c.

35. When Government appoint under the provisions of any Act for the levy of Sea Customs duties any wharf, quay, stage, jetty, or pier, to be a wharf or place for the landing and shipping of goods within the meaning of such Act, the board shall set apart, maintain, and secure on or in such wharf, quay, stage, jetty, or pier, such portion thereof or place therein, or adjoining thereto, for the use of the officers of Customs as the Political Resident at Aden approves or appoints in that behalf.

36. Notwithstanding that any wharf, quay, stage, jetty, or pier, or portion thereof, has, under the provisions of the last section, been set apart for the use of the officers of Customs, all rates, tolls, charges, and rents payable under this Act in respect thereof, or for the use thereof, shall be paid and be payable to the board or to such persons as they may appoint to receive the same.

Erection of Wharves, &c., by private persons.

37. (1) Save as hereinafter provided, no person except the board shall, after the date on which this Act comes into force, make, erect, or fix below high-water mark within the port any wharf, dock, quay, stage, jetty, pier, erection, or mooring

(2) Any matter or thing so made, erected, or fixed, may be removed by the board, and the person who has so made, erected, or fixed any such matter or thing shall be punished with fine, which may extend to one thousand rupees, and with a further fine which may extend to one hundred rupees for every day during which such matter or thing has been permitted to remain so made, erected, or fixed after notice to remove the same has been given to him, and shall also be liable to pay all expenses which may have been incurred by the board in removing such matter or thing.

38. The board may, by an order in writing and subject to the conditions contained in the same, permit any person to make, erect, or fix below high-water mark within the port any wharf, dock, quay, stage, jetty, pier, erection, or mooring.

39. In case any wharf, dock, quay, stage, jetty, pier, erection, or mooring is, after the date on which this Act comes into force, without the consent in writing of the Governor in Council, made, erected, or fixed below high-water mark without the limits for the time being of the port, and thereafter the limits of the port are extended so as to include the place in which such wharf, dock, quay, stage, jetty, pier, erection, or mooring has been made, erected, or fixed, the board may remove, fill up, or destroy such wharf, dock, quay, stage, jetty, pier, erection, or mooring without making any compensation therefor.

Rates.

40. (1) The board shall frame, and may from time to time alter—

(a) a scale of tolls on the landing and shipping of goods from and in sea-going vessels and vessels not being sea-going vessels, respectively, at any place within the port;

(b) a scale of rates for the use of the moorings, wharves, quays, stages, jetties and piers belonging to the board, and for the storing and keeping of any goods stored in any premises belonging to the board;

(c) a scale of charges for the landing and shipping of goods by the servants of the board and for the removal of goods, and for any services to be performed by the board or their servants in respect of any vessel, or goods, or for the use of any works or appliances to be provided by the board.

(2) Such scales or altered scales shall be submitted, through the approval of the Political Resident at Aden, to Government and, after approval or modification by Government, shall be published in the *Bombay Government Gazette* and shall thereupon have the force of law: Provided that no such scale or altered scale shall be approved or modified by Government until a draft of the same and a notice specifying a date at or after which the draft will be submitted to Government shall have been published in the *Bombay Government Gazette* and in such other manner as Government from time to time prescribe.

(3) Nothing in sub-section (1) or (2) shall be deemed to authorize:

(a) the inclusion in any scale framed or approved thereunder of any toll, rate or charge in respect of military or naval munitions or stores, or for such time as a vessel is landing or shipping any such munitions or stores, in respect of any such vessel;

(b) the levy from officers and soldiers of Her Majesty's regular forces on duty or on the march, of any duties or tolls from which they are exempted by section 143 of the Army Act, 1881.

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Vic, c 58.

(4) From the time when any scale framed under this section comes into force, the *Bombay Landing and Wharfage Fees Act, 1882*, shall be repealed so far as regards the port of Aden.

41. Government may, in special cases, remit the whole or any portion of any toll, rate or charge leviable under the last preceding section.

42. Tolls on the landing and shipping of goods may be collected by officers and servants appointed by the board in this behalf, or by any person whom the board appoint to be their agent for this purpose,

or may be farmed or compounded for, either wholly or in part, by the board for any period not exceeding one year at a time.

43. (1) For the amount of all tolls, rates, and charges leviable under this Act in respect of any goods, the board shall have a lien on such goods, which may be seized and detained until such tolls, rates, and charges are fully paid.

(2) Toll, rates, and charges in respect of goods to be landed shall become payable immediately on the landing of the goods, and, in respect of goods to be removed from the premises of the board or to be shipped for export, shall be payable before the goods are removed or shipped or taken on board a lighter for the purpose of being shipped.

(3) The lien for such tolls, rates, and charges shall have priority over all other liens and claims, except a lien for freight, primage and general average, or for lighterage, where such lien has been preserved in the manner hereinafter provided, and a lien for money payable to Her Majesty or the Secretary of State for India in Council under any law for the time being in force.

44. (1) If, at or before the time of landing from any vessel of any goods at any wharf, quay, stage, jetty or pier, belonging to the board, the master or owner of such vessel, or the person by whom the goods are landed, gives to the board notice in writing that such goods are to remain subject to a lien for freight, primage or general average, or for lighterage, as the case may be, of an amount to be mentioned in such notice, such goods shall continue liable, after the landing thereof, to such lien.

(2) Such goods shall be retained either in the warehouses and sheds of the board, or, with the consent of the Political Resident at Aden, in a public warehouse, at the risk and expense of the owner of the said goods, until the lien is discharged as hereinafter mentioned.

45. Upon the production to any officer appointed by the board in that behalf of a document purporting to be a receipt for, or a release from, the amount of any lien to which any goods are liable under the last preceding section, executed by the person by or on

whose behalf notice of such lien has been given, the board may permit such goods to be removed without regard to such lien: Provided they shall have used reasonable care in respect to the authenticity of such document.

46. (1) Whenever goods which have been landed have, without any default on the part of the board, been left for five clear days on or in any wharf or shed belonging to the board, the board may cause such goods to be removed either to any warehouse belonging to them, or, with the consent of the Political Resident at Aden, to a public warehouse; and the removal to and detention in any such warehouse shall be at the risk and expense of the owner of the said goods.

(2) Whenever any goods are so removed, the board shall give notice of such removal to the consignee of such goods or to his agent, if any, if such consignee's or agent's address be known, by letter sent by post to such address or left thereat; and the consignee of such goods, in addition to the expenses of the removal of the same, shall be liable, in case the goods are removed to any warehouse of the board, to a charge for warehousing for the time during which the goods shall remain in the said warehouse.

(3) If the goods are removed to a public warehouse, the said consignee shall be liable to the charges for warehousing goods in such public warehouse; and the said goods shall remain subject to all liens to which they would have been liable if they had remained in the possession of the board and shall be subject to the power of sale hereinafter given.

47. (1) If the tolls, rates, and charges payable to the board under this Act in respect of any goods are not paid, or if the lien for freight, primage, general average, or lighterage, where such notice as aforesaid has been given, is not discharged, the board may, and in the latter event, if required by or on behalf of the person claiming such lien for freight, primage, general average, or lighterage shall, at the expiration of four months from the time when the goods were seized or placed in their custody, sell by public auction the said goods, or so much thereof as may be necessary to satisfy the amounts hereinafter directed to be paid out of the produce of such sale.

(2) Before making such sale, at least ten days' notice of the same shall be given by publication thereof by beat of tom-tom, and by posting notices at the public landing places within the settlement of Aden.

(3) If the address of the owner of the goods or of his agent has been stated on the manifest of the cargo, or in any of the documents which have come into the hands of the board, or is otherwise known, notice shall also be given to the owner of the goods or to his agent by letter delivered at such address or sent by post; but the title of a *bond fide* purchaser of such goods shall not be invalidated by reason of the omission to send such notice, nor shall any such purchaser be bound to enquire whether such notice has been sent:

(4) Provided that, if such goods are of so perishable a nature as in the opinion of the officer appointed by the board in that behalf, to render early or immediate sale necessary or advisable, the board may, within such period, being not less than twenty-four hours after the landing of the goods as they think fit, sell by public auction the said goods or such portion of them as aforesaid, in which event such notice, if any, shall be given to the owner of the goods or his agent as the urgency of the case admits of.

48. (1) The proceeds of every such sale shall be applied as follows:—

(a) in payment of the expenses of the sale;

(b) in payment, according to their respective priorities, of the liens and claims excepted in section 43 from the priority of the lien of the board;

(c) in payment of the tolls, rates and charges due to the board in respect of the goods.

(2) The surplus, if any, shall be paid to the owner of the goods, or to his agent, on his applying for the same: Provided such application be made within one year from

the sale, or reason be shown to the satisfaction of the board why such application was not so made, and, in case such application shall not be so made nor reason shown, such surplus shall be held by the board upon trust for the purposes of this Act.

49. (1) If the master of any vessel, in respect of which any tolls, rates, charges, or penalties shall be payable under

this Act, or any bye-law made in pursuance hereof, refuses or neglects to pay the same, or any part thereof, on demand, it shall be lawful for the board to distrain or arrest of their own authority such vessel, and the tackle, apparel, or furniture belonging thereto, or any part thereof, and detain the same until the amount so due shall be paid.

(2) And in case any part of the said tolls, rates, charges or penalties, or of the costs of the distress or arrest or of the keeping of the same, shall remain unpaid for the space of fifteen days next after any such distress or arrest shall have been so made, the board may cause the vessel, or other thing so distrained or arrested, to be sold, and with the proceeds of such sale may satisfy such tolls, rates, charges, or penalties, and costs of sale remaining unpaid, rendering the surplus, if any, to the master of such vessel on demand.

50. If the board shall give to the officer of Government whose duty it is to grant the port clearance of any vessel, a notice stating that an amount therein specified is due in respect of tolls, rates, charges or penalties chargeable under this Act, or any bye-law or order made in pursuance hereof, against such vessel or the owner or master of such vessel, in respect thereof, such officer shall not grant such port clearance until the amount so chargeable shall have been paid.

51. The surplus, if any, of the moneys credited under section 47 of the Indian Ports Act, 1875, to XII of 187 the account of the Port Fund of Aden after defraying therefrom all expenses legally chargeable to the said account, shall be paid to the board.

Control of Pilots.

52. (1) The board shall have the right and privilege of maintaining pilots for the navigation of vessels at the port, and shall be bound to provide a sufficient number of pilots for that purpose, and all fees for pilotage shall be paid to the board: Pro-

vided that no person shall be appointed to be a pilot by the board who is not for the time being authorized by Government, under the provisions of the Indian Ports Act, 1875, to pilot vessels.

11 of 1875.

(2) The board may also, from time to time, make such bye-laws and regulations as they shall think fit—

(a) for fixing and regulating the wages and allowances for pilotage to be received by pilots, and

(b) for regulating the behaviour and conduct of pilots;

and shall enforce the observance of such bye-laws and regulations by the imposition of pecuniary penalties not exceeding two hundred rupees for each offence, or by suspension, or deprivation of appointment, or otherwise, as to them may appear expedient: Provided that such bye-laws shall

first have been approved by Government, and published in the manner directed by section 54.

Bye-laws.

53. (1) The board may from time to time make bye-laws, consistent with this Act and with the Indian Ports Act, 1875,—

11 of 1875

(a) for regulating, declaring and defining the wharves, quays, stages, jetties, and piers, on and from which goods shall be landed from and shipped in vessels within the port;

(b) for the safe and convenient use of such wharves, quays, stages, jetties, piers, and of landing-places, tramways, warehouses, sheds and other works in and adjoining the same;

(c) for regulating the reception and removal of goods within and from the premises of the board, and for declaring the procedure to be followed in taking charge of goods which may have been damaged before landing, or may be alleged to be so damaged;

(d) for settling the mode of payment of tolls, charges, and rates levied under this Act;

(e) for licensing and regulating water-boats and lighters within the port;

(f) for the removal of wrecks from the port, and keeping clean the port, the foreshore, and the works of the board, and for preventing filth or rubbish being thrown therein or thereon;

(g) for the guidance of persons employed by them under this Act, and generally for carrying out the purposes of this Act.

(2) The board may also from time to time alter or revoke any bye-laws so made by them.

54. (1) No bye-law, or alteration or revocation of a bye-law, shall have effect until the same shall have been approved by Government, and such approval shall have been published in the *Bombay Government Gazette*; and no bye-law, or alteration or revocation of a bye-law, shall be approved by Government, until a draft of the same, and a notice specifying a date at or after which the draft will be submitted to Government, shall have been published in the *Bombay Government Gazette*, and in such other manner as Government from time to time prescribe, nor unless the said draft shall have been submitted for their approval through the Political Resident at Aden.

(2) It shall be lawful for Government at any time, by notification in the *Bombay Government Gazette*, to cancel any bye-law or regulation made and published under the provisions of this and of the two last preceding sections.

55. The board may, in the bye-laws made under section 53, prescribe such penalties as they shall deem fit for the infringement of the same: Provided that no penalty for any one infringement of a bye-law shall exceed one hundred rupees, nor, in case of a continuing infringement, shall any penalty exceed fifty rupees per diem for every day after notice of such infringement shall have been given by the board to the person guilty of such infringement.

56. The board shall cause the said bye-laws, and every scale of tolls, rates, and charges leviable by the board, to be printed in the English, Gujarati, and Arabic languages, and to be kept hung up in some conspicuous place, at each of the several wharves, quays, stages, jetties, piers, warehouses, and sheds, belonging to the board.

VI.—OF REVENUE AND EXPENDITURE.

Management of Funds.

57. (1) All moneys raised by or paid to the board under this Act shall be kept in the Government Treasury at Aden.

(2) No disbursement of such moneys or any part thereof shall be made except upon a cheque signed by the chairman and one other trustee.

(3) Payment of any sum in excess of five hundred rupees, if it relate to the Port Engineer's department, or of one hundred rupees, if it relate to any other department, shall be made by the board by means of a cheque signed as aforesaid, and not in any other way.

(4) Payments of sums not exceeding five hundred rupees each may be made on behalf of the board by the Port Engineer on account of any charge in his department, in cash, cheques for sums not in excess of five thousand rupees each, signed as aforesaid, being drawn from time to time in favour of the Port Engineer to cover such payments.

(5) In every department other than that of the Port Engineer, sums not exceeding one hundred rupees each may be paid, by such officer as the board appoints for this purpose, in cash, cheques for sums not in excess of five hundred rupees each, signed as aforesaid, being drawn from time to time in favor of such officer to cover such payments.

58. The moneys belonging to the board shall be held by them in trust, and, except as is hereinafter provided, shall be applied by them in payment of the following charges (namely):—

(a) the salaries, fees, allowances, pensions, gratuities, compassionate allowances, or other moneys, due to the trustees, and to the officers and servants appointed under this Act, or lent to the board by Government, and the contributions, if any, payable to Government on account of the pension and leave allowances of any officer lent to the board by Government, and the contributions, if any, duly authorized to be made to any provident fund established by the officers and servants appointed under this Act;

(b) the cost of repairs and maintenance of the property vested in the board, and all charges upon the same and all working expenses;

(c) such sum as Government may from time to time require for the establishment and maintenance of police for the protection of the port and of the approaches thereto;

(d) the interest and instalments of capital due in respect of any loan that may have been raised by the board or for which it is liable;

(e) any charges for which the board may be liable under section 76 or section 77;

(f) the cost, or such portion of the cost, of any new work, plant, vessel, or appliance, which the board may determine to charge to revenue;

(g) any other charge which may be specially sanctioned by Government on the application of the board, or for which the board may be legally liable.

Annual Estimates.

59. (1) The chairman shall, at a special meeting to be held in the month of January in each year, lay before the board an estimate of the income and of the expenditure of the board for the year commencing on the first day of April then next ensuing, in such detail and form as the board shall from time to time direct.

(2) Such estimate shall be completed and printed, and a copy thereof sent by post, or otherwise, to each trustee, at least ten clear days prior to the meeting before which the estimate is to be laid.

60. The board shall consider the estimate so submitted to them, and shall sanction the same, either unaltered, or subject to such alterations as they shall think fit.

61. The estimate, as sanctioned by the board, shall be submitted, through the Political Resident at Aden, to the Government, which may, if it thinks fit, at any time within one month after receipt of the same, disallow such estimate, or any portion thereof, and return the same for

amendment. The board shall, if the estimate is so returned by Government, forthwith proceed to amend the same, and shall re-submit the estimate so amended, through the Political Resident at Aden, to the Government.

62. Together with the said estimate, the board shall submit, through the Political Resident at Aden, to the Government, a list of the works which the board propose to execute during the year to which the estimate relates, showing the order in which the said works are to be executed, and the date within which each of them will probably be completed, or, in the case of any work which will not be completed within the year, the progress intended to be made therewith during the said year.

63. The board may, at any time during the year for which any such estimate has been sanctioned cause a supplementary estimate to be prepared and submitted to them. Every such supplementary estimate shall be considered and sanctioned by the board, and submitted to the Government in the same manner as if it were an original annual estimate.

64. (1) Save in cases of pressing emergency, no sum exceeding three thousand rupees shall be expended by or on behalf of the board, unless such sum is included in some estimate at the time in force which has been finally approved by Government.

(2) If any sum exceeding three thousand rupees in amount is so expended on a pressing emergency, the circumstances shall be forthwith reported by the chairman, through the Political Resident at Aden, to Government, together with an explanation of the way in which it is proposed by the board to cover such extra expenditure.

Audit of Accounts

65. (1) The accounts of the receipts and expenditure of the board shall, twice in every year, be laid before Government, and shall be audited and examined in such manner and by such auditor or auditors as shall, from time to time, be appointed by Government.

(2) For the purposes of such audit and examination the auditors may, by summons in writing, require the production before them of all books, deeds, contracts, vouchers, and all other documents and papers which they may deem necessary, and may require any person holding, or accountable for any such books, deeds, contracts, accounts, vouchers, documents, or papers, to appear before them at any such audit and examination, or adjournment thereof, and to make and sign a declaration with respect to the same.

(3) The auditors shall be paid by the board such remuneration as Government shall determine; and, within fourteen days after the audit and examination of the accounts for any half-year shall have been completed, the auditors shall forward a report upon the accounts for such half-year to the board, who shall cause the same to be published, together with an abstract of the accounts, in the *Bombay Government Gazette*.

Disposal of Balances.

66. (1) The board may invest any balance remaining on the thirty-first day of March of each year in public securities, and may from time to time sell the said securities, and either re-invest the proceeds in other such securities, or credit the same to the general funds of the board.

(2) But the money so invested by the board shall not exceed such amount annually, or in the aggregate, as shall from time to time be prescribed by Government.

(3) In this section "public securities" means securities of the Government of India, and debentures or other securities issued by the board.

VII.—PENALTIES.

67. (1) Any person who being a trustee, or an officer or servant of the board, shall acquire, directly or indirectly, any share or interest in any contract or

employment with, by, or on behalf of the board, shall be deemed to have committed the offence made punishable by section 168 of the Indian Penal Code :

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(2) Provided that nothing in this section shall apply to any person by reason only of his—

(a) having a share in any joint-stock company which shall contract with, or be employed by, or on behalf of, the board ; or

(b) having a share or interest in any newspaper in which any advertisement relating to the affairs of the board may be inserted ; or

(c) being interested in any loan of money to the board.

68. Any person employed under this Act, not being a public servant within the meaning of section

For obtaining illegal gratification.

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21 of the Indian Penal Code, who shall accept or obtain, or agree to accept or attempt to obtain, from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a reward for doing, or forbearing to do, any official act, or for showing, or forbearing to show, in the exercise of his official functions, favour or disfavour to any person, or for rendering, or attempting to render, any service or dis-service to any person with the board or with any public servant as such, or with the Government, shall be liable to the same punishment as is provided by the Indian Penal Code in the case of the like offence committed by a public servant.

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69. Whoever infringes any order issued under section 31 or 32, or any condition prescribed under section 33 or 38, shall

Infringement of sections 31, 32, 33, or 38.

be punished with fine which may extend to one hundred rupees ; and, if the infringement be continuing, with a further fine which may extend to one hundred rupees for every day such order is infringed.

70. Any person who shall refuse or neglect to appear before any auditor of accounts, or to produce any books, deeds, contracts, accounts, vouchers, documents, or papers, or to make or sign any declaration, when duly required so to do by any auditor of accounts under section 65, shall be punished for every

For refusing or neglecting to appear before an auditor of accounts, &c.

such neglect or refusal with fine which may extend to one hundred rupees.

71. If it be found when goods are imported at, or exported from, any wharf, quay, stage, jetty or pier in the possession

For understating quantity or weight of goods, &c.

of the board, that the weight or quantity of such goods, or the tonnage of any vessel carrying such goods, has been, in the opinion of the board, intentionally understated in any document presented to any officer of the board for the purpose of enabling him to determine the tolls, rates, or charges payable in respect of the said goods or vessel, the consignee, in the case of goods imported, and the consignor, in the case of goods exported, shall be liable to pay to the board such sum not exceeding twice the proper tolls, rates, or charges on the weight or quantity of goods or amount of tonnage so understated as may be determined by the board, and the said sum shall, on the application of the board, be recoverable under the warrant of a Magistrate of any class as if it were a fine inflicted by such Magistrate.

72. Any person who removes, or attempts to remove, or abets, within the meaning of the Indian Penal Code, the removal of any goods, vessel, animal, or vehicle with the intention of evading payment of the tolls, rates, or charges lawfully payable in respect thereof to the board shall be punished with fine which may extend to fifty rupees.

73. (1) In case any damage or mischief is done to any wharf, dock, quay, jetty, stage, pier, or work constructed or acquired by the board

Compensation for damage to property of board may be awarded by Magistrate after enquiry.

under this Act by any vessel, through the negligence of the master thereof or of any of the mariners or persons employed therein, not being in the service of the board, any Magistrate of the first class having jurisdiction at Aden may, on the application of the board, and on declaration by them that payment for such damage or mischief has been refused or has not been made on demand, issue a summons to the master or owner of such vessel, requiring him to attend on a day and at an hour named in the summons to answer touching such damage or mischief.

(2) If, at the time appointed in the summons, and whether the person summoned appears or not, it is proved that the al-

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section 73

leged damage was done through such negligence as aforesaid, and that the pecuniary amount of the same does not exceed two hundred rupees, the Magistrate may issue his warrant of distress, under which a sufficient portion of the boats, masts, spars, ropes, cables, anchors, or stores of the vessel may be seized and sold to cover the expenses of and attending the execution of the distress, and the pecuniary amount of damage as aforesaid, and such amount shall be paid to the board out of the proceeds of the distress: .

(3) Provided that if, at the time of the damage or mischief, the vessel was under the orders of a duly authorized officer belonging to the pilot service, or to the Harbour Master's or Port Officer's department, the case shall not be cognizable by the Magistrate under this section.

74. (1) Except as is otherwise provided in sections 71 and 73, all offences against this Act, or against a bye-law made under section 53, shall be cognizable by a Magistrate of any class.

(2) All fines and damages recovered from any offender or by any distress under section 73 shall be paid to the board.

75. Prosecutions under this Act may be instituted by the board, or by any person authorized by them in this behalf, and not otherwise.

VIII.—CONTROL.

76. The Governor in Council may at any time order a survey and examination of any work of the board under this Act, or of the site thereof, and the cost of such survey or examination shall be borne and paid by the board.

77. If the board allow any work acquired or constructed by them under this Act to fall into disrepair, or do not complete any work commenced by them, or duly estimated for and sanctioned, and do not, after notice given by Government in writing, proceed effectually to repair or complete such work to the satisfaction of the Governor in Council, Government may cause such work to be restored, completed,

or constructed, and the cost thereof shall be borne and paid by the board.

78. (1) If, in the opinion of the Governor in Council, the execution of any order or Resolution of the board, or the doing of anything which is being done, or is about to be done, by or on behalf of the board, injuriously affects or is likely to affect the defensibility of Aden or the security or sanitary condition of the Garrison, he may, by an order in writing, prohibit the execution or doing thereof.

(2) Pending the receipt of an order by the Governor in Council under this section, the Political Resident at Aden may, by a like order, suspend the execution or doing of anything by or on behalf of the board, which appears to him, for any of the reasons aforesaid, to be open to objection.

79. (1) If it shall at any time appear to the Governor in Council that sufficient provision is not being made by the board to meet their liabilities, the Governor in Council may require the board, by an order in writing, to increase, subject to his sanction, and to the provisions of section 40, to such extent and for such period as shall appear necessary, the tolls, rates, and charges, or any of them for the time being in force under the said section.

(2) If within fifteen days after receipt of such order the board do not comply with the same, the Governor in Council may, by notification in the *Bombay Government Gazette*, increase the said tolls, rates, charges, or any of them, and such notification shall have the same force as if a new scale to the same effect had been duly framed, sanctioned, and published under section 40.

80. (1) If at any time the Governor in Council is satisfied that the purposes intended to be accomplished under this Act have not been, and are not likely to be, properly accomplished by the board, the Governor in Council may, by notification in the *Bombay Government Gazette*, give notice that, unless within six months the board take measures to the satisfaction of

the Governor in Council for properly accomplishing such purposes, the powers by this Act conferred on the board will, at the end of such period, be withdrawn and revoked.

(2) On the expiration of the period aforesaid, the Governor in Council may, if no such measures to his satisfaction have been taken by the board, declare such powers to be withdrawn or revoked, and thereupon such powers shall be withdrawn and revoked accordingly, and all the powers, rights, and authorities, and all the property vested by this Act in the board, shall thereupon vest in Government.

IX.—MISCELLANEOUS.

81. All acts done and proceedings taken by the Political Resident on behalf of the Aden port fund before this Act comes into force, and all orders, rules, and regulations relating to the port, and to wharves, quays, stages, jetties, piers, and landing places within the port, made and issued before this Act comes into force, shall, whenever such acts, proceedings, orders, rules, or regulations would have been lawful if this Act had been in force, be deemed to have been respectively done, taken, made, and issued under the provisions of this Act.

82. All fees and sums due on account of property for the time being vested in the board, and all arrears of tolls, charges, and rates imposed under this Act, may be recovered, in addition, to the other modes hereinbefore provided, upon a summary proceeding before a Magistrate in the manner provided in the Code of Criminal Procedure, 1882, for the recovery of fines.

83. No trustee shall be personally liable for any contract made or expense incurred by or on behalf of the board; but the funds from time to time in the hands of the board shall be liable for, and chargeable with, all contracts made in manner provided in this Act.

84. Every trustee shall be liable for any misapplication of money entrusted to the board to which he has been a party, or which happens through, or is facilitated by, the neglect of his duty.

85. (1) No suit shall be commenced against any person for anything done, or purporting to have been done, in pursuance of this Act without giving to such person one month's previous notice in writing of the intended suit and of the cause thereof, nor after six months from the accrual of the cause of such suit.

(2) And in the case of a suit for damages, if tender of sufficient amount shall have been made before the suit was brought, the plaintiff shall not recover more than the amount so tendered, and shall pay all costs incurred by the defendant after such tender.

86. (1) The board shall not be responsible for any misfeasance, mal-feasance or non-feasance of any officer or servant appointed under this Act;

nor, if they should be appointed by Government under the Indian Ports Act, 1875, XII of 1875, Conservators of the Port, for any misfeasance, mal-feasance, or non-feasance of any Deputy Conservator, Port Officer or Harbour Master, or of any assistant or deputy of any such officer or of any person acting under the authority or direction of or in subordination to any such officer, assistant or deputy;

nor for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers, or other things belonging to the board, which may be used by such vessel.

(2) Provided that nothing in this section shall protect the board from a suit in respect of damage to, or loss of, goods landed or shipped by them or retained in their custody.

SCHEDULE A.

(See Section 25.)

PROPERTY VESTED IN THE BOARD.

I.—All the right, title and interest of the Secretary of State for India in Council in the following lands, buildings, piers, embankment, light-house, signal stations, jetty and quay (namely) :—

Consecutive Number	Name of Property.	Heretofore in charge of	Boundaries and general description
1	Pilot bandar	The Political Resident at Aden	Below Ras Morbut Fort at Steamer Point, a stone pier
2	Port fund boat-slips	Do. ...	Adjoining the Peninsular and Oriental Company's slip at Steamer Point, consisting of stone-sheds, slips and rails
3	Post Office pier... ..	Do. ...	Opposite Post Office at Steamer Point; partly constructed of stone and partly of screw iron piles.
4	Port fund store-rooms...	Do. ...	On Government ground near the Post Office at Steamer Point, stone building.
5	Ditto	Do. ...	Ditto.
6	Port magazine	Do. ...	A magazine in the solid rock near the saluting battery near Ras Morbut
7	Lascars' lines (Khalási lines)	Do. ...	In Post Office Bay.
8	Port Surgeon's jetty	Do. ...	Opposite Government tanks at Steamer Point; stone pier.
9	Government landing pier (Prince of Wales pier).	Do. ...	Reclamation and iron shed west of Government buildings at Steamer Point.
10	Boat Inspector's office and quarters.	Do. ...	Under the hill opposite Prince of Wales Pier at Steamer Point, stone house
11	Abkari pier and adjoining reclamation.	Do. ...	Reclamation east of Government buildings at Steamer Point.
12	Government jetty	Do. ...	Near Hotel de l'Universe at Steamer Point, a small rubble stone jetty.
13	Maala pier	Do. ...	At Maala village, stone pier.
14	Office and godowns attached to the Maala pier.	Do. ...	Adjoining Maala pier; stone buildings.
15	Marshag signal station .	Do. ...	On Ras Marshag.
16	Marshag light-house, lascars' quarters and stone rooms.	Do. ...	On Ras Marshag. First order dioptric light on a stone light-house, with stone buildings attached.
17	Shum Shum signal station.	Do. ...	On Jebel Shum Shum; a flagstaff and sheds.
18	The station signal staff ..	Do. ...	On hillock above the Protestant church at Steamer Point, a flagstaff.
19	Port Officer's quarters and out-houses.	Do. ...	Adjoining the property of the Messageries Maritimes and the Peninsular and Oriental Company, near Steamer Point barracks, a partly stone building.
20	Pilot's quarters and out-houses.	Do. ...	On Ras Morbut; kutcha houses.
21	Pier of Obstruction with a 15-ton iron crane.	Military Department.	A stone pier adjoining the Tower or Western Gate.

Consecutive Number.	Name of Property	Heretofore in charge of :	Boundaries and general description.
22	<p>The right, title and interest of the Secretary of State for India in Council in the following properties on the foreshore of the inner harbour of Aden —</p> <p>1. In the occupation of the Peninsular and Oriental Steam Navigation Company—</p> <p>(a) Ground near Ras Morbut used as work-yards, boat-shed, &c.</p> <p>(b) Coal-ground adjoining what was formerly the Government Coal ground.</p> <p>(c) Coal ground formerly in the occupation of the European and Australian Mail Company.</p> <p>2. In the occupation of the British India Steam Navigation Company—</p> <p>(a) Coal depôt opposite Flint Island.</p>	<p>The Political Resident at Aden.</p> <p>Do.</p> <p>Do.</p> <p>Do.</p> <p>Do.</p> <p>Do.</p> <p>Do.</p>	<p>At Steamer Point, bounded on the north and west by the sea; on the east by the Port Department Workshop; and on the south by the public road.</p> <p>(1) Bounded on the north and east by the sea; on the west partly by the sea and partly by Government ground; and on the south by the public road.</p> <p>(2) On the north by the public road and on the east, south, and west by Government ground.</p> <p>(1) Bounded on the north, west, and south by the sea, and on the east by the public road.</p> <p>(2) On the west by the public road, on the south and east by Government ground, and on the north by the British India Steam Navigation Company's coal depôt.</p> <p>(1) Bounded on the north, west and south by the sea, and on the east by the public road.</p> <p>(2) Bounded on the west by the public road, and on the south, east, and north by Government ground.</p>
22	<p>3. In the occupation of the Messageries Maritimes Company—</p> <p>(a) Coal ground.</p> <p>(b) Boat-slip.</p> <p>4. In the occupation of Luke Thomas and Company, Limited—</p> <p>(a) Coal ground, formerly in the occupation of Mr. Edulji Maneckji.</p> <p>(b) Ground used for buildings for mechanics.</p>	<p>Do.</p> <p>Do.</p> <p>Do.</p> <p>Do.</p> <p>Do.</p>	<p>(1) Bounded on the south by the public road, and on the west, north, and east by the sea.</p> <p>(2) On the north by the public road, and on the west, south, and east by Government ground.</p> <p>Bounded on the east by Government ground, on the west by the sea, on the south by Cowasji Dinshaw and Brothers' boat-slip, and on the north by the premises of Messrs. Luke Thomas and Company's Mechanic's house.</p> <p>(1) Bounded on the north, east, and west by the sea, and on the south by Government ground.</p> <p>(2) On all sides by Government ground.</p> <p>Bounded on the east and south by Government ground, on the west by the Messageries Maritimes Company's boat-slip and on the north by Mr Cowasji Dinshaw's landing place.</p>

Consecutive Number.	Name of Property.	Heretofore in charge of	Boundaries and general description.
	(c) Coal depôt, condensers and Ice Factory		Bounded on the north and west by the sea; on the south by Mr. Cowasji Dinshaw's landing place, and on the east by Government ground.
	5. In the occupation of Messrs. Hajbhoy Lalji—Coal ground	The Political Resident at Aden.	(1) Bounded on the north and east and west by the sea; and on the south by Government ground (2) On all sides by Government ground.
	6 In the occupation of Messrs. Cowasji Dinshaw and Brothers—Boat-slip at Hedjuff	Do.	Bounded on the east by the Messageries Company's boat-slip, on the south by Government ground, and on the west and north by the sea.
	7. In the occupation of Mr Cowasji Dinshaw—Ground used for the landing and shipping of goods.	Do.	Bounded on the south by Messrs Luke Thomas & Company's Mechanic's house, on the west by the sea, on the north by Messrs Luke Thomas & Company's coal depôt, and on the east by Government ground.
22	8. In the occupation of the Aden Coal Company, Limited—Coal ground	Do.	
		Do.	Bounded on the south by Government ground, on the west by Messrs Luke Thomas and Company's coal depôt, on the north by the sea, and on the east by the premises of the Aden Water Company
	9. In the occupation of the Aden Water Company, Limited—Grounds used for condensers.	Do.	Bounded on the west by the premises of the Aden Coal Company; on the south and east by Government ground, and on the north by the sea

II.—The following vessels and boats (namely):—

Consecutive Number.	Names, descriptions and numbers.	Heretofore in charge of
1	Light ship 1	The Political Resident, Aden
2	Steam-launch "Rose" 1	Ditto.
3	No. O lighter 1	Ditto.
4	Hopper barge 1	Ditto.
5	Mud punt 1	Ditto.
6	Diver's boat 1	Ditto.
7	Cutters 2	Ditto.
8	Whale-boats of sizes 4	Ditto.
9	Jollies 5	Ditto.
10	Punts 5	Ditto.
11	Canoes 2	Ditto.
12	Launch whale, 40 feet 1	Ditto.

III.—All other lands, buildings, machinery, plant, tools and other property whatsoever, not hereinbefore particularly described, heretofore in the charge of the Port Engineer of Aden, the Master Attendant of Aden, or the Political Resident on behalf of the Aden Port Fund.

SCHEDULE B.

(See Section 34.)

Receipt for Goods by the Port Trust, Aden.

Landed, during the _____ day of _____ from the _____
by the Port Trust, Aden, the _____ noted in the margin;
contents and state of the contents unknown.

NOTE.—(If there be any apparent injury, this is to be stated.)

For the Board,

(Signed) A. B.

The ADEN, }
day of }

By order of His Excellency the Right Honourable the Governor in Council,

J. J. HEATON,

Acting Under Secretary to Government.

Bombay Castle, 16th January 1889.



Bombay Government Gazette

Published by Authority.

THURSDAY, 21ST FEBRUARY 1889.

Separate paging is given to this Part, in order that it may be filed as a separate compilation.

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 15th February, 1889, and is hereby promulgated for general information —

Act No. II of 1889.

An Act to declare the imperial standard yard for the United Kingdom to be the legal standard measure of length in British India,

WHEREAS it is expedient to declare the imperial standard yard for the United Kingdom to be the legal standard measure of length in British India; It is hereby enacted as follows:—

1. (1) This Act may be called the Measures of Length Act, 1889.
Title, extent and commencement
- (2) It extends to the whole of British India; and
- (3) It shall come into force on such day as the Governor-General in Council may appoint in this behalf.
2. The imperial standard yard for the United Kingdom shall be the legal standard measure of length in British India and be called the standard yard.
Standard yard.
3. A copy, approved by the Governor-General in Council, of the imperial standard for determining the length of the imperial standard yard for the United Kingdom shall be kept in such place within the limits of the Town of Calcutta as the Governor General in council may prescribe, and shall be the standard for determining the length of the standard yard.
Measure for determining length of standard yard.
4. One-third part of the standard yard shall be called a standard foot, and one thirty-sixth part of such a yard shall be called a standard inch.
Standard foot and inch.

5. Any measure having stamped thereon or affixed thereto a certificate purporting to be accurate made under the authority of the Governor-General in Council or of a Local Government, and stating that the measure is of the length of the standard yard or that a measure marked thereon as a foot or inch is of the length of the standard foot or standard inch, as the case may be, shall, when produced before any Court by any public servant having charge of the measure in pursuance of any direction published in an official Gazette by order of the Governor-General in Council or the Local Government, or by any person acting under the general or special authority of such a public servant, be deemed to be correct until its inaccuracy is proved.
6. A public servant having in pursuance of such a direction charge of such a measure as is mentioned in the last foregoing section shall allow any person to inspect it free of charge at all reasonable times and to compare therewith or with any measure marked thereon any measure which such person may have in his possession.
7. There shall be kept by the Commissioner of Police in the Town of Calcutta under section 55 of the Calcutta Police Act, 1866, by the Commissioners in Calcutta under section 370 of the Calcutta Municipal Consolidation Act, 1889, by the Commissioner of Police in the City of Madras under section 32 of the Madras City Police Act, 1888, by the Municipal Commissioner in the City of Bombay under section 418 of the City of Bombay Municipal Act, 1888, and by the District Magistrate under section 20 of Regulation XII of 1827 of the Bombay Code, such certified measures of the standard yard, standard foot and standard inch as are mentioned in section 5.

S HARVEY JAMES,
Secretary to the Government of India.

Ben. Act IV of 1866.

Ben Act II of 1888
Mad Act III of 1888.

Bom Act III of 1888.

The following Report of the Select Committee on the Bill to declare the imperial standard yard for the United Kingdom to be the legal standard measure of length in British India was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 1st February, 1889:—

LEGISLATIVE DEPARTMENT

We, the undersigned, Members of the Select Committee to which the

Bill to declare the imperial standard yard for the United Kingdom to be the legal standard measure of length in British India was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

From Secretary to Chief Commissioner, Assam, No. 784, dated 14th April, 1888 [Paper No. 1].
 From Registrar, High Court, Calcutta, No. 984, dated 26th April, 1888 [Paper No. 2].
 From Chief Commissioner, Ajmere-Merwara, No. 510--690, dated 21st May, 1888, and enclosures [Papers No. 3].
 From Officiating Chief Secretary to Chief Commissioner, Burma, No. 585--5N., dated 22nd May, 1888, and enclosure [Papers No. 4].
 From Secretary to Government, North-Western Provinces and Oudh, No. 1044--VI-95 A, dated 23rd May, 1888, and enclosures [Papers No. 5].
 From Secretary to Government, Bengal, No. 947, dated 30th May, 1888, and enclosures [Papers No. 6].
 From Secretary for Berar to Resident, Hyderabad, No. 197 G, dated 28th May, 1888 [Paper No. 7].
 From Secretary to Chief Commissioner, Coorg, No. 6, dated 22nd May, 1888, and enclosures [Papers No. 8].
 From Chief Secretary to Government, Bombay, No. 1937, dated 6th June, 1888 [Paper No. 9].
 Endorsement by Under Secretary to Government of India, Home Department, No. 1655, dated 12th June, 1888, and enclosures [Papers No. 10].
 From Secretary to Government, North-Western Provinces and Oudh, No. 1352--VI-95 A, dated 22nd June, 1888, and enclosure [Papers No. 11].
 From Officiating Junior Secretary to Chief Commissioner, Central Provinces, No. 744S., dated 20th June, 1888 [Paper No. 12].
 Endorsement by Under Secretary to Government of India, Home Department, No. 1833, dated 4th July, 1888, and enclosures [Papers No. 13].
 From Officiating Secretary to Government, Punjab, No. 206S., dated 7th July, 1888, and enclosures [Papers No. 14].

2. We understand that the copy of the imperial standard which has been ordered from England has not yet been received. We have therefore proposed that it shall be left to the Governor-General in Council to bring the Act into force by executive order as soon as circumstances admit.

3. In section 5 we have extended the presumption in favour of the correctness of certified measures, and in section 7 have substituted references to the Calcutta and Bombay Municipalities and Madras Police Acts of last year for the references to the enactments which have been or are about to be superseded by them.

4. The publication ordered by the Council has been made as follows:—

In English.

Gazette	Date.
Gazette of India	17th March, 1888
Fort Saint George Gazette	27th March, 1888.
Bombay Government Gazette	22nd March, 1888.
Calcutta Gazette	21st March, 1888.
North-Western Provinces and Oudh Government Gazette	24th March, 1888
Punjab Government Gazette	29th March, 1888
Central Provinces Gazette.	24th March, 26th May, and 2nd and 9th June, 1888.
Burma Gazette	7th April, 1888.
Assam Gazette	7th April, 1888
Coorg District Gazette	2nd April, 1888

In the Vernaculars.

Province	Language.	Date.
Madras	Kánarese	1st May, 1888.
	Maláyalam	8th May, 1888
	Tamil	15th May, 1888
	Telugu	15th May, 1888
Bombay	Hindustáni	15th May, 1888
	Gujaráthi	17th May, 1888.
	Kánarese	17th May, 1888
	Maráthi	24th May, 1888.
Bengal	Bengáli	3rd April, 1888.
	Uriya	5th April, 1888.
	Hindi	17th April, 1888
North-Western Provinces and Oudh.	Urdu	12th May, 1888
Punjab	Urdu	10th May, 1888
Central Provinces	Hindi	23rd May, 1888
Burma	Marathi	6th and 13th June, 1888.
	Burmese	21st April, 1888.

5. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

ANDREW R. SCOBLE.
 D. BARBOUR.
 ROBT. STEEL.
 DINSHAW MANOCKJEE PETIT.
 DOORGA CHURN LAW.

The 28th January 1889.

S. HARVEY JAMES,
 Secretary to the Government of India.



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THURSDAY, 7TH MARCH 1889.

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PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor-General on the 1st March 1889, and is hereby promulgated for general information.—

Act No IV of 1889.

An Act to amend the Law relating to Fraudulent Marks on Merchandise.

WHEREAS it is expedient to amend the law relating to fraudulent marks on merchandise; it is hereby enacted as follows:—

1. (1) This Act may be called the Indian Title, extent and Merchandise Marks Act, commencement 1889.

(2) It extends to the whole of British India, and, subject to the provision of the last section of this Act,

(3) It shall come into force on the first day of April 1889.

2. In this Act, unless there is something repugnant in the subject or context,—

(1) "trade mark" has the meaning assigned to that expression in section 478 of the Indian Penal Code as amended by this Act:

(2) "trade description" means any description, statement or other indication, direct or indirect,—

(a) as to the number, quantity, measure, gauge or weight of any goods, or

(b) as to the place or country in which, or the time at which, any goods were made or produced, or

(c) as to the mode of manufacturing or producing any goods, or

(d) as to the material of which any goods are composed, or

(e) as to any goods being the subject of an existing patent, privilege or copyright;

and the use of any numeral, word or mark which, according to the custom of the trade, is commonly taken to be an indication of any of the above matters shall be deemed to be a trade description within the meaning of this Act.

(3) "false trade description" means a trade description which is untrue in a material respect as regards the goods to which it is applied, and includes every alteration of a trade description, whether by way of addition, effacement, or otherwise, where that alteration makes the description untrue in a material respect, and the fact that a trade description is a trade mark or part of a trade mark shall not prevent such trade description being a false trade description within the meaning of this Act:

(4) "goods" means anything which is the subject of trade or manufacture: and

(5) "name" includes any abbreviation of a name.

Amendment of the Indian Penal Code.

XLV of 1860.

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:—

Substitution of new sections for sections 478 to 489 of the Indian Penal Code.

"Of Trade, Property and Other Marks.

46 & 47 Vict., c. 57.

"478. A mark used for denoting that goods are the manufacture or merchandise of a particular person is called a trade mark, and for the purposes of this Code the expression 'trade mark' includes any trade mark which is registered in the register of trade marks kept under the Patents, Designs and Trade Marks Act, 1883, and any trade mark which, either with or without registration, is protected by law in any British possession or foreign State to which the provisions of the one hundred and third section of the Patents, Designs and Trade Marks Act, 1883, are, under order in Council, for the time being applicable.

"479. A mark used for denoting that moveable property belongs to a particular person is called a property mark.

"480. Whoever marks any goods or any case, package or other receptacle containing goods, or uses any case, package or other receptacle with any mark thereon, in a manner reasonably calculated to cause it to be believed that the goods so marked, or any goods contained in any such receptacle so marked, are the manufacture or merchandise of a person whose manufacture or merchandise they are not, is said to use a false trade mark.

"481. Whoever marks any moveable property or goods, or uses any case, package or other receptacle having any mark thereon, in a manner reasonably calculated to cause it to be believed that the property or goods so marked or any property or goods contained in any such receptacle so marked, belong to a person to whom they do not belong, is said to use a false property mark.

"482. Whoever uses any false trade mark or any false property mark shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

"483. Whoever counterfeits any trade mark or property mark used by any other person shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

"484. Whoever counterfeits any property mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place, or that the property is of a particular quality or has passed through a particular office, or that it is entitled to any exemption, or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

"485. Whoever makes or has in his possession any die, plate or other instrument for the purpose of counterfeiting a trade mark or property mark, or has in his possession a trade mark or property mark for the purpose of denoting that any goods are the manufacture or merchandise of a person whose manufacture or merchandise they are not, or that they belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

"486. Whoever sells, or exposes or has in possession for sale or any purpose of trade or manufacture, any goods or things with a counterfeit trade mark or property mark affixed to or impressed upon the same or to or upon any case, package or other receptacle in which such goods are contained, shall, unless he proves—

- (a) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the mark, and
- (b) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things or
- (c) that otherwise he had acted innocently, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

"487. Whoever makes any false mark upon any case, package or other receptacle containing goods, in a manner reasonably calculated to cause any public servant or any other person to believe that such receptacle contains goods which it does not contain or that it does not contain goods which it does contain or that the goods contained in such receptacle are of a nature or quality different from the real nature or quality thereof shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

"488. Whoever makes use of any such false mark in any manner prohibited by the last foregoing section shall, unless he proves that he acted without intent to defraud, be punished as if he had committed an offence against that section.

"489. Whoever removes, destroys, defaces or adds to any property mark, intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to one year or with fine, or with both.

Trade Descriptions.

4. (1) The provisions of this Act respecting the application of a false trade description to goods to which a false trade description is applied, shall extend to the application to goods of any such numerals, words or marks, or arrangement or combination thereof, whether including a trade mark or not, as are or is reasonably calculated to lead persons to believe that the goods are the manufacture or merchandise of some person other than the person whose manufacture or merchandise they really are and to goods having such numerals, words or marks, or arrangement or combination applied thereto.

(2) The provisions of this Act respecting the application of a false trade description to goods, or respecting goods to which a false trade description is applied, shall extend to the application to goods of any false name or initials of a person, and to goods with the false name or initials of a person applied, in like manner as if such name or initials were a trade description, and for the purpose of this enactment the expression false name or initials means as applied to any goods any name or initials—

- (a) not being a trade mark, or part of a trade mark, and
- (b) being identical with, or a colourable imitation of, the name or initials of a person carrying on business in connection with goods of the same description and not having authorised the use of such name or initials.

(3) A trade description which denotes or implies that there are contained in any goods to which it is applied more yards, feet or inches than there are contained therein standard yards, standard feet or standard inches is a false trade description.

5. (1) A person shall be deemed to apply a description of trade trade description to goods who—

- (a) applies it to the goods themselves, or
- (b) applies it to any covering label, reel or other thing in or with which the goods are sold or are exposed or had in possession for sale or any purpose of trade or manufacture, or

(c) places, encloses or annexes any goods which are sold, or are exposed or had in possession for sale or any purpose of trade or manufacture, in, with or to any covering, label, reel or other thing to which a trade description has been applied, or

(d) uses a trade description in any manner reasonably calculated to lead to the belief that the goods in connexion with which it is used are designated or described by that trade description.

(2) A trade description shall be deemed to be applied whether it is woven, impressed or otherwise worked into or annexed or affixed to the goods or any covering, label, reel or other thing.

(3) The expression "covering" includes any stopper, cask, bottle, vessel, box, cover, capsule, case, frame or wrapper, and the expression "label" includes any band or ticket.

6. If a person applies a false trade description to goods, he shall, subject to the provisions of this Act and unless he proves that he acted without intent to defraud, be punished with imprisonment for a term which may extend to three months or with fine which may extend to two hundred rupees, and in the case of a second or subsequent conviction with imprisonment which may extend to one year, or with fine, or with both.

7. If a person sells, or exposes or has in possession for sale or any purpose of trade or manufacture, any goods or things to which a false trade description is applied, he shall, unless he proves—

- (a) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the trade description, and
- (b) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or
- (c) that otherwise he had acted innocently,

be punished with imprisonment for a term which may extend to three months or with fine which may extend to two hundred rupees, and in case of a second or subsequent conviction with imprisonment which may extend to one year, or with fine, or with both.

Unintentional Contravention of the Law relating to Marks and Descriptions.

8. Where a person is accused under section 482 of the Indian Penal Code XLV of 1860, of using a false trade mark or property mark by reason of his having applied a mark to any goods, property or receptacle in the manner mentioned in section 480 or section 481 of that Code, as the case may be, or under section 6 of this Act of applying to goods

any false trade description, or under section 485 of the Indian Penal Code of making any die, plate or other instrument for the purpose of counterfeiting a trade mark or property mark, and proves—

- (a) that in the ordinary course of his business he is employed, on behalf of other persons, to apply trade marks or property marks, or trade descriptions, or, as the case may be, to make dies, plates or other instruments for making, or being used in making, trade marks or property marks, and that in the case which is the subject of the charge he was so employed and was not interested in the goods or other thing by way of profit or commission dependent on the sale thereof, and
- (b) that he took reasonable precautions against committing the offence charged, and
- (c) that he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the mark or description, and
- (d) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons on whose behalf the mark or description was applied,
- he shall be acquitted,

Forfeiture of Goods.

XLV of 1860

9. (1) When a person is convicted under section 482 of the Indian Penal Code of using a false trade mark, or under section 486 of that Code of selling, or exposing or having in possession for sale or any purpose of trade or manufacture, any goods or things with a counterfeit trade mark applied thereto, or under section 487 or section 488 of that Code of making, or making use of, a false mark, or under section 6 or section 7 of this Act of applying a false trade description to goods or of selling, or exposing or having in possession for sale or any purpose of trade or manufacture, any goods or things to which a false trade description is applied, or is acquitted on proof of the matter or matters specified in section 486 of the Indian Penal Code or section 7 or section 8 of this Act, the Court convicting or acquitting him may direct the forfeiture to Her Majesty of all goods and things by means of, or in relation to, which the offence has been committed or, but for such proof as aforesaid, would have been committed.

(2) When a forfeiture is directed on a conviction and an appeal lies against the conviction, an appeal shall lie against the forfeiture also.

(3) When a forfeiture is directed on an acquittal and the goods or things to which the direction relates are of value exceeding fifty rupees, an appeal against the forfeiture may be preferred, within thirty days from the date of the direction, to the Court to which in appealable cases appeals lie

from sentences of the Court, which directed the forfeiture.

Amendment of the Sea Customs Act, 1878.

10. (1) For clause (d) of section 18 of the Sea Customs Act, 1878, VIII of 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: XLV of 1860.

(e) goods made or produced beyond the limits of the United Kingdom and British India and having applied thereto any name or trade mark being, or purporting to be, or being a colourable imitation of, the name or trade mark of any person who is a manufacturer, dealer or trader in the United Kingdom or in British India, unless—

(i) the name or trade mark is, as to every application thereof, accompanied by a definite indication of the goods having been made or produced in a place beyond the limits of the United Kingdom and British India, and

(ii) that place and the country in which it is situated are in that indication indicated in letters as large and conspicuous as any letter in the name or trade mark, and in the same language and character as the name or trade mark:

(2) To section 18 of the Sea Customs Act, 1878 as amended by sub-section (1) the following shall be added, namely:—

“(f) piece-goods, such as are ordinarily sold by length or by the piece, which—

(i) have not conspicuously stamped in English numerals on each piece the length thereof in standard yards, or in standard yards and a fraction of such a yard, according to the real length of the piece, and

(ii) have been manufactured beyond the limits of India, or,

(iii) having been manufactured within those limits, have been manufactured beyond the limits of British India in premises which, if they were in British India, would be a factory as defined in the Indian Factories Act, 1881. XV of 1881.

Addition of a section after section 19, Act VIII of 1878.

11. The following shall be added after section 19 of the Sea Customs Act, VIII of 1878, namely:—

“19A. (1) Before detaining any such goods as are or may be specified in or under section 18 or section 19, as the case may be, or taking any further proceedings with a view to the confiscation thereof under this Act, the Chief Customs-officer or other officer appointed by the Local Government

in this behalf may require the regulations under this section, whether as to information, security, conditions or other matters, to be complied with and may satisfy himself in accordance with those regulations that the goods are such as are prohibited to be imported.

(2) The Governor General in Council may make regulations, either general or special, respecting the detention and confiscation of goods the importation of which is prohibited, and the conditions, if any, to be fulfilled before such detention and confiscation, and may by such regulations, determine the information, notices and security to be given, and the evidence requisite for any of the purposes of this section and the mode of verification of such evidence.

(3) Where there is on any goods a name which is identical with, or a colourable imitation of, the name of a place in the United Kingdom or British India, that name, unless accompanied in equally large and conspicuous letters, and in the same language and character, by the name of the country in which such place is situated, shall be treated for the purposes of sections 18 and 19 as if it were the name of a place in the United Kingdom or British India.

(4) Such regulations may apply to all goods the importation of which is prohibited by section 18 or under section 19, or different regulations may be made respecting different classes of such goods or of offences in relation to such goods.

(5) The regulations may provide for the informant reimbursing any public officer and Secretary of State for India in Council all expenses and damages incurred in respect of any detention made on his information, and of any proceedings consequent on such detention.

(6) All regulations under this section shall be published in the Gazette of India and in the Calcutta, Fort St. George, Bombay and Burmah Gazettes."

Stamping of Length of Piece-goods manufactured in British India.

12. (1) Piece-goods, such as are ordinarily sold by length or by the piece, which have been manufactured in premises which are a factory as defined in the Indian Factories Act, 1881, shall not be removed from those premises without having conspicuously stamped in English numerals on each piece the length thereof in standard yards, or in standard yards and a fraction of such a yard, according to the real length of the piece.

(2) If any person removes or attempts to remove any such piece-goods from any such premises without the length of each piece being stamped in the manner mentioned in sub-section (1), every such piece, and everything used for the packing or removal thereof, shall be forfeited to Her Majesty, and such person shall be punished with fine which may extend to one thousand rupees.

Supplemental Provisions.

13. In the case of goods brought in to British India by sea, evidence of the port of shipment shall, in a prosecution for an offence against this Act or section 18, of the Sea Customs Act, 1878, as amended by this Act be *prima facie* evidence of the place or country in which the goods were made or produced.

14. (1) On any such prosecution as is mentioned in the last foregoing section, or on any prosecution for an offence against any of the sections of the Indian Penal Code, as amended by this Act, which relate to trade, property and other marks, the Court may order costs to be paid to the defendant by the prosecutor, or to the prosecutor by the defendant, having regard to the information given by and the conduct of the defendant and prosecutor respectively.

(2) Such costs shall on application to the Court be recoverable as if they were a fine.

15. No such prosecution as is mentioned in the last foregoing section shall be commenced after the expiration of three years next after the commission of the offence, or one year after the first discovery thereof by the prosecutor, whichever expiration first happens.

16. (1) The Governor General in Council may, by notification in the Gazette of India and in local official Gazettes, issue instructions for observance by Criminal Courts in giving effect to any of the provisions of this Act.

(2) Instructions under sub-section (1) may provide, among other matters, for the limits of variation as regards number, quantity, measure, gauge or weight, which are to be recognised by Criminal Courts as permissible in the case of any goods.

17. On the sale or in the contract for the sale of any goods to which a trade mark or mark or trade description has been applied, the seller shall be deemed to warrant that the mark is a genuine mark and not counterfeit or falsely used, or that the trade description is not a false trade description within the meaning of this Act, unless the contrary is expressed in some writing signed by or on behalf of the seller and delivered at the time of the sale or contract to and accepted by the buyer.

18. (1) Nothing in this Act shall exempt any person from any suit or other proceeding which might, but for anything in this Act, be brought against him.

(2) Nothing in this Act shall entitle any person to refuse to make a complete discovery

or to answer any question or interrogatory in any suit or other proceeding, but such discovery or answer shall not be admissible in evidence against such person in any such prosecution as is mentioned in section 14.

(3) Nothing in this Act shall be construed so as to render liable to any prosecution or punishment any servant of a master resident in British India who in good faith acts in obedience to the instructions of such master, and, on demand made by or on behalf of the prosecutor, has given full information as to his master and as to the instructions which he has received from his master.

Transitory Provision.

19. The prohibition of the bringing into British India of such piece-goods as are described in clause (f) of section 18 of the Sea Customs Act, VIII of 1878, as amended by this Act, shall not take effect till the first day of August, 1889, and the provisions of section 12 shall, as regards piece-goods made up in bales in a factory before the first day of April, 1889, remain in abeyance till the first day of July, 1889.

(Signed) S. HARVEY JAMES,
Secretary to the Government of India.

THE



Bombay Government Gazette

Published by Authority.

THURSDAY, 14TH MARCH 1889.

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PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 8th March, 1889, and is hereby promulgated for general information:—

Act No. VI of 1889.

An Act to amend the Indian Succession Act, 1865, the Probate and Administration Act, 1881, the Court-fees Act, 1870, and the Indian Stamp Act, 1879, and to make provision with respect to certain other matters.

WHEREAS it is expedient to amend the Indian Succession Act, 1865, the Probate and Administration Act, 1881, the Court-fees Act, 1870, and the Indian Stamp Act, 1879, and to make provision with respect to certain other matters; It is hereby enacted as follows:—

1. (1) This Act may be called the Probate and Administration Act, 1889.

(2) It applies to the whole of British India (inclusive of Upper Burma except the Shan States); and

(3) It shall come into force at once.

Indian Succession Act, 1865.

2. After the 4th clause of the explanation to section 234 of the Indian Succession Act, 1865, the following shall be added,

namely:—

“5th, that the person to whom the grant was made has wilfully and without reasonable cause

omitted to exhibit an inventory or account in accordance with the provisions of Part XXXIV of this Act or has exhibited under that Part an inventory or account which is untrue in a material respect.”

3. In section 244 of the same Act, for the words “and that the petitioner is the executor therein named” the following shall be substituted, namely:—

“the amount of assets which are likely to come to the petitioner’s hands, and

“that the petitioner is the executor named in the will.”

4. For the last forty-two words of section 254 of the same Act, the following shall be substituted, namely:—

“he having undertaken to administer the same, and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint.”

5. For the last forty-five words of section 255 of the same Act the following shall be substituted, namely:—

“he having undertaken to administer the same, and to make a full and true inventory of the said property and credits and exhibit the

same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint."

6. In section 256 of the same Act, for the words "Every person to whom any grant of administration shall be committed" the words "Every person to whom any grant of letters of administration is committed" shall be substituted.

7. For section 277 of the same Act the following shall be substituted, namely:—

"277. (1) An executor or administrator shall, within six months from the grant of probate or letters of administration, or within such further time as the Court which granted the probate or letters may from time to time appoint, exhibit in that Court an inventory containing a full and true estimate of all the property in possession, and all the credits, and also all the debts owing by any person to which the executor or administrator is entitled in that character, and shall in like manner, within one year from the grant or within such further time as the said Court may from time to time appoint, exhibit an account of the estate, showing the assets which have come to his hands and the manner in which they have been applied or disposed of.

"(2) The High Court may from time to time prescribe the form in which an inventory or account under this section is to be exhibited.

"(3) If an executor or administrator, on being required by the Court to exhibit an inventory or account under this section, intentionally omits to comply with the requisition, he shall be deemed to have committed an offence under section 176 of the Indian Penal Code.

"(4) The exhibition of an intentionally false inventory or account under this section shall be deemed to be an offence under section 193 of that Code."

8. In section 277A of the same Act, for the words "it is sought to obtain a grant" the words "a grant has been made," and for the words and figures "the person applying for administration after the first day of April 1875," the word "administrator," shall be substituted.

9. (1) In section 283 of the same Act, for the words "the country in which he was domiciled" the words "British India" shall be substituted.

(2) The illustration to the same section is hereby repealed.

10. To the same Act the following shall be added, namely:—

"333. (1) When a grant of probate or letters of administration is revoked or annulled under this Act, the person to whom the grant was made shall forthwith deliver up the probate or letters to the Court which made the grant.

"(2) If such person wilfully and without reasonable cause omits so to deliver up the probate or letters, he shall be punished with fine which may extend to one thousand rupees, or with imprisonment of either description for a term which may extend to three months, or with both."

Probate and Administration Act, 1881.

11. After the 4th clause of the explanation to section 50 of the Probate and Administration Act, 1881, the following shall be added, namely:—

"5th, that the person to whom the grant was made has wilfully and without reasonable cause omitted to exhibit an inventory or account in accordance with the provisions of Chapter VII of this Act, or has exhibited under that Chapter an inventory or account which is untrue in a material respect."

12. For the portion of section 76 of the same Act, beginning with the words "he having undertaken to administer the same" and ending with the words "within one year from the same date" the following shall be substituted, namely:—

"he having undertaken to administer the same, and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint."

13. For the portion of section 77 of the same Act beginning with the words "he having undertaken to administer the same" and ending with the words "within one year from the same date" the following shall be substituted, namely:—

"he having undertaken to administer the same, and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint."

14. For section 90 of the same Act the following shall be substituted, namely:—

"90. (1) An executor or administrator has, subject to the provisions of this section, power to dispose, as he thinks fit, of all or any of the property for the time being vested in him under section 4.

"(2) The power of an executor to dispose of immoveable property so vested in him is subject to any restriction which may be imposed in this behalf by the will appointing him, unless probate has been granted to him and the Court which granted the probate permits him by an order in writing, notwithstanding the restriction, to dispose of any immoveable property specified in the order in a manner permitted by the order.

"(3) An administrator may not, without the previous permission of the Court by which the letters of administration were granted,—

(a) mortgage, charge or transfer by sale, gift, exchange or otherwise any immoveable property for the time being vested in him under section 4, or

(b) lease any such property for a term exceeding five years.

"(4) A disposal of property by an executor or administrator in contravention of sub-section (2) or sub-section (3), as the case may be, is voidable at the instance of any other person interested in the property.

"(5) Before any probate or letters of administration is or are granted under this Act there shall be endorsed thereon or annexed thereto a copy of sub-sections (1), (2) and (4), or of sub-sections (1), (3) and (4), as the case may be.

"(6) A probate or letters of administration shall not be rendered invalid by reason of the endorsement or annexure required by the last foregoing sub-section not having been made thereon or attached thereto, nor shall the absence of such an endorsement or annexure authorise an executor or administrator to act otherwise than in accordance with the provisions of this section."

15. For section 98 of the same Act the following shall be substituted, namely:—

"98. (1) An executor or administrator shall, within six months from the grant of probate or letters of administration, or within such further time as the Court which granted the probate or letters may from time to time appoint, exhibit in that Court an inventory containing a full and true estimate of all the property in possession, and all the credits, and also all the debts owing by any person to which the executor or administrator is entitled in that character, and shall in like manner, within one year from the grant or within such further time as the said Court may from time to time appoint, exhibit an account of the estate, showing the assets which have come to his hands and the manner in which they have been applied or disposed of.

"(2) The High Court may from time to time prescribe the form in which an inventory or account under this section is to be exhibited.

"(3) If an executor or administrator, on being required by the Court to exhibit an inventory or account under this section, intentionally omits to comply with the requisition, he shall be deemed to have committed an offence under section XLV of 1860. tion 176 of the Indian Penal Code.

"(4) The exhibition of an intentionally false inventory or account under this section shall be deemed to be an offence under section 193 of that Code."

16. In section 99 of the same Act, for the words "it is sought to obtain a grant" the words "a grant has been made", and for the words "the person applying for administration" the word "administrator" shall be substituted.

17. To the same Act the following shall be added, namely:—

"157. (1) When a grant of probate or letters of administration is revoked or annulled under this Act, the person to whom the grant was made shall forthwith deliver up the probate or letters to the Court which made the grant.

"(2) If such person wilfully and without sufficient cause omits so to deliver up the probate or letters, he shall be punished with fine which may extend to one thousand rupees, or with imprisonment which may extend to three months, or with both."

Court-fees Act, 1870, and Indian Stamp Act, 1879.

18 (1) Article 16 (Administration-bond) of the second schedule to the Court-fees Act, 1870, is hereby repealed.

(2) In article 6 of the second schedule to the Court-fees Act, 1870, for the words "Bail-bond or other instrument of obligation not otherwise provided for by this Act, when given by the direction of any Court or executive authority" the following words shall be substituted, namely:—

"Bail-bond or other instrument of obligation given in pursuance of an order made by a Court or Magistrate under any section of the Code of Criminal Procedure, 1882, or the Code of Civil Procedure."

(3) In article 2 of the first schedule to the Indian Stamp Act, 1879, after the words "Administration-bond" the following shall be added, namely:—

"including a bond given under section 256 of the Indian Succession Act, 1865, section 6 of X of 1865. the Government Savings Banks Act, 1873, section 78 of the Probate and Administration Act, V of 1881, or section 9 or section 10 of the Succession Certificate Act, 1889."

VII of 1889.

(4) In article 13 of the first schedule to the Indian Stamp Act, 1879, after the words "not otherwise provided for by this Act" there shall be added the words "or by the Court-fees Act, 1870."

Miscellaneous.

V of 1881
Validation of acts under grants of administration already made.

19. Notwithstanding anything in section 90 of the Probate and Administration Act, 1881, a disposal of property by an executor or administrator who was appointed before the commencement of this Act, and to whom the provisions of that section were applicable, shall not be void by reason only that the consent of the Court to the disposal of the property was not obtained.

VII of 1870, Recovery of penalties and forfeitures under Act VII, 1870.

20. (1) Any penalty or forfeiture under section 19G or section 19H of the Court-fees Act, 1870, may, on the certificate of the Chief Controlling Revenue-authority, be recovered from the executor or administrator as if it were an

arrears of land-revenue by any Collector in any part of British India.

(2) The Chief Controlling Revenue-authority may remit the whole or any part of any such penalty or forfeiture, or any part of any further penalty payable under section 19E of the said Act.

21. The following portion of section 7, clause (3), of the Act of the Lieutenant-Governor of Bengal in Council No. VII of 1880, entitled the Public Demands Recovery Act, 1880, namely:—

Repeal of part of section 7 (3), Bengal Act VII of 1880

"or in the following sections and portions of the following Act passed by the Governor General in Council, that is to say, in Act VII of 1870, 'the Court-fees Act,' sections 19G, 19H,"

is hereby repealed.

S. HARVEY JAMES,
Secretary to the Government of India,

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 8th March 1889, and is hereby promulgated for general information:—

Act No VII of 1889.

THE SUCCESSION CERTIFICATE
ACT, 1889.

CONTENTS.

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2. Repeal.
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5. Courts having jurisdiction to grant certificate.
6. Application for certificate.
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11. Forms of certificate and extended certificate.
12. Amendment of certificate in respect of powers as to securities.
13. Amendment of Act VII, 1870.
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16. Effect of certificate.
17. Effect of certificate granted or extended by British representative in Foreign State.
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20. Effect on certificate of previous certificate, probate or letters of administration.
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22. Validation of certain payments made in good faith to holder of invalid certificate.
23. Prohibition of exercise of certain powers by curators.
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25. Effect of decisions under this Act, and liability of holder of certificate thereunder.
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27. Surrender of superseded and invalid certificate.
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THE FIRST SCHEDULE.—ENACTMENTS
REPEALED.THE SECOND SCHEDULE.—FORMS OF
CERTIFICATE AND EXTENDED CERTIFICATE.

An Act to facilitate the collection of debts on successions and afford protection to parties paying debts to the representatives of deceased persons.

WHEREAS it is expedient to facilitate the collection of debts on successions and afford protection to parties paying debts to the representatives of deceased persons, It is hereby enacted as follows:—

1. (1) This Act may be called the Succession Certificate Act, 1889.
- (2) It shall come into force on the first day of May 1889; and
- (3) It extends to the whole of British India (inclusive of Upper Burma except the Shan States);
- (4) But a certificate shall not be granted thereunder with respect to any debt or security to which a right can be established by probate or letters of administration under the Indian Succession Act, 1865, or by probate of a will to which the Hindu Wills Act, 1870, applies, or by letters of administration with a copy of such a will annexed.
2. (1) The enactments specified in the first schedule are repealed to the extent mentioned in the third column thereof.
- (2) But nothing in this Act shall affect any certificate granted before the commencement of this Act under Act XXVII of 1860 or any enactment repealed by that Act.
- (3) Any enactment except this Act and section 152 of the Probate and Administration Act, 1881, or any document, referring to any enactment repealed by this Act shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.
- 3 In this Act, unless there is something repugnant in the subject or context,—
- (1) "District Court", subject to the other provisions of this Act and to the provisions of proviso (b) to section 23 of the Punjab Courts Act, 1884, and of any other like enactment for the time being in force, means a Court presided over by a District Judge; and
- (2) "security" means—
- (a) any promissory note, debenture, stock or other security of the Government of India;
- (b) any bond, debenture or annuity charged by the Imperial Parliament on the revenues of India;
- (c) any stock or debenture of, or share in, a company or other incorporated institution:

The Succession Certificate Act, 1889.

(Sections 5—7.)

- (d) any debenture or other security for money issued by, or on behalf of, a local authority;
- (e) any other security which the Governor General in Council may, by notification in the *Gazette of India*, declare to be a security for the purposes of this Act.

Proof of representative title a condition precedent to recovery through the Courts of debts from debtors of deceased persons.

4. (1) No Court shall—

- (a) pass a decree against a debtor of a deceased person for payment of his debt to a person claiming to be entitled to the effects of the deceased person or to any part thereof, or
- (b) proceed, upon an application of a person claiming to be so entitled, to execute against such a debtor a decree or order for the payment of his debt,

except on the production, by the person so claiming, of—

- (i) a probate or letters of administration evidencing the grant to him of administration to the estate of the deceased, or
- (ii) a certificate granted under section 36 or section 37 of the Administrator General's Act, 1874, and having the debt mentioned therein, or
- (iii) a certificate granted under this Act and having the debt specified therein, or
- (iv) a certificate granted under Act XXVII of 1860 or an enactment repealed by that Act, or
- (v) a certificate granted under the Regulation of the Bombay Code No. VIII of 1827 and, if granted after the commencement of this Act, having the debt specified therein.

(2) The word "debt" in sub-section (1) includes any debt except rent, revenue or profits payable in respect of land used for agricultural purposes.

5. The District Court within the jurisdiction of which the deceased Court having jurisdiction ordinarily resided at the time of his death, or if at that time he had no fixed place of residence then within the jurisdiction of which any part of the property of the deceased may be found, may grant a certificate under this Act

6. (1) Application for such a certificate

Application for certificate. must be made to the District Court by a petition signed and verified by or on behalf of the applicant in the manner prescribed by the Code of Civil Procedure for the signing and verification of a plaint by or on behalf of a plaintiff, and setting forth the following particulars, namely.—

- (a) the time of the death of the deceased;
- (b) the ordinary residence of the deceased at the time of his death and, if such residence was not within the local limits of the jurisdiction of the Court to which the application is made, then the property of the deceased within those limits;
- (c) the family or other near relatives of the deceased and their respective residences;
- (d) the right in which the petitioner claims;
- (e) the absence of any impediment under section 1, sub-section (4), or under any other provision of this Act or any other enactment, to the grant of the certificate or to the validity thereof if it were granted; and
- (f) the debts and securities in respect of which the certificate is applied for.

(2) If the petition contains any averment which the person verifying it knows or believes to be false, or does not believe to be true, that person shall be subject to punishment according to the provisions of the law for the time being in force for the punishment of giving or fabricating false evidence.

7. (1) If the District Court is satisfied that there is ground for entertaining the application, it shall fix a day for the hearing thereof and cause notice of the application and of the day fixed for the hearing—

- (a) to be served on any person to whom, in the opinion of the Court, special notice of the application should be given, and
- (b) to be posted on some conspicuous part of the court-house and published in such other manner, if any, as the Court, subject to any rules made by the High Court in this behalf, thinks fit,

and upon the day fixed, or as soon thereafter as may be practicable, shall proceed to decide in a summary manner the right to the certificate.

(2) When the Court decides the right thereto to belong to the applicant, it shall make an order for the grant of the certificate to him.

(3) If the Court cannot decide the right to the certificate without determining questions of law or fact which seem to it to be too intricate and difficult for determination in a summary proceeding, it may nevertheless grant a certificate to the applicant if he appears to be the person having *prima facie* the best title thereto.

(4) When there are more applicants than one for a certificate and it appears to the Court that more than one of such applicants are interested in the estate of the deceased, the Court may, in deciding to whom the certificate is to be granted, have regard to the extent of interest, and the fitness in other respects, of the applicants.

The Succession Certificate Act, 1889.

(Sections 8—13.)

8. When the District Court grants a certificate, it, shall therein specify the debts and securities set forth in the application for the certificate and may thereby empower the person to whom the certificate is granted—

- (a) to receive interest or dividends on, or
 (b) to negotiate or transfer, or
 (c) both to receive interest or dividends on, and to negotiate or transfer, the securities or any of them.

9. (1) The District Court shall in any case in which it proposes to proceed under section 7, sub-section (3) or sub-section (4), and may in any other case, require, as a condition precedent to the granting of a certificate, that the person to whom it proposes to make the grant shall give to the Judge of the Court, to ensure for the benefit of the Judge for the time being, a bond with one, or more surety or sureties, or other sufficient security, for rendering an account of debts and securities received by him and for indemnity of persons who may be entitled to the whole or any part of those debts and securities

(2) The Court may, on application made by petition and on cause shown to its satisfaction, and upon such terms as to security, or providing that the money received be paid into Court, or otherwise as the Court thinks fit, assign the bond or other security to some proper person, and that person shall thereupon be entitled to sue thereon in his own name as if it had been originally given to him instead of to the Judge of the Court, and to recover, as trustee for all persons interested, such amount as may be recoverable thereunder.

10 (1) A District Court may from time to time, on the application of the holder of a certificate under this Act, extend the certificate to any debt or security not originally specified therein, and every such extension shall have the same effect as if the debt or security to which the certificate is extended had been originally specified therein.

(2) Upon the extension of a certificate, powers with respect to the receiving of interest or dividends on, or the negotiation or transfer of, any security to which the certificate has been extended may be conferred, and a bond or further bond or other security for the purposes mentioned in the last foregoing section may be required, in the same manner as upon the original grant of a certificate.

11. Certificates shall be granted and extensions of certificates shall be made, as nearly as circumstances admit, in the forms set forth in the second schedule.

12. Where a District Court has not conferred on the holder of a certificate any power with respect to a security specified in the certificate, or has only empowered him to receive interest or dividends on, or to negotiate or transfer, the security, the Court may, on application made by petition and on cause shown to its satisfaction, amend the certificate by conferring any of the powers mentioned in section 8, or by substituting any one for any other of those powers.

13. (1) For articles 11, and 12 of the first schedule to the Court-fees Act, 1870, the following shall be substituted, namely.—

Number.		Proper fee.
11. Probate of a will or letters of administration with or without will annexed.	If the amount or value of the property in respect of which the grant of probate or letters is made exceeds one thousand rupees.	Two per centum on such amount or value provided that when, after the grant of a certificate under the Succession Certificate Act, 1889, or any enactment repealed by that Act, or under the Regulation of the Bombay Code No VIII of 1827, in respect of any property included in an estate, a grant of probate or letters of administration is made in respect of the same estate, the fee payable in respect of the latter grant shall be reduced by the amount of the fee paid in respect of the former grant
12. Certificate under the Succession Certificate Act, 1889.	In any case.	Two per centum on the amount or value of any debt or security specified in the certificate under section 8 of the Act, and three per centum on the amount or value of any debt or security to which the certificate is extended under section 10 of the Act Note.—(1) The amount of a debt is its amount, including interest, on the day on which the inclusion of the debt in the certificate is applied for, so far as such amount can be ascertained. (2) Whether or not any power with respect to a security specified in a certificate has been conferred under the Act, and, where such a power has been so conferred, whether the power is for the receiving of interest or dividends,

The Succession Certificate Act, 1889.

(Sections 14—20)

Number.		Proper fee.
"12A. Certificate under the Regulation of the Bombay Code No. VIII of 1827.		<p>on, or for the negotiation or transfer of, the security, or for both purposes, the value of the security is its market-value on the day on which the inclusion of the security in the certificate is applied for, so far as such value can be ascertained.</p> <p>(1) As regards debts and securities, the same fee as would be payable in respect of a certificate under the Succession Certificate Act, 1889, or in respect of an extension of such a certificate, as the case may be, and</p> <p>(2) as regards other property in respect of which the certificate is granted, two per centum on so much of the amount or value of such property as exceeds one thousand rupees."</p>

VII of 1870.

(2) In the Court-fees Act, 1870, section 19, clause viii, for the words and figures "and certificate mentioned in the First Schedule to this Act annexed, No 12," the words and figures "and, save as regards debts and securities, a certificate under Bombay Regulation VIII of 1827" shall be substituted.

14. (1) Every application for a certificate or for the extension of a certificate must be accompanied by a deposit of a sum equal to the fee payable under the first schedule to the Court-fees Act, 1870, in respect of the certificate or extension applied for.

(2) If the application is allowed, the sum deposited by the applicant shall be expended, under the direction of the Court, in the purchase of the stamp to be used for denoting the fee payable as aforesaid.

(3) Any sum received under sub-section (1) and not expended under sub-section (2) shall be refunded to the person who deposited it.

15. A certificate under this Act shall have effect throughout the whole of British India.

16. Subject to the provisions of this Act, the certificate of the District Court shall, with respect to the debts and securities specified therein, be conclusive as against the persons owing such debts or liable on such securities, and shall, notwithstanding any contravention of section 1, sub-section (4), or other defect, afford full indemnity to all such persons as regards all payments made, or dealings had, in good faith in

respect of such debts or securities to or with the person to whom the certificate was granted.

17. Where a certificate in the form, as nearly as circumstances admit, of the second schedule has been granted to a resident within a Foreign State by the British representative accredited to the State, or where a certificate so granted has been extended in such form by such representative, the certificate shall, when stamped in accordance with the provisions of the Court-fees Act, 1870, with respect to certificates under this Act, have the same effect in British India as a certificate granted or extended under this Act.

VII of 1870.

18. A certificate granted under this Act may be revoked for any of the following causes, namely:—

- that the proceedings to obtain the certificate were defective in substance;
- that the certificate was obtained fraudulently by the making of a false suggestion, or by the concealment from the Court of something material to the case;
- that the certificate was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant thereof, though such allegation was made in ignorance or inadvertently;
- that the certificate has become useless and inoperative through circumstances;
- that a decree or order made by a competent Court in a suit or other proceeding with respect to effects comprising debts or securities specified in the certificate renders it proper that the certificate should be revoked.

19. (1) Subject to the other provisions of this Act, an appeal shall lie to the High Court from

an order of a District Court granting, refusing or revoking a certificate under this Act, and the High Court may, if it thinks fit, by its order on the appeal, declare the person to whom the certificate should be granted and direct the District Court, on application being made therefor, to grant it accordingly, in supersession of the certificate, if any, already granted.

(2) An appeal under sub-section (1) must be preferred within the time allowed for an appeal under the Code of Civil Procedure.

(3) Subject to the provisions of sub-section (1) and of Chapters XLVI and XLVII of the Code of Civil Procedure as applied by section 647 of that Code, an order of a District Court under this Act shall be final.

20. Save as provided by this Act, a certificate granted thereunder in respect of any of the effects of a deceased person shall be invalid if there has been a previous

Effect on certificate of previous certificate, probate or letters of administration.

The Succession Certificate Act, 1889.

(Sections 21-26)

grant of such a certificate or of probate or letters of administration in respect of the estate of the deceased person and if such previous grant is in force.

21. (1) A grant of probate or letters of administration under the Probate and Administration Act, 1881, in respect of an estate shall be deemed

V of 1887

Effect on certificate of subsequent probate or letters of administration.

to supersede any certificate previously granted under this Act in respect of any debts or securities included in the estate.

(2) When at the time of the grant of the probate or letters any suit or other proceeding instituted by the holder of the certificate regarding any such debt or security is pending, the person to whom the grant is made shall, on applying to the Court in which the suit or proceeding is pending, be entitled to take the place of the holder of the certificate in the suit or proceeding.

22. Where a certificate under this Act has been superseded or is invalid by reason of the certificate having been revoked under section 18,

Validation of certain payments made in good faith to holder of invalid certificate.

or by reason of the grant of a certificate to a person named in an appellate order under section 19, or by reason of a certificate having been previously granted, or by reason of a grant of probate or letters of administration, or for any other cause, all payments made, or dealings had, as regards debts and securities specified in the superseded or invalid certificate, to or with the holder of that certificate, in ignorance of its supersession or invalidity shall be held good against claims under any other certificate or under the probate or letters of administration

23 (1) Where a certificate has been granted

Prohibition of exercise of certain powers by curators.

under this Act or Act XXVII of 1860, or a grant of probate or letters of administration has been made, a curator appointed under Act XIX of 1841 shall not exercise any authority lawfully belonging to the holder of the certificate or to the executor or administrator

(2) But persons who have paid debts or rents to a curator authorised by a Court to receive them shall be indemnified, and the curator shall be responsible for the payment thereof to the person who has obtained the certificate, probate or letters of administration, as the case may be.

24. Any probate or letters of administration

Effect of certain probates and letters.

granted before the first day of April 1881, by any Supreme or High Court of Judicature, or by the Court of a Recorder in Burma, in any case in which the deceased person was not a British subject within the meaning of that expression as used in the charters of the Supreme Courts of Judicature, and in which any assets belonging to him were at the time of his death within the local limits of the jurisdiction of the Court shall, for the purpose of the recovery

of debts, the protection of persons paying debts, and the negotiation or transfer of securities included in the estate of the deceased, be deemed to have and to have had the effect which a grant of probate or letters of administration has under the Indian Succession Act, 1865 :

X of 1865

Provided that nothing in this section shall be construed to validate any disposal of property by an executor or administrator which has before the commencement of this Act been declared by any competent Court to be invalid.

25. No decision under this Act upon any

Effect of decisions under this Act, and liability of holder of certificate thereunder.

question of right between any parties shall be held to bar the trial of the same question in any suit or in any other proceeding between the same parties, and nothing in this Act shall be construed to affect the liability of any person who may receive the whole or any part of any debt or security, or any interest or dividend on any security, to account therefor to the person lawfully entitled thereto.

26. (1) The Local Government may, by notification in the official

Investiture of inferior Courts with jurisdiction of District Court for purposes of this Act

Gazette, invest any Court inferior in grade to a District Court with the functions of a District Court under this Act, and may cancel or vary any such notification.

(2) Any inferior Court so invested shall, within the local limits of its jurisdiction, have concurrent jurisdiction with the District Court in the exercise of all the powers conferred by this Act upon the District Court, and the provisions of this Act relating to the District Court shall apply to such an inferior Court as if it were a District Court

Provided that an appeal from any such order of an inferior Court as is mentioned in sub-section (1) of section 19 shall lie to the District Court, and not to the High Court, and that the District Court may, if it thinks fit by its order on the appeal, make any such declaration and direction as that sub-section authorises the High Court to make by its order on an appeal from an order of a District Court.

(3) An order of a District Court on an appeal from an order of an inferior Court under the last foregoing sub-section shall, subject to the provisions of Chapters XLVI and XLVII of the Code of Civil Procedure as applied by section 647 of that Code, be final.

(4) The District Court may withdraw any proceedings under this Act from an inferior Court and may either itself dispose of them or transfer them to another such Court established within the local limits of the jurisdiction of the District Court and having authority to dispose of the proceedings.

(5) A notification under sub-section (1) may specify any inferior Court specially or any class of such Courts in any local area

*The Succession Certificate Act, 1889.**(Sections 27—28.)**(The First Schedule.—Enactments repealed.) (The Second Schedule.—Forms of certificate and extended certificate.)*

(6) Any Civil Court which for any of the purposes of any enactment is subordinate to, or subject to the control of, a District Court shall for the purposes of this section be deemed to be a Court inferior in grade to a District Court.

27. (1) When a certificate under this Act has been superseded or is invalid from any of the causes mentioned in section 22, the holder thereof shall, on the requisition of the Court which granted it, deliver it up to that Court.

(2) If he wilfully and without reasonable cause omits so to deliver it up, he shall be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to three months, or with both.

28. Notwithstanding anything in the Regulation of the Bombay Code No. VIII of 1827, the provisions of section 3, section 6, sub-section (1), clause (f), and sections 8, 9, 10, 11, 12, 14, 16, 18, 19, 25, 26 and 27 of this Act with respect to certificates under this Act and applications therefor, and of section 98 of the Probate and Administration Act, 1881, with respect to the exhibition of inventories and accounts by executors and administrators, shall, so far as they can be made applicable, apply, respectively, to certificates granted under that Regulation, and applications made for certificates thereunder, after the commencement of this Act, and to the exhibition of inventories and accounts by the holders of such certificates so granted.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

Number and year.	Subject or title.	Extent of repeal.
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Acts of the Governor General in Council.

XXVII of 1860.	Collection of debts on successions.	So much as has not been repealed.
XIV of 1869.	Bombay Civil Courts Act, 1869.	In section 16, from and inclusive of the words and figures "Bombay Regulation VIII of 1827" down to and inclusive of the words "representatives of deceased persons) and."

Number and year.	Subject or title.	Extent of repeal.
<i>Acts of the Governor General in Council—contd.</i>		
XV of 1874.	Laws Local Extent Act, 1874.	So much as relates to Act XXVII of 1860.
XIII of 1879.	Oudh Civil Courts Act, 1879.	Section 25, clause (2), relating to applications for certificates under Act XXVII of 1860.
V of 1881.	Probate and Administration Act, 1881.	Sections 151 and 153
XVIII of 1884.	Punjab Courts Act, 1884.	Section 29, sub-section (1), clause (a).
XII of 1887.	Bengal, North-Western Provinces and Assam Civil Courts Act, 1887.	Section 23, sub-section (2), clause (c).

Act of the Lieutenant-Governor of Bengal in Council.

VII of 1880.	Public Demands Recovery Act, 1880.	In section 7, clause (3), the words "and the note to paragraph 12 of Schedule I."
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THE SECOND SCHEDULE.

FORMS OF CERTIFICATE AND EXTENDED CERTIFICATE.

(See section 11.)

In the Court of

To A. B.

Whereas you applied on the _____ day of _____ for a certificate under the Succession Certificate Act, 1889, in respect of the following debts and securities, namely:—

*The Succession Certificate Act, 1889.**(The Second Schedule.—Forms of certificate and extended certificate.)**Debts.*

Serial number.	Name of debtor.	Amount of debt, including interest, on date of application for certificate.	Description and date of instrument, if any, by which the debt is secured.

Securities.

Serial number.	DESCRIPTION.			Market-value of security on date of application for certificate.
	Distinguishing number or letter of security.	Name, title or class of security.	Amount or par value of security.	

This certificate is accordingly granted to you and empowers you to collect those debts [and] [to receive] [interest] [dividends] [on] [to negotiate] [to transfer] [those securities].

Dated this day of

District Judge.

In the Court of

On the application of *A. B.* made to me on the day of , I hereby extend this certificate to the following debts and securities, namely—

Debts.

Serial number.	Name of debtor.	Amount of debt, including interest, on date of application for extension.	Description and date of instrument, if any, by which the debt is secured.

Securities.

Serial number.	DESCRIPTION.			Market-value of security on date of application for extension.
	Distinguishing number or letter of security.	Name, title or class of security.	Amount or par value of security.	

This extension empowers *A. B.* to collect those debts [and] [to receive] [interest] [dividends] [on] [to negotiate] [to transfer] [those securities].

Dated this day of

District Judge.

S. HARVEY JAMES,
Secretary to the Government of India



Bombay Government Gazette.

Published by Authority.

MONDAY, 25TH MARCH 1889.

Separate paging is given to this Part, in order that it may be filed as a separate compilation.

PART IV.

ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 1st November 1888, and the assent of His Excellency the Viceroy and Governor General on the 4th March 1889, and is published for general information:—

Bombay Act. No. VI of 1888.

An Act to provide for the Revenue Administration of Estates held by certain superior landholders in the districts of Ahmedabad, Kaira, Broach and the Panch Mahals and to limit the further operation of Bombay Act VI of 1862.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 25th March 1889.)

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Bombay Act No. VI of 1888.

An Act to provide for the Revenue Administration of Estates held by certain superior landholders in the districts of Ahmedabad, Kaira, Broach and the Panch Mahals, and to limit the further operation of Bombay Act VI of 1862.

WHEREAS it is expedient to remove doubts as to the applicability of certain portions of the Bombay Land Revenue Code, 1879, to estates held by certain superior landholders in the districts of Ahmedabad, Kaira, Broach and the Panch Mahals, and to make special provision for the revenue administration of the said estates and for the partition thereof, It is enacted as follows:—

PART I.—PRELIMINARY.

1. (1) This Act may be cited as "The Gujarat Talukdars' Act, 1888."

(2) It extends only to the districts of Ahmedabad, Kaira, Broach and the Panch Mahals.

2. (1) In this Act, unless there be something repugnant in the subject or context:

(a) "talukdar" includes a thakur, mevasi, kasbati and naik;

(b) "registered talukdar" means a sole talukdar, or the eldest or principal of several co-sharers of a talukdari estate, whose name is authorizedly entered in the Government records as holding such estate, or as the representative of the several co-sharers holding the same;

(c) "jama" means land-revenue payable by a talukdar to Government;

(d) "alienation" means a transfer of ownership and "alienee" means a person to whom ownership is transferred;

(e) "incumbrance" includes a mortgage, charge, usufructuary grant and any interest other than that of an ordinary tenant or of an alienee or talukdar; and "incumbrancer" means a person in whom an incumbrance vests;

(f) any word or expression which is defined in the Bombay Land Revenue Code, 1879, and is not hereinbefore defined, shall be deemed to have the meaning given to it by that Code.

(2) In Part II, unless there be something repugnant in the subject or context, "talukdar" includes any class of holders of unalienated estates, upon which the land-revenue is fixed by a lump assessment, to whom the Governor in Council deems fit from time to time, by notification in the *Bombay Government Gazette*, to extend the provisions of the said Part.

3. In section 114 of the Bombay Land Revenue Code, 1879, the words "or in a talukdari estate" are repealed.

PART II.—SURVEY AND SETTLEMENT.

Revenue Survey.

4. It shall be lawful for the Governor in Council, whenever it may seem expedient, to direct a revenue survey or a revised revenue survey of any talukdari estate, under the provisions of the Bombay Land Revenue Code, 1879, applicable to such surveys.

Settlement Register.

5. The Settlement Register prepared by the survey officer under section 108 of the said Code on the occasion of making any such survey shall, unless Government otherwise direct, contain, in lieu of the particulars specified in the said section, the following particulars (namely):

(a) the area and assessment of each survey number;

(b) the name of the registered talukdar, and if there are co-sharers, the name of each co-sharer and the extent of each one's interest in the estate;

(c) if the estate is undivided :

(i) the manner in which the profits derived from sources common to the co-sharers are to be distributed amongst them ;

(ii) the share to be contributed by each co-sharer, of the jama, of police charges, of the cost of erecting and maintaining boundary-marks, and of any other charge to which under any law for the time being in force the co-sharers are liable in common ;

(iii) the manner in which the co-sharers are to collect from the tenants ;

(d) if a partition of the estate has been effected and the co-sharers hold their respective shares in severalty :

(i) the extent and limits of each separate share ;

(ii) the same particulars in respect of the several sub-sharers, if any, of each such share, as are required to be given concerning all the co-sharers when an estate is undivided ;

(e) the name and description and the nature and extent of the interest of every alienee and of every incumbrancer of the estate or any portion thereof, together with a specification of :

(i) the aggregate area over which such interest extends ;

(ii) the amount and nature of rent, or land revenue, if any, payable or receivable by each alienee and incumbrancer ;

(iii) the basis of such interest, whether grant, contract, custom or other ;

(iv) the conditions of service or other conditions on which such interest depends ;

(v) any other particulars which Government shall from time to time direct.

Determination of Disputes.

6. (1) If it appears to the survey officer

Disputes concerning matters which have to be recorded under section 5 to be determined by survey officer.

who frames the said register that there exists any dispute as to any matter which he is bound under this

Act to record therein, he may, either on the application of any of the disputant parties, or of his own motion, investigate and determine such dispute and frame the register accordingly :

(2) Provided that when any such dispute shall appear to the survey officer to have

been already finally decided by a court of competent jurisdiction, the entry in the said register shall be made in conformity with such decision.

Custody and Amendment of Records.

7. (1) When the survey settlement of a talukdári estate is completed, the said register and the other records thereof shall be kept by the Collector, and every Registered Talukdár shall be entitled to receive one copy of the register free of any charge except the cost of copying.

(2) So long as the said register and other records are in the charge of the survey officer, the said officer, and afterwards the Collector, shall cause to be entered therein all changes that occur, and every thing that affects any of the rights or interests therein recorded ; and shall at any time correct or cause to be corrected any clerical error therein and also any other error which all the parties interested admit to have been made in the same.

8. (1) No suit shall lie against Government or against any officer of Government to set aside any decision or order of a survey officer or of a Collector under section 6 or 7.

(2) But the said register and other records shall from time to time be amended by the survey officer, or when the survey settlement is completed, by the Collector, in accordance with any final decree of a court of competent jurisdiction which the parties may obtain *inter se*, on an application, accompanied by a certified copy of such decree, being duly made to the survey officer or Collector for that purpose.

(3) in any suit in a civil court between the parties or persons claiming under them, a decision or order of a survey officer or Collector under section 6 or 7 shall not be held to be conclusive as to any matter therein decided.

9. Every change in the said register and other records shall be communicated without delay by the officer making it to each of the parties affected thereby.

Changes in records to be communicated to parties affected thereby.

PART III.—PARTITION.

10. (1) Every person who has obtained a final decree of a court of competent jurisdiction declaring him to be entitled to a share of a talukdári estate and every co-sharer whose name is recorded, as such, in the settlement register prepared in accordance with section 5 and, pending the preparation of the said register, every person whose title to any such share as aforesaid is not disputed by any other person claiming a share in the same estate, shall be entitled to have his share divided from the rest of the estate and to hold the same as a separate estate.

(2) Any two or more such co-sharers or persons shall be entitled to have their shares divided from the rest of the estate and to hold the same jointly as a separate estate.

11. Applications for partition shall be made to the Talukdári Settlement Officer or to such other officer as the Governor in Council appoints in this behalf.

12. (1) The Talukdári Settlement Officer, or other officer aforesaid, on receiving an application for partition, shall, if the application be not open to objection on the face of it, publish a notification of the same in the office of the Mámlatdár of the taluka and at some conspicuous place in the village in which the estate to which the application relates is situate or in each of the villages comprised in the said estate, as the case may be.

(2) He shall also serve a notice on each of the known co-sharers who has not joined in the application, requiring any of them who objects to the partition to appear before him to state his objection either in person or by a duly authorized agent, on a day to be specified in the notice not less than thirty or more than sixty days from the date on which such notice is issued.

13. Where, from any cause, notice cannot be personally served on any co-sharer, the Talukdári Settlement Officer or other officer aforesaid shall order the same to be served by affixing a copy thereof upon some conspicuous part of the house, if any,

in which such co-sharer is known to have last resided, or in such other manner as the Talukdári Settlement Officer or other officer aforesaid thinks fit.

14. If, on or before the day specified, any objection is made to the partition by any sharer and the Talukdári Settlement Officer or other officer aforesaid, on a consideration of such objection, is of opinion that there is any good and sufficient reason why the partition should be disallowed, he may refuse the application, recording the grounds of his refusal.

15. (1) If the objection raises any question as to the right of the applicant to partition or any other question of title which has not been already determined by a court of competent jurisdiction, the Talukdári Settlement Officer or other officer aforesaid may either decline to grant the application until the question in dispute has been determined by a competent court, or, if no suit is at the time pending in any such court in which the question is likely to be determined, may proceed to inquire into the merits of the objection.

(2) In the latter case, the Talukdári Settlement Officer or other officer aforesaid, after making the necessary inquiry and taking such evidence as may be adduced, shall pass a decision declaring the nature and extent of the interests of the party or parties applying for the partition and of the other co-sharers of the estate, if any, and directing by whom and in what proportion, the costs of the inquiry and of the partition (which shall be recoverable as an arrear of land-revenue) are to be paid.

(3) The procedure to be observed by the Talukdári Settlement Officer or other officer aforesaid in any such inquiry shall be that laid down by the Code of Civil Procedure, 1882, for the trial of original suits, and the provisions of Chapter XLVII of that Code, in so far as they apply to a review of judgment in an original suit, shall be applicable to the decision of the Talukdári Settlement Officer or other officer aforesaid. The Talukdári Settlement Officer or other officer aforesaid may, with the consent of the parties, refer

any question arising in such inquiry to arbitration, and the provisions of the same code relative to arbitrators shall apply to such references.

16. (1) An appeal shall lie from any decision, or from any part of a decision, passed under the last preceding section by the Talukdári Settlement Officer or other officer aforesaid, to the District Court, as if such decision were a decree of a court from whose decisions the District Court is authorized to hear appeals.

(2) Upon such appeal being made, the District Court may issue a precept to the Talukdári Settlement Officer or other officer aforesaid, requiring him to stay the partition pending the decision of the appeal.

17. (1) When it has been decided to make a partition, the Talukdári Settlement Officer or other officer aforesaid shall give the parties the option of making the partition themselves; in the event of their not agreeing or of their failing to make the partition, within a period prescribed by the Talukdári Settlement Officer or the officer aforesaid in this behalf, the Talukdári Settlement Officer or other officer aforesaid shall either make it himself or, if he thinks fit, shall entrust it to arbitrators appointed for this purpose by the parties.

(2) In making the partition, the Talukdári Settlement Officer or other officer aforesaid and any person acting under his orders shall have the same powers to enter on the estate under partition, for marking out the boundaries, surveying the land and other purposes as are conferred on survey officers by the Bombay Land Revenue Code, 1879.

Bombay Act
V of 1879.

18. (1) When a partition is completed, the Talukdári Settlement Officer or other officer aforesaid shall make an order confirming it.

(2) On making such order, the Talukdári Settlement Officer or other officer aforesaid shall publish a notification of the fact in the office of the Mamlatdár of the taluka and at some conspicuous place in the village in which the estate which has been divided

is situate, or in each of the villages comprised in the said estate, as the case may be; and the partition shall take effect on and from the first day of June next after the date of such notification, or such other date next after the date of such notification between the first day of June and the first day of October as the Talukdári Settlement Officer or other officer aforesaid, having regard to the usual season of cultivation in the said estate, shall fix in this behalf.

19. (1) If necessary, the Talukdári Settlement Officer or other officer aforesaid may, at any time after the date aforesaid, order delivery of the share, or any portion of the share, allotted to any co-sharer to be made to him in the manner in which delivery of the same might be ordered by a civil court, under the Code of Civil Procedure, 1882, in execution of a decree.

(2) If, in executing the order of the Talukdári Settlement Officer, or other officer aforesaid, the officer charged with the execution thereof is resisted or obstructed by any person, or if a co-sharer is resisted or obstructed in obtaining possession of the share or of any portion of the share allotted to him, the Talukdári Settlement Officer or other officer aforesaid shall proceed in the manner in which, by section 202 of the Bombay Land Revenue Code, 1879, a Collector is authorized to proceed for the purpose of inquiring into the reasonableness of any resistance or obstruction, to the execution of an order made under that section and of preventing the continuance thereof.

20. An appeal against the decision of the Talukdári Settlement Officer or other officer aforesaid confirming a partition shall lie to the Commissioner within one year from the date of the order confirming such partition.

21. No civil court shall entertain any suit or application for partition of a talukdári estate: Provided that nothing in this section shall be deemed to affect the jurisdiction of Her Majesty's High Court of Judicature at Bombay.

Bombay
V of 1879.

PART IV.—REVENUE ADMINISTRATION.

The Talukdar's Jama.

22. (1) If a talukdar's estate, or any portion thereof, is not wholly or partially exempt from land-revenue and its liability to payment of land-revenue is not subject to special conditions or restrictions, the jama payable to Government in respect of such estate or portion thereof shall, if a survey settlement has been extended thereto, be the aggregate of the survey assessments of the lands composing such estate or such portion thereof, minus such deduction, if any, as Government shall in each case direct.

(2) The Governor in Council may declare the amount of jama so ascertained fixed for any term not exceeding thirty years.

23. (1) Nothing in this Act shall be deemed to affect the validity of any agreement heretofore entered into by or with a talukdar and still in force as to the amount of his jama, nor of any settlement of the amount of jama made by or under the orders of Government for a term of years and still in force.

(2) Every such agreement and settlement shall have effect as if this Act had not been passed.

24. (1) The registered talukdar shall be primarily responsible for the jama of his village, and if there are sharers, all the co-sharers shall be jointly and severally responsible therefor.

(2) If the registered talukdar fails to pay the jama according to the rules legally prescribed in that behalf it may be recovered from his co-sharers, if any, or to the extent to which it is due in respect of the holding of any mortgagee in possession, inferior holder or person in actual occupation of the estate or of any portion thereof, from such mortgagee in possession, inferior holder or person.

(3) When jama is recovered from any such co-sharer, mortgagee in possession, inferior holder, or other person, he shall be allowed credit for all payments which he may have made to the talukdar at or

after the prescribed or usual times of such payments and he shall be entitled to credit in account with the talukdar for the amount recovered from him.

25. (1) When a partition has taken place and a talukdar's estate is held in severalty, the jama payable in respect of each separate portion into which the same has been divided shall be determined by the Collector, and thereupon each such portion shall for the purposes of the last preceding section be deemed to be a distinct estate.

(2) Provided that the aggregate jama payable in respect of the several portions into which the estate has been divided shall not exceed the jama which would be leviable from the entire estate if still undivided.

Management of Talukdar's Estates by Government Officers.

26. (1) If owing to disputes among the sharers in any talukdar's estate, or for other cause, the Governor in Council shall deem that there is reason to apprehend danger to the peace of the country or injury to the well-being of the inferior holders, he may direct the Collector to cause such estate to be attached and taken under the management of himself or any agent whom he appoints for this purpose, and on the application of any registered talukdar or co-sharer, the Collector shall furnish him with a copy of the reasons on which the orders of Government were passed.

(2) When any estate is so attached and taken under management, the sharers or any one or more of the sharers therein, may at any time apply to the District Magistrate to restore the management thereof; and if the applicants shall prove to the satisfaction of the District Magistrate, that no reason for any such apprehension as aforesaid any longer exists, the District Magistrate may order restoration of the management to be made to the talukdar.

27. (1) With the sanction of the Commissioner, the Talukdari Settlement Officer or other officer appointed by Government may hold the estate in which partition is being effected, under his own management, pending the completion of the partition.

(2) Provided that before applying to the Commissioner for sanction under this section, the Tálukdári Settlement Officer or other officer aforesaid, shall give to the parties reasonable notice of his intention so to do, and shall forward, with his application, for the Commissioner's consideration, any written statement of objection thereto which any of the parties shall present to him for this purpose.

28. With the sanction of Government, the Tálukdári Settlement Officer or any other officer appointed by Government for this purpose may, upon the written application of a tálukdár in this behalf, take charge of such tálukdár's estate and keep the same under his management for such period as may be agreed upon between the tálukdár and the Tálukdári Settlement Officer or other officer aforesaid: Provided that no such application shall be entertained in respect of an undivided share of a tálukdári estate nor, except with the consent of all the co-sharers, in respect of an estate which is held by co-sharers.

29. (1) When any tálukdári estate is taken under management by Government officers under any of the three last preceding sections, the provisions of section 160 of the Bombay Land Revenue Code, 1879, shall be applicable thereto:

Bombay Act
V of 1879,

(2) Provided that no sale of occupancy rights or agreement entered into by a Government officer managing an estate under section 26, in respect of any land in such estate, shall be for a period exceeding five years from the date thereof and that no such sale of occupancy rights or agreement by a Government officer managing an estate under section 27 shall have effect beyond the end of the revenue year in which such officer's management determines, unless the same is ratified by the co-sharer to whose share the said land is finally allotted when the partition of the estate is completed.

(3) All surplus receipts, if any, which accrue during such management, after defraying the costs of the management, including the payment of the current land-revenue and of all arrears thereof, and the cost of the extension to

the estate of a revenue survey, if the Governor in Council directs, or has before directed, the extension of a revenue survey thereto under section 4, shall be divided amongst the co-sharers in proportion to their respective shares, at such periods as the Tálukdári Settlement Officer or other officer aforesaid shall see fit.

Police Officers and Establishment.

30. (1) The Governor in Council may from time to time determine:

- (a) what police officers and establishment are requisite in each village in a tálukdári estate;
- (b) by whom and under what conditions the police officers and establishment shall be appointed, punished, and dismissed;
- (c) what remuneration shall be paid to each police officer and member of the police establishment.

(2) Charges on account of police shall be defrayed by the tálukdár at such times as shall from time to time be determined by Government, and in the event of failure by the tálukdár to pay, at the time when the same becomes due, any sum so payable, the said sum shall be recoverable from him, in addition to the jama, as if the same were a part of the jama.

(3) If a partition has taken place and the estate is held in severalty, the said charges shall be payable by and recoverable from the holders of the various portions into which the estate has been divided in proportion to their respective shares in the estate.

PART V.—MISCELLANEOUS.

31. (1) No incumbrance on a tálukdár's estate, or on any portion thereof, made by the tálukdár after this Act comes into force, shall be valid as to any time beyond such tálukdár's natural life, unless such incumbrance is made with the previous written consent of the Tálukdári Settlement Officer, or of some other officer appointed by the Governor in Council in this behalf.

(2) No alienation of a talukdar's estate or of any portion thereof, or of any share or interest therein, made after this Act comes into force, shall be valid, unless such alienation is made with the previous sanction of the Governor in Council; which sanction shall not be given except upon the condition that the entire responsibility for the portion of the jama and of the village expenses and police charges due in respect of the alienated area, shall thenceforward vest in the alienee and not in the talukdar.

32. (1) No consent or sanction given under the last preceding section shall be deemed to affect any right of Government under section 3 of *Bombay Act VII of 1863 (an Act for the Summary Settlement of claims to exemption from the payment of Government land-revenue, and for regulating the terms upon which such exemption shall be recognized in future, in those parts of the Bombay Presidency which are not subject to the operation of Act XI of 1852 of the Council of India).*

(2) And nothing in the last preceding section shall apply to the property of any thakur to which section 28 of the Broach and Kaira Encumbered Estates Act, 1881, is applicable, or be deemed to affect the power of the manager of any thakur's immoveable property under section 24 of the said Act.

33. (1) Nothing in sections 38 to 40, both inclusive, 44, 60 to 67, both inclusive, 76, 82, 85, 109, 110, 116, 127 to 136, both inclusive, 163, 216 and 217 of the *Bombay Land Revenue Code, 1879*, shall be deemed to apply to any estate to which this Act extends.

(2) The provisions of the said Code when applied to any such estate shall be subject to the following modifications (namely):—

(a) in section 3, clause (1), the words "the Talukdari Settlement Officer and every officer appointed by the Governor in Council to exercise any power or perform any duty under the Gujarat Talukdars' Act, 1888, and " shall be inserted after the word "means"

(b) in section 54, the words "or under the Gujarat Talukdars' Act, 1888," shall be inserted after the figures "136";

(c) in sections 46, 88, 89 and 94, the word "talukdar" shall be substituted for the words, "holder of alienated lands" and the word "holder" wherever they occur;

(d) in section 88, the clauses (c) to (f) and the proviso shall be omitted;

(e) for section 111, the following section shall be deemed to be substituted, viz.:

"111. In the event of any talukdar's estate coming under the temporary management of Government officers, it shall be lawful for the Collector, Talukdar Settlement Officer, or other officer appointed by Government in this behalf, subject, in any case to which it applies, to the proviso to section 29 of the Gujarat Talukdars' Act, 1888, to let out the lands thereof at rates determined by means of a survey settlement or at such other fixed rates as he may deem to be reasonable, and to sell the occupancy of unoccupied lands by auction, and otherwise to conduct the revenue management thereof under the rules for the management of unalienated lands not comprised within a talukdar's estate, so far as such rules may be applicable and for so long as the said estate shall be under the management of Government officers. Provided, however, that any written agreements relating to the land made by the talukdar of such estate shall not be affected by any proceedings under this section in so far as they shall not operate to the detriment of the lawful claims of Government on the land; and provided also that when the estate ceases to be under the management of Government officers, the possession and enjoyment thereof shall, except as is otherwise provided in section 29 of the Guja-

rát Tálukdárs' Act, 1888, revert to the tálukdár, subject to the leases and occupancy rights, if any, granted under this section.

- (f) in section 113, clause (3) shall be omitted;
- (g) in section 147, the words "or under the Gujarát Tálukdárs' Act, 1888," shall be inserted after the word "section";
- (h) In section 150, clause (f), the word "alienated" shall be omitted;
- (j) in section 160, the word "be" shall be substituted for the words "revert to Government";
- (k) in section 162, the words "at any time within twelve years from the first day of August next after the attachment" shall be omitted;
- (l) in section 214, clause (f) shall be omitted;

(m) generally, the word "tálukdár" shall be substituted for the word "occupant;" the words "registered tálukdár" for the words "registered occupant;" and the words "tálukdár's holding," or such words to that effect as may be required by the context, for the word "occupancy."

And whereas it is also expedient to limit the period within which fresh estates may be subjected to the operation of Bombay Act VI of 1862 (an Act for the amelioration of the condition of Tálukdárs in the Ahmedabad Collectorate and for their relief from debt); It is further enacted as follows:

34. No new declaration shall be made under section 1 of the said Bombay Act VI of 1862 at any time after six months from the date on which this Act comes into force.

By order of His Excellency the Right Honourable the Governor in Council,

J. J. HEATON,

Acting Under Secretary to Government.

Bombay Castle, 21st March 1889.

THE



Bombay Government Gazette

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PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 22nd March 1889, and is hereby promulgated for general information:—

Act No. VIII of 1889.

An Act to amend the Sea Customs Act, 1878, and the Indian Tariff Act, 1882

WHEREAS it is expedient to amend the Sea Customs Act, 1878, and the Indian Tariff Act, 1882; It is hereby enacted as follows:—

Sea Customs Act, 1878.

1. For the provisos to section 37 of the Sea Customs Act, 1878, the following proviso shall be substituted, namely:—

Amendment of section 37, Act VIII, 1878.

“Provided that, if such goods are warehoused under this Act, the rate and valuation (if any) applicable thereto shall be the rate and valuation in force on the date on which application is made to clear such goods from the warehouse for home-consumption.”

2. In section 115 of the same Act, for the words and figures “the second proviso to section 37” the words “such alteration” shall be substituted.

Amendment of section 115, Act VIII, 1878

IV.—17

Indian Tariff Act, 1882.

3. In section 1 of the Indian Tariff Act, 1882, XI of 1882. Amendment of section 1, the words “and Perim” shall be inserted after the word “Aden”.

4. The following section shall be added to the same Act, namely —
Addition of new section to Act XI, 1882.

“10. In the event of any duty of customs or excise on any article being imposed, increased, decreased or remitted after the making of any contract for the sale of such article without stipulation as to the payment of duty where duty was not chargeable at the time of the making of the contract, or for the sale of such article duty-paid where duty was chargeable at that time,—

(a) if such imposition or increase so takes effect that the duty or increased duty, as the case may be, is paid, the seller may add so much to the contract-price as will be equivalent to the duty or increase of duty, and he shall be entitled to be paid and to sue for and recover such addition, and

(b) if such decrease or remission so takes effect that the decreased duty only or no-duty, as the case may be, is paid, the purchaser may deduct so

much from the contract-price as will be equivalent to the decrease of duty or remitted duty, and he shall not be liable to pay or be sued for or in respect of such deduction."

Amendment of the Second Schedule to Act XI, 1882. 5. In No. 1 of the Second Schedule to the same Act, for the following, namely:—

No	Names of Articles.	Per	Tariff valuation.	Rate of duty
*	*	*	Re. a.	*
	Gunpowder, common.	lb.	0 5	} 10 per cent.
	Gunpowder, sporting.	lb.	1 0	
	All other sorts	.	<i>Ad valorem.</i>	} 10 per cent.

there shall be substituted the following, namely —

No	Names of Articles.	Per	Tariff valuation.	Rate of duty.
*	*	*	Re. a.	*
	Gunpowder, common.	lb.	0 5	} 10 per cent.
	Gunpowder, sporting	lb.	1 0	
	All other sorts of Arms, Ammunition and Military Stores	.	<i>Ad valorem.</i>	10 per cent.

Explanation—The expression "Arms, Ammunition and Military Stores," as used in the foregoing part of this Schedule, includes, in addition to any article specifically mentioned in that part,—

- (a) all articles which are either "arms" or "ammunition" within the meaning of the Indian Arms Act, 1878, XI of 1878 and
 (b) any articles which the Governor General in Council may from time to time, by notification in the Gazette of India, declare to be "military stores" for the purposes of this Act.

S. HARVEY JAMES,
 Secretary to the Government of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the Sea Customs Act, 1878, and the Indian Tariff Act, 1882, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 15th March 1889 —

We, the undersigned, Members of the Select Committee to which the Bill to amend the Sea

From Officiating Secretary to Chief Commissioner, Assam, No. 383, dated 8th February 1889 [Paper No. 1].

From Chief Commissioner, Ajmere-Merwara, No 123-690, dated 9th February 1889 [Paper No. 2]

From Junior Secretary to Government, Punjab, No. 177, dated 15th February 1889, and enclosure [Papers No 3]

From Secretary to Chief Commissioner, Coorg, No. 259-119, dated 12th February 1889, [Paper No. 4]

From Officiating Secretary to Government, Bengal, No C.-1A-1-9, dated 16th February 1889, and enclosures [Papers No 5]

From Registrar, High Court, Calcutta, No 474, dated 22nd February 1889 [Paper No 6].

From Chief Secretary to Government, Madras, No. 302, dated 18th February 1889, and enclosures [Papers No 7]

From Secretary to Government, North-Western Provinces and Oudh, No. 69-XIII 80A., dated 26th February 1889 [Paper No 8]

From Secretary for Berar to Resident, Hyderabad, No. 91G, dated 27th February 1889 [Paper No. 9].

From Chief Secretary to Government, Bombay, No 1641, dated 27th February 1889, and enclosures [Papers No. 10].

From Under Secretary to Chief Commissioner, Central Provinces, No 1342-60, dated 2nd March 1889 [Paper No 11]

From Officiating Under Secretary to Chief Commissioner, Burma, No. 4-4L, dated 1st March 1889, and enclosures [Papers No 12].

From Secretary, Bengal Chamber of Commerce, No. 212, dated 9th March 1889 [Paper No. 13].

Customs Act, 1878, and the Indian Tariff Act, 1882, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

2. Section 110 of the Sea Customs Act, 1878, is one of several interdependent sections, and it seems to us to be unnecessary to amend it for the purpose mentioned in the

Statement of Objects and Reasons. It is sufficiently clear from the new proviso to section 37 of the Act that where, after goods liable to duty have been assessed and warehoused, the duty is repealed, the goods may be cleared for home consumption free of duty.

3 We have slightly altered the proposed amendment of section 115 of the Sea Customs Act, 1878.

4. At the instance of the Government of Bombay we have expressly excluded Perim from the operation of the Indian Tariff Act, 1882

5. The Bengal, Bombay and Rangoon Chambers of Commerce approve, and the Madras Chamber disapproves, the addition of the proposed section 10 to the Indian Tariff Act, 1882. We concur with the majority in thinking that the section should be added to the Act.

6. The publication ordered by the Council has been made as follows —

In English.

<i>Gazette.</i>	<i>Date.</i>
Gazette of India	19th January 1889.
Fort Saint George Gazette	5th February 1889
Bombay Government Gazette	24th January 1889
Calcutta Gazette	23rd January 1889.
North-Western Provinces and Oudh Government Gazette	26th January 1889.
Punjab Government Gazette	1st January 1889
Central Provinces Gazette	26th January 1889
Burma Gazette	2nd February 1889.
Assam Gazette	2nd February 1889.
Coorg District Gazette	1st March 1889
Sindh Official Gazette	7th February 1889.

In the Vernaculars.

<i>Province.</i>	<i>Language</i>	<i>Date</i>
Bombay	Maráthi	7th February 1889.
	Gujaráthi	7th February 1889
	Kánarese	7th February 1889
Bengal	Bengali	5th February 1889.
	Uriya	14th February 1889
	Hindi	5th March, 1889
Burma	Burmese	9th February 1889
	Bengali	23rd February 1889.
Assam	Sindhi	7th February 1889.

7. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

D. BARBOUR.
ANDREW R. SCOBLE.
ROBT. STEEL.
FRED. M. HALLIDAY
DINSHAW MANOCKJEE PETIT.
DOORGA CHURN LAW.

S. HARVEY JAMES,

Secretary to the Government of India.

The 13th March 1889.



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Separate paging is given to this Part, in order that it may be filed as a separate compilation.

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 29th March 1889, and is hereby promulgated for general information.

Act No. X of 1889.

THE INDIAN PORTS ACT.

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The Indian Ports Act, 1879.

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THE FIRST SCHEDULE.—PORTS, VESSELS CHARGEABLE, RATE OF PORT-DUES AND FREQUENCY OF PAYMENT.

THE SECOND SCHEDULE.—ENACTMENTS REPEALED.

An Act to consolidate and amend the law relating to Ports and Port-charges.

WHEREAS it is expedient to consolidate and amend the law relating to ports and port-charges; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Indian Ports Act, 1889; and

(2) It shall come into force on the first day of April 1889.

(3) It shall extend, save as otherwise appears from its subject or context,—

(a) to the ports mentioned in the first schedule, and to such parts of the navigable rivers and channels leading to such ports respectively as have been declared to be subject to Act XXII of 1855 (*for the regulation of Ports and Port-dues*) or to the Indian Ports Act, 1875;

XII of 1875,

(b) to the other ports or parts of navigable rivers or channels to which the Local Government, in exercise of the power hereinafter conferred, extends this Act;

(4) But nothing in this Act shall—

(i) apply to any vessel belonging to, or in the service of, Her Majesty or the Government of India, or to any vessel of war belonging to any Foreign Prince or State, or

(ii) deprive any person of any right of property or other private right, except as hereinafter expressly provided, or

(iii) affect any law or rule relating to the customs or any order or direction lawfully made or given pursuant thereto;

(5) And nothing in section 31 or section 32 shall apply to any port, river or channel to which the section has not been specially extended by the Local Government.

2. (1) The enactments mentioned in the second schedule are hereby repealed to the extent specified in the third column of that schedule.

(2) All declarations, appointments, requisitions, orders and rules made, authorizations, directions and permissions given, prohibitions issued and notifications published under any of those enactments or under any enactment repealed by any of them shall, if in force at the commencement of this Act, be deemed, so far as may be, to have been made, given, issued and published under this Act; and

(3) Any enactment or document referring to any such repealed enactment shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

The Indian Ports Act, 1889.

(Chapter I.—Preliminary.—Section 3. Chapter II.—Powers of the Local Government.—Sections 4-6.)

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) "port" includes also any part of a river or channel in which this Act is for the time being in force;

(2) "port officer" is synonymous with master-attendant.

(3) "vessel" includes anything made for the conveyance by water of human beings or of property;

(4) "master," when used in relation to any vessel, means, subject to the provisions of any other enactment for the time being in force, any person (except a pilot or harbour-master) having for the time being the charge or control of the vessel;

(5) "pilot" means a person for the time being authorized by the Local Government to pilot vessels;

(6) "ton" means a ton as determined or determinable by the rules for the time being in force for regulating the measurement of the net tonnage of British ships; and

(7) "Magistrate" means a person exercising powers under the Code of Criminal Procedure, 1882, not less than those of a Magistrate of the second class, and includes, in the towns of Calcutta, Madras and Bombay, a Presidency Magistrate.

CHAPTER II.

POWERS OF THE LOCAL GOVERNMENT.

A. (1) With the previous sanction of the Governor General in Council, the Local Government may, by notification in the official

Power to extend or withdraw the Act of certain portions thereof.

Gazette,—

(a) extend this Act to any port in which this Act is not in force or to any part of any navigable river or channel which leads to a port and in which this Act is not in force;

(b) specially extend the provisions of section 31 or section 32 to any port to which they have not been so extended;

(c) withdraw this Act, or section 31 or section 32, from any port or any part thereof in which it is for the time being in force.

(2) A notification under clause (a) or clause (b) of sub-section (1) shall define the limits of the area to which it refers.

(3) Limits defined under sub-section (2) may include any piers, jetties, landing-places, wharves, quays, docks and other works made on behalf of the public for convenience of traffic, for safety of vessels, or for the improvement, maintenance or good government of the port and its approaches, whether within or without high-water-mark, and, subject to any rights of private property therein, any portion of the shore or bank within fifty yards of high-water-mark.

(4) In sub-section (3) the expression "high-water-mark" means the highest point reached by ordinary spring-tides at any season of the year

5. (1) The Local Government may, with the previous sanction of the Governor General in Council and subject to any rights of private property, alter the limits of any port in which this Act is in force.

(2) When the Local Government alters the limits of a port under sub-section (1), it shall declare or describe, by notification in the official Gazette, and by such other means, if any, as it thinks fit, the precise extent of such limits.

6. (1) The Local Government may, in addition to any rules which it may make under any other enactment for the

Power to make port-rules, time being in force, make such rules, consistent with this Act, as it thinks necessary for any of the following purposes, namely:—

(a) for regulating the time at which, and the manner in which, vessels are to enter or leave any port subject to this Act;

(b) for regulating the berths, stations and anchorages to be occupied by vessels in any such port;

(c) for striking the yards and top-masts, and for rigging-in the booms and yards, of vessels in any such port, and for swinging or taking-in davits, boats and other things projecting from such vessels;

(d) for the removal or proper hanging or placing of anchors, spars and other things being in or attached to vessels in any such port;

(e) for regulating vessels whilst taking-in or discharging passengers, ballast or cargo, or any particular kind of cargo, in any such port, and the stations to be occupied by vessels whilst so engaged;

(f) for keeping free passages of such width as may be deemed necessary within any such port, and along or near to the piers, jetties, landing-places, wharves, quays, docks, moorings and other works in or adjoining to the same, and for marking out the spaces so to be kept free;

(g) for regulating the anchoring, fastening, mooring and unmooring of vessels in any such port;

(h) for regulating the moving and warping of all vessels within any such port and the use of warps therein;

(i) for regulating the use of the mooring buoys, chains and other moorings in any such port;

(j) for fixing the rates to be paid for the use of such moorings when belonging to the Government, or of any boat, hawser or other thing belonging to the Government;

(k) for licensing and regulating catamarans plying for hire, and flats and cargo, passenger and other boats plying, whether for

The Indian Ports Act, 1889.

(Chapter III.—Port-officials and their Powers and Duties.—Sections 7-11)

hire or not and whether regularly or only occasionally in, or partly within and partly without, any such port, and for determining the quantity of cargo or number of passengers to be carried by any such vessel;

- (l) for regulating the use of fires and lights within any such port;
- (m) for enforcing and regulating the use of signals or signal-lights by vessels by day or by night in any such port;
- (n) for regulating the number of the crew which must be on board any vessel afloat within the limits of any such port;
- (o) for regulating the employment of persons engaged in cleaning or painting vessels, or in working in the bilges, boilers or double bottoms of vessels, in any such port, and
- (p) for regulating the action to be taken by a master where there is disease or sickness, or a dead body, on board his vessel in any such port.

(2) The power to make rules under sub-section (1) is subject to the condition of the rules being made after previous publication:

Provided that nothing in this sub-section shall be construed to affect the validity of any rule in force immediately before the commencement of this Act and continued by section 2, sub-section (2).

CHAPTER III.

PORT-OFFICIALS AND THEIR POWERS AND DUTIES.

7 (1) The Local Government shall appoint some officer or body of persons to be conservator of every port subject to this Act, and may suspend or remove such officer or body.

(2) Subject to any direction by the Local Government to the contrary,—

- (a) in ports where there is a port-officer, the port-officer shall be the conservator;
- (b) in ports where there is no port-officer, but where there is a harbour-master, the harbour-master shall be the conservator.

(3) Where the harbour-master is not conservator, the harbour-master and his assistants shall be subordinate to, and subject to the control of, the conservator.

(4) The conservator shall be subject to the control of the Local Government, or of any intermediate authority which that Government may appoint.

8. (1) The conservator of any port subject to this Act may, with respect to any vessel within the port, give directions for carrying into effect any rule for the time being in force therein under section 6

Power of conservator to give and enforce directions for certain specified purposes

(2) If any person wilfully and without lawful excuse refuses or neglects to obey any lawful direction of the conservator, after notice thereof has been given to him, he shall, for every such offence, be punished with fine which may extend to one hundred rupees, and with further fine which may extend to one hundred rupees for every day on which, after such notice as aforesaid, he wilfully and without lawful excuse continues to disobey the direction.

(3) In case of such refusal or neglect, the conservator may do, or cause to be done, all acts necessary for the purpose of carrying the direction into execution, and may hire and employ proper persons for that purpose, and all reasonable expenses incurred in doing such acts shall be recoverable by him from the person so refusing or neglecting to obey the direction.

9. The conservator of any such port may, in case of urgent necessity, Power to cut warps and ropes. cut, or cause to be cut, any warp, rope, cable or hawser endangering the safety of any vessel in the port or at or near to the entrance thereof.

10. (1) The conservator may remove, or cause to be removed, any timber, raft or other thing, floating or being in any part of any such port, which in his opinion obstructs or impedes the free navigation thereof or the lawful use of any pier, jetty, landing-place, wharf, quay, dock, mooring or other work on any part of the shore or bank which has been declared to be within the limits of the port and is not private property.

(2) The owner of any such timber, raft or other thing shall be liable to pay the reasonable expenses of the removal thereof, and if such owner or any other person has without lawful excuse caused any such obstruction or impediment, or causes any public nuisance affecting or likely to affect such free navigation or lawful use, he shall also be punished with fine which may extend to one hundred rupees.

(3) The conservator or any Magistrate having jurisdiction over the offence may cause any such nuisance to be abated.

11. If the owner of any such timber, raft or other thing, or the person who has caused any such obstruction, impediment or public nuisance as is mentioned in the last foregoing section neglects to pay the reasonable expenses incurred in the removal thereof, within one week after demand, or within fourteen days after such removal has been notified in the official Gazette or in such other manner as the Local Government by general or special order directs, the conservator may cause such timber, raft or other thing, or the materials of any public nuisance so removed, or so much thereof as may be necessary, to be sold by public auction;

Recovery of expenses of removal.

*The Indian Ports Act, 1889.**(Chapter III.—Port-officials and their Powers and Duties.—Sections 12-17.)*

and may retain all the expenses of such removal and sale out of the proceeds of the sale, and shall pay the surplus of such proceeds, or deliver so much of the thing or materials as may remain unsold, to the person entitled to receive the same;

and, if no such person appears, shall cause the same to be kept and deposited in such manner as the Local Government directs;

and may, if necessary, from time to time, realize the expenses of keeping the same, together with the expenses of sale, by a further sale of so much of the thing or materials as may remain unsold.

12. (1) If any obstruction or impediment to the navigation of any port subject to this Act has been lawfully made, or has become lawful by reason of the long continuance of such obstruction or impediment, or otherwise, the conservator shall report the same for the information of the Local Government, and shall, with the sanction of that Government, cause the same to be removed or altered, making reasonable compensation to the person suffering damage by such removal or alteration.

(2) Any dispute arising concerning such compensation shall be determined according to the law relating to like disputes in the case of land required for public purposes.

13. (1) If any vessel hooks or gets foul of any of the buoys or moorings laid down by or by the authority of the Local Government in any such port, the master of such vessel shall not, nor shall any other person except in case of emergency, lift the buoy or mooring for the purpose of unhooking or getting clear from the same without the assistance of the conservator;

and the conservator, immediately on receiving notice of such accident, shall assist and superintend the clearing of such vessel;

and the master of such vessel shall, upon demand, pay such reasonable expenses as may be incurred in clearing the same.

(2) Any master or other person offending against the provisions of this section shall, for every such offence, be punished with fine which may extend to one hundred rupees.

14. (1) If any vessel is wrecked, stranded or sunk in any such port, so as to impede, or be likely to impede the navigation thereof, the conservator may cause the vessel to be raised, removed or destroyed.

(2) If any property recovered by a conservator acting under sub-section (1) is unclaimed, or the person claiming it fails to pay the reasonable expenses incurred by the conservator under that sub-section, and a further sum of twenty per cent. of the amount of such expenses the conservator may sell the property by public auction, if the property is of a perishable nature, forthwith,

and, if it is not of a perishable nature, at any time not less than six months after the recovery thereof.

(3) The expenses and further sum aforesaid shall be payable to the conservator out of the sale-proceeds of the property, and the balance shall be paid to the person entitled to the property recovered, or, if no such person appears and claims the balance, shall be held in deposit for payment, without interest, to any person thereafter establishing his right thereto.

Provided that the person makes his claim within three years from the date of the sale

15. (1) The conservator or any of his assistants may, whenever he suspects that any offence against this Act has been, or is about to be committed, or whenever it is necessary for him so to do in the performance of any duty imposed upon him by this Act,

and the person appointed under this Act to receive any port-dues, fees or other charges payable in respect of any vessel, may, whenever it is necessary for him so to do in the performance of any duty imposed upon him by this Act,

either alone or with any other person, board any vessel, or enter any building or place, within the limits of any port subject to this Act.

(2) If the master of the vessel, or any person in possession or occupation of the building or place, without lawful excuse, refuses to allow any such person as is mentioned in sub-section (1) to board or enter such vessel, building or place in the performance of any duty imposed upon him by this Act, he shall for every such offence be punished with fine which may extend to two hundred rupees.

16. (1) For the purpose of preventing or extinguishing fire in any port subject to this Act, the conservator or port-officer may require the master of any vessel within the port to place at his disposal such number as he requires, not exceeding three-fourths, of the crew then under the orders of such master.

(2) Any master refusing or neglecting to comply with such requisition shall be punished with fine which may extend to five hundred rupees, and any seaman then under his orders who, after being directed by the master to obey the orders of the conservator or port-officer for the purpose aforesaid, refuses to obey such orders shall be punished with fine which may extend to twenty-five rupees.

17. (1) The Local Government may appoint at any port subject to this Act an officer to be called the health-officer, and may suspend or remove from office any officer so appointed.

(2) A health-officer shall, subject to the control of the Local Government, have the following powers within the limits of the port for which he is appointed, namely:—

The Indian Ports Act, 1889.

(Chapter III.—Port-officials and their Powers and Duties.—Section 18. Chapter IV.—Rules for the Safety of Shipping and the Conservation of Ports.—Sections 19-25.)

- (a) with respect to any vessel, the powers conferred on a shipping-master by Act I of 1859, section 71;
- (b) power to enter on board any vessel and medically examine all or any of the seamen or apprentices on board the vessel;
- (c) power to require and enforce the production of the log-book and any other books, papers or documents which he thinks necessary for the purpose of enquiring into the health and medical condition of the persons on board the vessel;
- (d) power to call before him and question for any such purpose all or any of those persons and to require true answers to any questions which he thinks fit to ask;
- (e) power to require any person so questioned to make and subscribe a declaration of the truth of the statements made by him.

18. The Government shall not be responsible for any act or default of any conservator, port-officer or harbour-master of any port subject

Indemnity to Government against act or default of port official or pilot.

to this Act, or of any deputy or assistant of any of the authorities aforesaid, or of any person acting under the control or direction of any such authority, deputy or assistant, or for any act or default of any pilot, or for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers or other things belonging to the Government which may be used by the vessel.

Provided that nothing in this section shall protect the Secretary of State for India in Council from a suit in respect of any act done by or under the express order or sanction of the Government.

CHAPTER IV.

RULES FOR THE SAFETY OF SHIPPING AND THE CONSERVATION OF PORTS.

General Rules.

19. (1) No person shall, without lawful excuse, injure, loosen or set adrift any buoy, beacon or mooring fixed or laid down by, or by the authority of, the Local Government in any port subject to this Act.

(2) If any person offends against the provisions of this section, he shall for every such offence be liable, in addition to the payment of the amount of damage done, to fine which may extend to two thousand rupees, or to imprisonment for a term which may extend to two years.

20. If any person wilfully and without lawful excuse loosens or removes from her moorings any vessel within any such port without leave or authority from the owner or master of the vessel, he shall, for every such offence, be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to six months

21. (1) No ballast or rubbish, and no other thing likely to form a bank or shoal or to be detrimental to navigation, shall, without lawful excuse, be cast or thrown into any such port, or into or upon any place on shore from which the same is liable to be washed into any such port, either by ordinary or high tides, or by storms or land-floods.

(2) Any person who by himself or another, so casts or throws any ballast or rubbish or any such other thing, and the master of any vessel from which the same is so cast or thrown, shall be punished with fine which may extend to five hundred rupees and shall pay any reasonable expenses which may be incurred in removing the same.

(3) If, after receiving notice from the conservator of the port to desist from so casting or throwing any ballast or rubbish or such other thing, any master continues so to cast or throw it, he shall also be liable to simple imprisonment for a term which may extend to two months.

(4) Nothing in this section applies to any case in which the ballast or rubbish or such other thing is cast or thrown into any such port with the consent in writing of the conservator, or within any limits within which such act may be authorized by the Local Government.

22. If any person graves, breams or smokes any vessel in any such port, contrary to the directions of the conservator, or at any time or within any limits at or within which such act is prohibited by the Local Government, he and the master of the vessel shall for every such offence be punished with fine which may extend to five hundred rupees each.

23. If any person boils or heats any pitch, tar, resin, dammer, turpentine, oil or other such combustible matter on board any vessel within any such port, or at any place within its limits where such act is prohibited by the Local Government, or contrary to the directions of the conservator, he and the master of the vessel shall for every such offence be punished with fine which may extend to two hundred rupees each.

24. If any person, by an unprotected artificial light, draws off spirits on board any vessel within any port subject to this Act, he and the master of the vessel shall for every such offence be punished with fine which may extend to two hundred rupees each.

25. (1) Every master of a vessel in any port subject to this Act shall, when required so to do by the conservator, permit warps or hawsers to be made fast to the vessel for the purpose of warping any other vessel in the port, and shall not allow any such warp or hawser to be let go until required so to do.

The Indian Ports Act, 1889.

(Chapter IV.—Rules for the Safety of Shipping and the Conservation of Ports.—Sections 26-32.
Chapter V.—Port-dues, Fees and other Charges.—Section 33.)

(2) A master offending against sub-section (1) shall be punished for every such offence with fine which may extend to two hundred rupees.

26. (1) A master of a vessel shall not cause or suffer any warp or hawser attached to his vessel to be left out in any port subject to this Act after sunset in such a manner as to endanger the safety of any other vessel navigating in the port

(2) A master offending against sub-section (1) shall be punished for every such offence with fine which may extend to two hundred rupees.

27. If any person, without lawful excuse, discharges any fire-arm in any port subject to this Act, or on or from any pier, landing-place, wharf or quay thereof, except a gun loaded only with gunpowder for the purpose of making a signal of distress, or for such other purpose as may be allowed by the Local Government, he shall for every such offence be punished with fine which may extend to fifty rupees.

28. If the master of any vessel in which fire takes place while lying in any such port wilfully omits to take order to extinguish the fire or obstructs the conservator or the port-officer, or any person acting under the authority of the conservator or port-officer, in extinguishing or attempting to extinguish the fire, he shall be punished with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

29 (1) No person, without the permission of the conservator, shall in any port subject to this Act creep or sweep for anchors, cables or other stores lost or supposed to be lost therein.

(2) If any person offends against the provisions of sub-section (1), he shall be punished with fine which may extend to one hundred rupees.

30 (1) No person without the permission of the conservator shall in any port subject to this Act remove or carry away

any rock, stones, shingle, gravel, sand or soil or any artificial protection from any part of the bank or shore of the port;

and no person shall sink or bury in any part of such bank or shore, whether the same is public or private property, any mooring-post, anchor or any other thing, or do any other thing which is likely to injure or to be used so as to injure such bank or shore, except with the permission of the conservator, and with the aid or under the inspection of such person, if any, as the conservator may appoint to take part in, or overlook the performance of, such work

(2) If any person offends against sub-section (1), he shall for every such offence be punished with fine which may extend to one hundred rupees and shall pay any reasonable expenses

which may be incurred in repairing any injury done by him to the bank or shore.

Special Rules.

31 (1) No vessel of the measurement of two hundred tons or upwards shall enter, leave or be moved in any port to which this section has been specially extended without having a pilot, harbour-master or assistant of the port-officer or harbour-master on board,

and no vessel of any measurement less than two hundred tons and exceeding one hundred tons shall enter, leave or be moved in any such port without having a pilot, harbour-master or assistant of the port-officer or harbour-master on board, unless authority in writing so to do has been obtained from the conservator or some officer empowered by him to give such authority.

(2) If any vessel, except in case of urgent necessity, enters, leaves or is moved in the port contrary to the provisions of sub-section (1), the master of the vessel shall for every such offence be punished with fine which may extend to two hundred rupees, unless upon application to the proper officer the master was unable to procure a pilot, harbour-master or assistant of the port-officer or harbour-master to go on board the vessel.

(3) Nothing in sub-sections (1) and (2) shall apply to Native vessels when they are entering, leaving or being moved in the port of Bombay

(4) If any question arises as to whether any vessel is a Native vessel within the meaning of this section, the decision thereon of such authority as the Governor of Bombay in Council may appoint in this behalf shall be conclusive

32 (1) Every vessel exceeding the measurement of two hundred tons and lying in any port to which this section has been specially extended shall be provided with a proper force-pump and hose and appurtenances, for the purpose of extinguishing any fire which may occur on board.

(2) The master of such a vessel who, having been required by the conservator to comply with the provisions of sub-section (1), neglects or refuses, without lawful excuse, so to do for the space of seven days after such requisition, shall be punished with fine which may extend to five hundred rupees

CHAPTER V

PORT-DUES, FEES AND OTHER CHARGES

33. (1) In each of the ports mentioned in the first schedule such port-due, not exceeding the amount specified for the port in the third column of the schedule, as the local Government directs, shall be levied on vessels entering the port and described in the second column of the schedule,

*The Indian Ports Act, 1889.**(Chapter V.—Port-dues, Fees and other Charges.—Sections 34-36)*

but not oftener than the time fixed for the port in the fourth column of the schedule.

(2) Whenever the Local Government, with the previous sanction of the Governor General in Council, declares any other port to be subject to this Act, it may, with the like sanction, by the same or any subsequent declaration, further declare,—

- (a) in the terms of any of the entries in the second column of the first schedule, the vessels which are to be chargeable with port-dues on entering the port,
- (b) the highest rates at which such dues may be levied in respect of vessels chargeable therewith, and
- (c) the times at which such vessels are to be so chargeable.

(3) All port-dues now leviable in any port shall continue to be so leviable until it is otherwise declared in exercise of the powers conferred by this section.

(4) An order increasing or imposing port-dues under this section shall not take effect till the expiration of sixty days from the day on which the order was published in the local official Gazette.

34. The Local Government may exempt the vessels entering a port subject to this Act from payment of port-dues and cancel the exemption, or may vary the rates at which port-dues are to be levied in the port, in such manner as, having regard to the receipts and charges on account of the port, it thinks expedient, by reducing or raising the dues, or any of them:

Provided that the rates shall not in any case exceed the amount authorized to be taken by or under this Act.

35. (1) Within any port subject to this Act, fees may be charged for pilotage, hauling, mooring, re-mooring, hooking, measuring and other services rendered to vessels, at such rates as the Local Government may direct:

Provided that, in the case of fees for pilotage, the previous sanction of the Governor General in Council has been obtained.

(2) The fees now chargeable for such services shall continue to be chargeable unless and until they are altered in exercise of the power conferred by sub-section (1).

36. (1) The Local Government shall appoint some officer or body of persons at every port at which any dues, fees or other charges are authorized to be taken by or under this Act to receive the same and, subject to the control of the Local Government, to expend the receipts on any of the objects authorized by this Act.

(2) Such officer or body shall keep for the port a distinct account, to be called the port fund account, showing, in such detail as the Local Government prescribes, the receipts and expenditure of the port, and shall publish annually as soon after the first day of April as may be practicable an abstract, in such form as that Government prescribes of the account for the past financial year.

(3) If, for any of the purposes of this Act, an advance of money has been or shall be made by the Government on account of any port subject to this Act, simple interest upon that advance or upon so much of it as remains or shall remain unrepaid, at such rate as the Governor General in Council may determine, shall be charged in the port fund account of the port.

(4) All moneys received under this Act at or on account of any port subject to this Act, excluding receipts on account of pilotage but including—

- (a) fines,
- (b) proceeds of waifs, and
- (c) any balance of the proceeds of a sale under section 14 where no right to the balance has been established on a claim made within three years from the date of the sale,

shall be credited in the port fund account of the port.

(5) All expenses incurred for the sake of any such port, excluding expenses on account of pilotage but including—

- (a) the pay and allowances of all persons upon the establishment of the port,
- (b) the cost of buoys, beacons, lights and all other works maintained chiefly for the benefit of vessels being in or entering or leaving the port or passing through the rivers or channels leading thereto,
- (c) pensions, allowances and gratuities of persons who have been employed in the port under this or any other enactment relating to ports and port-dues, or such portion of those pensions, allowances and gratuities as the Local Government may by rule determine,
- (d) with the previous sanction of the Local Government, contributions towards the support of public hospitals or dispensaries suitable for the reception or relief of seamen or otherwise towards the provision of sanitary superintendence and medical aid for the shipping in the port and for seamen, whether ashore or afloat, belonging to vessels in the port, and
- (e) with the like sanction, contributions towards sailors' homes, institutes, rest-houses and coffee-houses and for other purposes connected with the health, recreation and temporal well-being of sailors,

shall be charged to the port fund account of the port.

(6) Subject to the provisions of any local law as to the disposal of any balance from time to time standing to the credit of a port fund account,

*The Indian Ports Act, 1889.**(Chapter V.—Port-dues, Fees and other Charges.—Sections 37-41)*

any such balance may be temporarily invested in such manner as the Local Government may direct.

37. (1) The Local Government may direct that for the purposes of the last foregoing section any number of ports shall be regarded as constituting a single port, and thereupon all moneys to be credited to the port fund account under sub-section (4) of that section shall form a common port fund account which shall be available for the payment of all expenses incurred for the sake of any of the ports

Provided, with respect to the ports of Calcutta, Madras, Bombay, Rangoon, Karachi, Chittagong and Aden, that none of those ports may be grouped with any other port, and that the port fund account of each of those ports shall be kept separate from the port fund account of any other port

(2) Where ports are grouped by or under this Act, the following consequences ensue, namely.—

- (a) the Local Government, in the exercise of its control over expenditure debitable to the common port fund account of the group, may, with the previous sanction of the Governor General in Council, make rules with respect to the expenditure of the fund for the sake of the several ports of the group on the objects authorised by this Act, and shall cause effect to be given to any directions which the Governor General in Council may deem it necessary to issue with respect to such expenditure; and
- (b) the Local Government may exercise its authority under section 34 as regards all the ports in the group collectively or as regards any of them separately.

38. The person to whom any dues, fees or other charges authorized to be taken by or under this Act are paid shall grant to the person paying the same a proper voucher in writing under his hand, describing the name of his office, the port or place at which the dues, fees or other charges are paid, and the name, tonnage and other proper description of the vessel in respect of which the payment is made.

39. (1) Within twenty-four hours after the arrival within the limits of any port subject to this Act of any vessel liable to the payment of port-dues under this Act the master of the vessel shall report her arrival to the conservator of the port.

(2) A master failing without lawful excuse to make such report within the time aforesaid shall for every such offence be punished with fine which may extend to one hundred rupees.

(3) Nothing in this section applies to tug-steamers, ferry-steamers or river-steamers plying to and from any of the ports subject to this Act or to ballam-boats plying to and from the port of Chittagong

IV.—20

40 If any vessel liable to the payment of port-dues is in any such port without proper marks on the stem and stern posts thereof for denoting her draught, the conservator may cause the same to be ascertained by means of the operation of hooking, and the master of the vessel shall be liable to pay the expenses of the operation.

41. In order to ascertain the tonnage of any vessel liable to pay port-dues the following rules shall be observed—

(1) (a) If the vessel is a British registered vessel, or a vessel registered under Act X of 1841 or Act XI of 1850 or under any other law for the time being in force for the registration of vessels in British India, the conservator may require the owner or master of the vessel or any person having possession of her register to produce the register for inspection.

(b) If the owner or master or such person neglects or refuses to produce the register or otherwise to satisfy the conservator as to what is the true tonnage of the vessel in respect of which the port-dues are payable, he shall be punished with fine which may extend to one hundred rupees, and the conservator may cause the vessel to be measured, and the tonnage thereof to be ascertained, according to the mode of measurement prescribed by the rules for the time being in force for regulating the measurement of British vessels, and in such case the owner or master of the vessel shall also be liable to pay the expenses of the measurement.

(2) If the vessel is not a British registered vessel or a vessel registered under Act X of 1841 or Act XI of 1850; or under any other law for the time being in force for the registration of vessels in British India, and the owner or master thereof fails to satisfy the conservator as to what is her true tonnage according to the mode of measurement prescribed by the rules for the time being in force for regulating the measurement of British vessels, the conservator shall cause the vessel to be measured and the tonnage thereof to be ascertained, according to the mode aforesaid, and in such case the owner or master of the vessel shall be liable to pay the expenses of the measurement

(3) If the vessel is a vessel of which the tonnage cannot be ascertained according to the mode of measurement mentioned in clauses (1) and (2), the tonnage of the vessel shall be determined by the conservator on such an estimate as may seem to him to be just.

The Indian Ports Act, 1889.

(Chapter V.—Port-dues, Fees and other Charges.—Sections 42-49.)

42. If the master of any vessel in respect of which any port-dues, fees or other charges are payable under this Act refuses or neglects to pay the same on demand, the authority appointed to receive such port-dues, fees or other charges may distrain or arrest the vessel, and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount due is paid;

and in case any part of the port-dues, fees or other charges, or of the costs of the distress or arrest or of the keeping of the vessel or other thing distrained or arrested, remains unpaid for the space of five days next after any such distress or arrest, may cause the vessel or other thing distrained or arrested to be sold, and with the proceeds of such sale may satisfy the port-dues, fees or other charges and the costs, including the costs of sale, remaining unpaid, and shall render the surplus, if any, to the master of the vessel upon demand.

43. The officer of Government whose duty it is to grant a port-clearance for any vessel shall not grant such clearance—

(a) until her owner or master, or some other person, has paid or secured to the satisfaction of such officer the amount of all port-dues, fees and other charges, and of all fines, penalties and expenses to which the vessel or her owner or master is liable under this Act;

(b) until all expenses, which by the Merchant Shipping Act, 1854, section 228, are to be borne by her owner, incurred since her arrival in the port from which he seeks clearance, have been paid.

44. (1) If the master of any vessel in respect of which any such sum as is mentioned in the last foregoing section is payable causes her to leave any port without having paid the sum, the authority appointed to receive port-dues, fees and other charges at the port under this Act may require in writing the authority appointed to receive port-dues, fees and other charges under this Act at any other port in British India to which she may proceed, or in which she may be, to levy the sum.

(2) The authority to whom the requisition is directed shall proceed to levy such sum in the manner prescribed in section 42, and a certificate purporting to be made by the authority appointed to receive port-dues, fees and other charges at the port where such sum as is mentioned in the last foregoing section became payable, stating the amount payable, shall be sufficient *prima facie* proof of such amount in any proceeding under section 42, and also (in case the amount payable is disputed) in any subsequent proceeding under section 59.

45. (1) If the master of a vessel evades the payment of any such sum as is mentioned in section 43, he shall be punished with fine which may extend to five times the amount of the sum.

(2) In any proceeding before a Magistrate on a prosecution under sub-section (1), any such certificate as is mentioned in section 44, sub-section (2), stating that the master has evaded such payment, shall be sufficient *prima facie* proof of the evasion, unless the master shows to the satisfaction of the Magistrate that the departure of the vessel without payment of the sum was caused by stress of weather, or that there was lawful or reasonable ground for such departure.

(3) Any Magistrate having jurisdiction under this Act in any port to which the vessel may proceed, or in which she may be found, shall be deemed to have jurisdiction in any proceeding under this section.

46. A vessel entering any port subject to this Act (other than a port in Burma) in ballast and not carrying passengers shall be charged with a port-due at a rate to be determined by the Local Government and not exceeding three-fourths of the rate with which she would otherwise be chargeable.

47. When a vessel enters a port subject to this Act, but does not discharge or take in any cargo or passengers therein (with the exception of such unshipment and reshipment as may be necessary for purposes of repair), she shall be charged with a port-due at a rate to be determined by the Local Government and not exceeding half the rate with which she would otherwise be chargeable.

Provided that a vessel entering any of the ports within the territories administered by the Governor of Fort St. George in Council and leaving the same within forty-eight hours, without discharging or taking in any passengers or cargo, shall not be charged with any port-due.

48. No port-due shall be chargeable in respect of any pleasure-yacht, nor shall any such due be chargeable in respect of any vessel which, having left any port, is compelled to re-enter it by stress of weather or in consequence of having sustained any damage.

49. (1) The Local Government may, by notification in the official Gazette, order that there shall be paid in respect of every vessel entering any port subject to this Act, within a reasonable distance of which there is a public hospital or dispensary suitable for the reception or relief of seamen requiring medical aid, such further port-dues not exceeding one anna per ton as the Local Government thinks fit.

*The Indian Ports Act, 1889.**(Chapter V.—Port-dues, Fees and other Charges—Section 50. Chapter VI.—Hoisting Signals.—Sections 51-53.)**(Chapter VII.—Provisions with respect to Penalties.—Sections 54-57)*

(2) Such port-dues shall be called hospital port-dues, and the Local Government shall, in making any order under sub-section (1), have regard to any contributions made under section 36, sub-section (5), clause (d).

(3) An order imposing or increasing hospital port-dues shall not take effect till the expiration of sixty days from the day on which the order was published in the local official Gazette.

(4) Whenever the Local Government is satisfied that proper provision has been made by the owners or agents of any class of vessels for giving medical aid to the seamen employed on board such class of vessels, or that such provision is unnecessary in the case of any class of vessels, it may, by notification in the official Gazette, exempt such class of vessels from any payment under this section.

(5) The Local Government may, by notification in the official Gazette, cancel any order under sub-section (1) or withdraw any exemption under sub-section (4).

50. (1) Hospital port-dues shall be applied, as the Local Government may direct, to the support of any such hospital or dispensary as aforesaid, or otherwise for providing sanitary superintendence and medical aid for the shipping in the port in which they are levied and for the seamen belonging to the vessels therein, whether such seamen are ashore or afloat.

(2) The Local Government shall publish annually in the official Gazette, as soon after the first day of April as may be, an account, for the past financial year, of the sums received, as hospital port-dues at each port where such dues are payable, and of the expenditure charged against those receipts.

(3) Such account shall be published as a supplement to the abstract published under section 36, sub-section (2).

CHAPTER VI.

HOISTING SIGNALS.

51. (1) The master of every inward or outward bound vessel, on arriving within signal-distance of any signal-station established within the limits of the river Hooghly, or within the limits of any part of a river or channel leading to a port subject to this Act, shall, on the requisition of the pilot in charge of the vessel, signify the name of the vessel by hoisting the number by which she is known, or by adopting such other means to this end as may be practicable and usual, and shall keep the signal flying until it is answered from the signal-station.

(2) If the master of a vessel arriving as aforesaid offends against sub-section (1), he shall be punished for every such offence with fine which may extend to one thousand rupees.

52. (1) Every pilot in charge of a vessel shall require the number of the vessel to be duly signalled as provided by the last foregoing section.

(2) When, on such requisition from the pilot, the master refuses to hoist the number of a vessel, or to adopt such other means of making her name known as may be practicable and usual, the pilot may, on arrival at the first place of safe anchorage, anchor the vessel and refuse to proceed on his course until the requisition has been complied with.

53. Any pilot in charge of a vessel who disobeys, or abets disobedience to, any of the provisions of this Chapter shall be punished with fine which may extend to five hundred rupees for each instance of such disobedience or abetment, and in addition shall be liable to have his authority to act as a pilot withdrawn.

CHAPTER VII.

PROVISIONS WITH RESPECT TO PENALTIES.

54. If any person disobeys any rule or order which a Local Government has made in pursuance of this Act and for the punishment of disobedience to which express provision has not been made elsewhere in this Act, he shall be punished for every such offence with fine which may extend to one hundred rupees.

55. All offences against this Act shall be triable by a Magistrate, and any Magistrate may, by warrant under his hand, cause the amount of any fine imposed upon the owner or master of any vessel, for any offence committed on board of the vessel, or in the management thereof, or otherwise in relation thereto, whereof the owner or master is convicted, to be levied by distress and sale of the vessel, and the tackle, apparel and furniture thereof, or so much thereof as is necessary.

56. (1) In case of any conviction under this Act the convicting Magistrate may order the offender to pay the costs of the conviction in addition to any fine or expenses to which he may be liable.

(2) Such costs may be assessed by the Magistrate, and may be recovered in the same manner as any fine under this Act.

57. (1) If any dispute arises as to the sum to be paid in any case as expenses or damages under this Act, it shall be determined by a Magistrate upon application made to him for that purpose by either of the disputing parties.

*The Indian Ports Act, 1889.**(Chapter VII.—Provisions with respect to Penalties.—Sections 58—61.)**(Chapter VIII.—Supplemental Provisions, Sections 62—64.)*

(2) Whenever any person is liable to pay any sum, not exceeding one thousand rupees, as expenses or damages under this Act, any Magistrate, upon application made to him by the authority to whom the sum is payable, may, in addition to or instead of any other means for enforcing payment, recover the sum as if it were a fine.

58. Whenever any fine, expenses or damages is or are levied under this Act by distress and sale, ^{Costs of distress.} the costs of the distress and sale may be levied in addition to such fine, expenses or damages, and in the same manner.

59. If any dispute arises concerning the amount leviable by any distress or arrest under this Act or the costs payable under the last foregoing section, the person making the distress or using the arrest may detain the goods distrained or arrested, or the proceeds of the sale thereof, until the amount to be levied has been determined by a Magistrate, who, upon application made to him for that purpose, may determine the amount, and award such costs to be paid by either of the parties to the other of them as he thinks reasonable, and payment of such costs, if not paid on demand, shall be enforced as if they were a fine.

^{Magistrate to determine the amount to be levied in case of dispute.}

60. (1) Any person offending against the provisions of this Act in any port subject to this Act shall be punishable by any Magistrate having jurisdiction over any district or place adjoining the port.

^{Jurisdiction over offences beyond local limits of jurisdiction.}

(2) Such Magistrate may exercise all the powers of a Magistrate under this Act, in the same manner and to the same extent as if the offence had been committed locally within the limits of his jurisdiction, notwithstanding that the offence may not have been committed locally within such limits, and, in case any such Magistrate exercises the jurisdiction hereby vested in him, the offence shall be deemed, for all purposes, to have been committed locally within the limits of his jurisdiction.

61. (1) No conviction, order or judgment of any Magistrate under this Act shall be quashed for error of form or procedure, but only on the merits, and it shall not be necessary to state, on the face of the conviction, order or judgment, the evidence on which it proceeds.

^{Conviction to be quashed on merits only}

(2) If no jurisdiction appears on the face of the conviction, order or judgment, but the depositions taken supply that defect, the conviction, order or judgment shall be aided by what so appears in the depositions.

CHAPTER VIII.

SUPPLEMENTAL PROVISIONS.

62. (1) If any vessel belonging to any of Her Majesty's subjects, or sailing under British colours, hoists, carries or wears, within the limits of any port subject to this Act, any flag, jack, pennant or colours, the use whereof on board such vessel has been prohibited by the Merchant Shipping Act, 1854, or any other statute now or hereafter to be in force, or by any proclamation made or to be made in pursuance of any such statute, or by any of Her Majesty's regulations in force for the time being, the master of the vessel shall, for every such offence, be punished with fine which may extend to fifty rupees.

^{Hoisting unlawful colours in port}

(2) Such fine shall be in addition to any other penalty recoverable in respect of such an offence.

(3) The conservator of the port, or any officer of Her Majesty's Navy or Indian Marine Service, may enter on board any such vessel, and seize and take away any flag, jack, pennant or colours so unlawfully hoisted, carried or worn on board the same.

^{17 & 18 Vict. c. 104}

63 Any Magistrate, upon an application being made to him by the Consul of any Foreign Power to which the Foreign Deserters Act, 1852, has by an Order of Her Majesty in Council been, or shall hereafter be, declared to be applicable, or by the representative of such Consul, and upon complaint on oath of the desertion of any seaman, not being a slave, from any vessel of such Foreign Power, may, until a revocation of such Order in Council has been publicly notified, issue his warrant for the apprehension of any such deserter, and, upon due proof of the desertion, may order him to be conveyed on board the vessel to which he belongs, or, at the instance of the Consul, to be detained in custody until the vessel is ready to sail, or, if the vessel has sailed, for a reasonable time not exceeding one month:

^{Foreign deserters.}

^{15 & 16 Vict. c. 26.}

Provided that a deposit be first made of such sum as the Magistrate deems necessary for the subsistence of the deserter during the detention, and that the detention of the deserter shall not be continued beyond twelve weeks.

64. (1) The provisions of sections 10 and 21 shall be applicable to all ports heretofore or hereafter declared by the Local Government to be ports for the shipment and landing of goods but not otherwise subject to this Act, and may be enforced by any Magistrate to whose ordinary jurisdiction any such port is subject.

^{Application of sections 10 and 21.}

(2) Any penalties imposed by him, and any expenses incurred by his order, under the said provisions shall be recoverable respectively in the manner provided in sections 55 and 57.

*The Indian Ports Act, 1889.**(Chapter VIII.—Supplemental Provisions.—Sections 65—70)*

(3) In any of the said ports for the shipment and landing of goods the consent referred to in section 21, sub-section (4), may be given by the principal officer of customs at such port or by any other officer appointed in that behalf by the Local Government.

65. The port-due leviable under this Act in either of the ports of Maulmain and Bassein shall, to the extent of one anna and six pie per ton, be applicable in the first place to defray the expenses of maintaining the existing port-lights of Burma.

66. Any money contributed before the passing of this Act from any port fund for any purpose connected with the health, recreation and well-being of sailors shall be deemed to have been lawfully contributed from the fund.

67. Any local authority in which any immovable property in or near a port is vested may, with the previous sanction of the Local Government, appropriate, and either retain and apply, or transfer by way of gift or otherwise, the whole or any part of the property as a site for, or for use as, a sailors' home or other institution for the health, recreation and temporal well-being of sailors.

68. (1) All acts, orders or directions by this Act authorized to be done or given by any conservator may, subject to his control, be done or given by any harbour-master or any deputy or assistant of such conservator or harbour-master.

(2) Any person authorized by this Act to do any act may call to his aid such assistance as may be necessary.

69. Any written notice of a direction given under this Act, left for the master of any vessel with any person employed on board thereof, or affixed on a conspicuous place on board of the vessel, shall, for the purposes of this Act, be deemed to have been given to the master thereof.

70. Every declaration, order and rule of a Local Government made in pursuance of this Act shall be published in the official Gazette, and a copy thereof shall be kept in the office of the conservator and at the custom-house, if any, of every port to which the declaration, order or rule relates and shall there be open at all reasonable times to the inspection of any person without payment of any fee.

*The Indian Ports Act, 1889.**(The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.)*

THE FIRST SCHEDULE.

PORTS, VESSELS CHARGEABLE, RATE OF PORT-DUES AND FREQUENCY OF PAYMENT.

(See Sections 1 and 33.)

PART I.—BENGAL.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Calcutta	Sea-going vessels of twenty tons and upwards.	Not exceeding four annas per ton: provided that, in the case of <i>dhonis</i> and country vessels employed in the coasting trade, the rate shall be one-half the rate chargeable in respect of other vessels.	Whenever the vessel enters the port, except in the case of <i>dhonis</i> and country vessels employed in the coasting trade, which shall not be chargeable with port-dues at the same port more than once in sixty days.
	Tug-steamers and river-steamers.	Not exceeding four annas per ton.	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.
Chittagong	Sea-going vessels of ten tons and upwards, not being ballam-boats.	Not exceeding four and a half annas per ton.	Whenever the vessel enters the port, except in the case of mail-steamers and coasting vessels, which shall not be chargeable more than once in sixty days.
	Tug-steamers and river-steamers.	Ditto	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.
	Ballam-boats	Not exceeding one anna per ton.	Whenever the vessel enters the port.
Cuttack Ports,— namely, False Point and Pooree.	Sea-going vessels of ten tons and upwards.	Not exceeding four annas per ton.	Whenever the vessel enters any one of the ports, except in the case of mail-steamers and coasting vessels, which shall not be chargeable more than once in sixty days.
Balasure Ports,— namely, Balasure. Chúrámán; Lach- hunpur, Chánua, Sub- arnarekha, Dhamra (Chandbally) and Sartha.	Ditto	Ditto	Ditto.

The Indian Ports Act, 1889.

(The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.)

PART II.—MADRAS PRESIDENCY.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel
1	2	3	4
Madras	Sea-going vessels of fifteen tons and upwards.	<i>Foreign Vessels.</i>	
		(a) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, or Ceylon, calling at Madras, not exceeding four annas a ton.	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again.
		(b) In the case of any other foreign ship or steamer calling at Madras, not exceeding four annas a ton.	The due is payable on each entry into the port.
		<i>Coasting Vessels.</i>	
		(c) In the case of a coasting ship calling at Madras, not exceeding one and a half annas a ton.	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again.
		(d) In the case of a coasting steamer calling at Madras, not exceeding three annas a ton.	The due is payable once in thirty days.
<i>Eastern Group.</i>			
District.	Port.	<i>Foreign Vessels.</i>	
Ganjam ...	1. Gopálpur.	(a) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at any one port in the Eastern group, not exceeding three annas a ton.	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that port.
	2. Sonnapuram.		
	3. Baruva.		
	4. Pundi		
	5. Calingapatam.		
Vizagapatam.	6. Konada.	(b) In the case of any other foreign ship or steamer calling at any one port in the Eastern group, not exceeding three annas a ton.	The due is payable on each entry into the port.
	7. Bimhpatam		
	8. Vizagapatam.		
	9. Pudimadaka.		
Godávari ...	10. Pentakota.	(c) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at more than one port in the Eastern group, not exceeding four and a half annas a ton.	The payment of the due at the first port called at in the group will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that or any other port in the group.
	11. Uppada.		
	12. Cocanada.		
	13. Coringa.		
Kistna ...	14. Bendamurlanka.	(d) In the case of any other foreign ship or steamer calling at more than one port in the Eastern group, not exceeding four and a half annas a ton.	The due is payable once for the voyage.
	15. Narsápur.		
	16. Perupalem.		
	17. Masulpatam.		
Nellore ...	18. Penumudi.	(e) In the case of a coasting ship calling at any port, not exceeding one and a half annas a ton.	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again at that port.
	19. Morutota.		
	20. Nagayalanka		
	21. Kottapalem.		
	22. Gangadipalem.		
	23. Nizampatnam.		
	24. Ipurupalem		
	25. Bodduvampalem		
	26. Motupalle		
	27. Kanuparti.			(f) In the case of a coasting steamer calling at one or more ports in the Eastern group, not exceeding three annas a ton.	The payment of the due at the first port called at in the group will exempt the steamer for a period of thirty days from liability to pay the due again at that or any other port in the group.
28. Kottapatnam.			
29. Itamukkala.			
30. Pakala			
31. Karedu			
32. Ramayapatnam.			
33. Chennayypalem			
34. Tummalapenta.			
35. Juva'adinne			

The Indian Ports Act, 1889.

(The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.)

PART II.—MADRAS PRESIDENCY—continued.

Name of port.		Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1		2	3	4
<i>Eastern Group—continued.</i>				
District	Port			
Nellore—contd.	36. Iskapalle.	Sea-going vessels of fifteen tons and upwards.	<p style="text-align: center;"><i>Foreign Vessels.</i></p> <p>(a) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at any one port in the Eastern group, not exceeding three annas a ton.</p>	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that port.
	37. Ponnepudi.			
	38. Maipadu.			
	39. Kistnapatnam.			
	40. Pamanji.			
	41. Tupli.			
	42. Dugarazpatnam.			
43. Pudi				
Chingleput...	44. Pulicat.				(b) In the case of any other foreign ship or steamer calling at any one port in the Eastern group, not exceeding three annas a ton.	The due is payable on each entry into the port.
	45. Ennore.			
	46. Covelong.			
South Arcot	47. Marakanam.	Sea-going vessels of fifteen tons and upwards.	<p>(c) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at more than one port in the Eastern group, not exceeding four and a half annas a ton.</p>	The payment of the due at the first port called at in the group will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that or any other port in the group.
	48. Cuddalore			
	49. Porto Novo			
	50. Trumalavasal.			
	51. Kodiyampalayam.			
52. Tranquebar.				
53. Nagore.				
54. Negapatnam.				
55. Velankani.				
56. Topputurai.				
57. Point Calumere.				
Tanjore ...	58. Mutupet.	(d) In the case of any other foreign ship or steamer calling at more than one port in the Eastern group, not exceeding four and a half annas a ton.	The due is payable once for the voyage.	
	59. Adirampatnam.			
	60. Gopalapatnam.			
	61. Kattumavadi.			
	62. Krishnajipatnam.			
	63. Ammapatnam.			
	64. Kottapatnam.			
	65. Sundarapandiyapatnam			
Madura	66. Pasipatnam.	Sea-going vessels of fifteen tons and upwards.	<p style="text-align: center;"><i>Coasting Vessels.</i></p> <p>(a) In the case of a coasting ship calling at any port, not exceeding one and a half annas a ton.</p>	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again at that port.
	67. Damodarapatnam.			
	68. Tondi			
	69. Nambitalai.			
	70. Pudupatnam.			
	71. Karangadu.			
	72. Tiruppalankudi.			
	73. Devipatnam.			
	74. Mudriyanpatnam.			
	75. Attankarai.			
	76. Emanangundu.			
	78. Pamban.			
	79. Ramesvaram.			
	80. Mandapam.			
	81. Vedalai.			
	82. Marakkayapatnam.			
	83. Muttupetta.			
	84. Kilakarai.			
	85. Ervadi.			
	86. Valmokkal.			
Tinnevely ...	87. Vaypar.			
	88. Tuticorin.			
	89. Kayalpatnam.			
	90. Kulasekharapatnam.			

The Indian Ports Act, 1889.
(The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.)

PART II.—MADRAS PRESIDENCY—concluded.

Name of port.		Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1		2	3	4
<i>Western Group.</i>				
District	Port.			
Malabar	91. Cochin.	Sea-going vessels of fifteen tons and upwards.	<i>Foreign Vessels</i>	
	92. Arrupuram.		<p>(a) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at any one port in the Western group, not exceeding three annas a ton.</p> <p>(b) In the case of any other foreign ship or steamer, calling at any one port in the Western group, not exceeding three annas a ton.</p> <p>(c) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at more than one port in the Western group, not exceeding four and a half annas a ton.</p> <p>(d) In the case of any other foreign ship or steamer calling at more than one port in the Western group, not exceeding four and a half annas a ton.</p>	<p>The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that port.</p> <p>The due is payable on each entry into the port.</p> <p>The payment of the due at the first port called at in the group will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that or any other port in the group.</p> <p>The due is payable once for the voyage.</p>
	93. Kukkuyi.			
	94. Madayi.			
	95. Attakuri.			
	96. Chávakád.			
	97. Veliyangod.			
	98. Ponáni.			
	99. Kuttayi.			
	100. Parapanna.			
	101. Tanur.			
	102. Parpanangádi.			
	103. Kadalvandi.			
	104. Beypere.			
	105. Molakkadava.			
	106. Calcut.			
	107. Pudryangadi.			
	108. Elatturu.			
	109. Kappatta.			
	110. Quilandi.			
	111. Kollam.			
	112. Kadalura.			
	113. Trikodi.			
	114. Kottakkal.			
	115. Badagara.			
116. Muttankal.				
117. Chompayi.				
118. Kallayi.				
119. Talayi.				
120. Tellicherry.				
121. Dharmapatnam.				
122. Ezhara.				
123. Cannanore.				
124. Pudryangadi.				
125. Pulapatnam (Balapatnam).				
126. Ettikulam.				
127. Kavvayi.				
128. Hosdug.				
129. Balkal.				
130. Kásaragódi.				
131. Kumbale.				
132. Manjesvara.				
133. Mangalore.				
134. Mulki.				
135. Padubidri.				
136. Ermala.				
137. Uchhila.				
138. Kaph.				
139. Udiyavara.				
140. Melpé.				
141. Barkur or Hangarakatta.				
142. Coondapoor.				
143. Nyakmakatte (Nayakankottai).				
144. Baundur.				
145. Siruru.				
South Canara			<i>Coasting Vessels.</i>	
			<p>(e) In the case of a coasting ship calling at any port, not exceeding one and a half annas a ton.</p> <p>(f) In the case of a coasting steamer or calling at one or more ports in the Western group, not exceeding three annas a ton.</p>	<p>The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again at that port.</p> <p>The payment of the due at the first port called at in the group will exempt the steamer for a period of thirty days from liability to pay the due again at that or any other port in the group.</p>

Explanations to Part II of the First Schedule.

Explanation 1.—In this Part of the Schedule—

(a) “ship” means a sailing vessel, and “steamer” a steam-vessel;

(b) “coasting ship” or “coasting steamer” means respectively a ship or steamer which at any port discharges cargo exclusively from, or takes in cargo exclusively for, any port in the island of Ceylon or in any part of India between the westernmost part of Sind and the south-easternmost part of Burma; and “coasting steamer” includes a coasting steam-vessel having a general pass under section 164 of the Sea Customs Act, 1878;

(c) “foreign ship” or “foreign steamer” means respectively a ship or steamer not being a coasting ship or coasting steamer.

Explanation 2.—As regards the levy of port-dues, each of the following pairs of ports, namely, Cocanada and Coringa, Nagore and Negapatam, Beypore and Calcut, is to be treated as if it were only one port; every vessel in respect of which such dues have been charged and taken at one of any of the said pairs being exempted from the dues on entering the other of the same pair immediately after leaving the one in which the dues were charged and taken.

*The Indian Ports Act, 1889.**(The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.)*

PART III.—BOMBAY PRESIDENCY.

* Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Bombay	Sea-going vessels of ten tons and upwards (except fishing-boats).	Not exceeding four annas per ton.	Once in the same month.
	Tug-steamers, ferry-steamers and river-steamers.	Ditto	Once between the 1st January and the 30th June, and once between the 1st July and 31st December, in each year.
<i>Northern Group of Ports—</i>			
1. Gogha			
2. Dholerā			
3. Tankāri			
4. Dehegām			
5. Dehej			
6. Broach			
7. Bhagwā			
8. Surat			
9. Matwād			
10. Bulsār			
11. Umarsādi	Sea-going vessels of ten tons and upwards (except fishing-boats).	Not exceeding three annas per ton: provided that a coasting steamer whenever it enters any port may be charged at a rate to be determined by the Local Government and not exceeding the highest rate of port-dues leviable at any port of the group to which such port belongs and an addition of one-half of such highest rate.	Once in thirty days at the same port: provided that no coasting vessel or coasting steamer, having paid port-dues at any port, shall be chargeable with port-dues again at the same time or any other port of the same group within thirty days.
12. Kolak			
13. Kālai			
14. Maroli			
15. Umbargām			
16. Gholwad			
17. Dāhānu Creek			
18. Tārāpur			
19. Ohvārā Navāpur			
20. Sātpāti Creek			
21. Māhīm (Kelva)			
22. Kelva			
23. Dāntiorā			
24. Arnāla			

The Indian Ports Act, 1889.

(The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.)

PART III.—BOMBAY PRESIDENCY—contd.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
<i>Southern Group of Ports—</i>			
1. Bándra ... 2. Vesáva ... 3. Manori ... 4. Utan ... 5. Bassein... 6. Bhiwndi ... 7. Kalyán ... 8. Thána ... 9. Trombay ... 10. Panvel ... 11. Karanjá ... 12. Rewas ... 13. Nágothna ... 14. Thal ... 15. Alfbág ... 16. Revdándá ... 17. Mándád ... 18. Bánkot ... 19. Kelshi ... 20. Harnai ... 21. Anjanwel ... 22. Borya ... 23. Jaygad ... 24. Varavdá ... 25. Ratnágiri ... 26. Purangad ... 27. Jaytápur ... 28. Vijaydurg ... 29. Devgad ... 30. Achra ... 31. Málvan... 32. Nivtu ... 33. Vengurla ... 34. Redi ... 35. Terekhol ... 36. Kárwár, including Baitkhol. ... 37. Chendiya ... 38. Ankolá ... 39. Gangávali ... 40. Tadri ... 41. Kumptá ... 42. Honávar ... 43. Murdeshwar ... 44. Shiráli ... 45. Bhatkal ...	Sea-going vessels of ten tons and upwards (except fishing-boats).	Not exceeding three annas per ton: provided that a coasting steamer whenever it enters any port may be charged at a rate to be determined by the Local Government and not exceeding the highest rate of port-dues leviable at any port of the group to which such port belongs; and an addition of one-half of such highest rate.	Once in thirty days at the same port: provided that no coasting vessel or coasting steamer, having paid port-dues at any port, shall be chargeable with port-dues again at the same or any other port of the same group within thirty days.
Karáchi ...	Ditto ...	Not exceeding four annas per ton.	Once in three months.
	Tug-steamers and river-steamers.	Ditto ...	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.
Aden ...	Sea-going vessels of ten tons and upwards.	Not exceeding three annas per ton.	Once a month.

*The Indian Ports Act, 1889.**(The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.)**(The Second Schedule.—Enactments repealed.)*

PART IV.—BURMA.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Rangoon	Sea-going vessels of ten tons and upwards. Tug-steamers and river-steamers.	Not exceeding six annas per ton. Not exceeding four annas per ton.	Once in sixty days. Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.
Maulmain	Sea-going vessels of ten tons and upwards, but less than twenty-five tons. Sea-going vessels of twenty-five tons and upwards.	Not exceeding four annas per ton. Not exceeding five annas six pies per ton.	Once in sixty days. Ditto.
Kyauk-Phyu	Sea-going vessels of ten tons and upwards.	Not exceeding four annas per ton.	Ditto.
Akyab	Ditto	Ditto	Ditto.
Bassein	Sea-going vessels of ten tons and upwards, but less than twenty-five tons. Sea-going vessels of twenty-five tons and upwards.	Ditto Not exceeding five annas six pies per ton.	Ditto. Ditto.
Tavoy	Sea-going vessels of ten tons and upwards.	Not exceeding four annas per ton.	Ditto.
Mergui	Ditto	Ditto	Ditto.

THE SECOND SCHEDULE.

ENACTMENTS REPEALED.

(See section 2)

Number and year.	Subject or title.	Extent of repeal.
<i>Acts of the Governor General in Council.</i>		
XII of 1875	Indian Ports Act, 1875	So much as has not been repealed.
IX of 1879	Burma Coast-lights Act, 1879	Section 17 and the preamble to that section.
VII of 1880	Indian Merchant Shipping Act, 1880.	The first paragraph of section 72, from and inclusive of the word "Chapter" down to and inclusive of the word "repealed."
IV of 1881	Madras Port-dues Act, 1881	The whole.
XVII of 1882	Indian Ports Act, 1882...	The whole.
V of 1883	Indian Merchant Shipping Act, 1883.	Section 31.
XI of 1883	Reduction of Port-dues in the Port of Bombay.	The whole.
IV of 1884	Indian Explosives Act, 1884	Section 3.
V of 1885	Amendment of the Indian Ports Act, 1875.	The whole.
<i>Act of the Governor of Fort St. George in Council.</i>		
II of 1872	Madras Port Rules	The whole.
<i>Act of the Lieutenant-Governor of Bengal in Council.</i>		
III of 1872	Calcutta Port Commissioners	The whole.

S. HARVEY JAMES,
Secretary to the Government of India.

THE



Bombay Government Gazette

Published by Authority.

THURSDAY, 12TH SEPTEMBER 1889

Separate paging is given to this Part, in order that it may be filed as a separate compilation.

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 4th September 1889, and is hereby promulgated, for general information.—

Act No. XII of 1889.

An Act to amend the Indian Merchandise Marks Act, 1889.

WHEREAS it is expedient to enable Local Governments to permit piece-goods to be imported at any time before the first day of November 1889, without having their length stamped thereon in standard yards, or in standard yards and a fraction of such a yard; It is hereby enacted as follows:—

1 (1) The Local Government may in its discretion, and either absolutely or subject to conditions, declare that the provisions of section 18 of the Sea Customs Act, VII of 1878, as amended by section 10, sub-section (2) of the Indian Merchandise Marks Act, 1889, IV of 1889 shall, as regards any piece-goods mentioned in the declaration, be deemed to be in abeyance up to, and inclusive of, the thirty-first day of October 1889.

(2) The Local Government may delegate to a Chief Customs-officer or other officer appointed by it in this behalf the power conferred upon it by sub-section (1).

S. HARVEY JAMES,
Secretary to the Government of India.

THE



Bombay Government Gazette.

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PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 11th October 1889, and is hereby promulgated for general information.—

Act No. XIII of 1889

THE CANTONMENTS ACT, 1889.

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(Chapter I.—Preliminary—Sections 1-3. Chapter II.—Cantonments and
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THE SCHEDULE—ENACTMENTS REPEALED.

A Act to amend the law relating to Cantonments.

WHEREAS it is expedient to amend the law relating to cantonments; It is hereby enacted as follows—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Cantonments Act, 1889.

(2) It extends to the whole of British India, inclusive of Upper Burma; and

(3) It shall come into force on such day as the Governor General in Council, by notification in the Gazette of India, appoints in this behalf.

2. (1) On and from that day the enactments specified in the schedule are repealed to the extent mentioned in the third column thereof:

(2) But all orders, declarations, rules and regulations made, directions, licenses and permits given, taxes imposed and notifications published under any enactment repealed by this Act or under any enactment repealed by any enactment repealed by this Act, and all limits defined as the local limits of a cantonment with the approval of the Governor General in Council or a Local Government before the passing of this Act, shall be deemed to have been respectively made, given, imposed and published, and to have been defined, under this Act.

(3) Any enactment or document referring to any enactment repealed by this Act, or to any enactment repealed by any enactment repealed by this Act, or to any Regulation of the Bengal, Madras or Bombay Code respecting the fixing of the local limits of cantonments and military bazars, shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

3. (1) In this Act and in the rules thereunder, unless there is something repugnant in the subject or context,—

(a) "officer" means—

(i) a person who, being an officer within the meaning of the Army Act, 1881, is commissioned and in pay as an officer doing military duty with Her Majesty's regular forces as defined in that Act or as an officer doing such duty in any arm, branch or part of those forces, and

(ii) a person doing military duty as a warrant officer with those forces or with any arm, branch or part thereof, whether he is or is not an officer within the meaning of the Army Act, 1881

(b) "soldier" means a person who is a soldier of Her Majesty's regular forces within the meaning of the Army Act, 1881, and is not an officer within the meaning of this Act.

(c) "spirituous liquor" means any fermented liquor, any wine, any alcoholic liquid obtained by distillation, and the sap of any kind of palm-tree, and includes any

other liquid consisting of or containing alcohol which the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, declare to be a spirituous liquor for the purposes of this Act:

(d) "intoxicating drug" means opium, 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
I of 1871
XIII of 1885
I of 1887.

The Cantonments Act, 1889.

(Chapter II—Cantonments and Cantonment Authorities, Courts and Police.—Sections 7-12. Chapter III.—Spirituous Liquors and Intoxicating Drugs.—Sections 13-14.)

7. The Cantonment Magistrate shall be a Cantonment Magistrate. Magistrate appointed by the Local Government under section 12 of the Code of Criminal Procedure, 1832, and, as such, subordinate to the District Magistrate, or to the District Magistrate and the Sub-divisional Magistrate, as the case may be, under section 17 of that Code.

Cantonment Court of Small Causes.

8. (1) When the Local Government appoints the Cantonment Magistrate to be the Judge of a Court of Small Causes established within 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 13, 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 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 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 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 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 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

The Cantonments Act, 1889.

(Chapter III.—*Spirituous Liquors and Intoxicating Drugs.*—Sections 15-16.
Chapter IV.—*Taxation and Cantonment Fund.*—Sections 17-21.)

subsequent offence against this section with fine which may extend to one hundred rupees or with imprisonment for a term which may extend to three months.

15. (1) Any police-officer may, without an order from a Magistrate and without a warrant, arrest any person whom he finds committing an offence against either of the two last foregoing sections, and may seize and detain any 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.

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 Bazzars in the Presidency of Fort William in Bengal) to any cantonment which is not included in a municipality and which is situated in any part of British India in which that Act is in force, and the Cantonment Magistrate may exercise all the powers of the Magistrate under that Act, subject only to the control of the District Magistrate and the Local Government.

(2) The Local Government may order that a cantonment to which the provisions of Act XX of 1856 have been extended shall be divided into any number of cantonment divisions, and may determine the nature of the tax to be levied in each such division according to section 10 of that Act.

(3) The Local Government may, by notification in the official Gazette, cancel any notification under sub-section (1), and may revoke or vary any order under sub-section (2).

19. While a tax assessed according to the circumstances, and the property to be protected, of the persons liable thereto, or according to the annual value of houses and grounds, is levied under Act XX of 1856 in a cantonment, a tax on persons practising any profession or art or carrying on any trade or calling, or a tax on buildings and lands, as the case may be, shall not be imposed under section 17 of this Act in the cantonment.

20. (1) Notwithstanding anything in any enactment for the time being in force, the Governor General in Council may, by notification in the Gazette of India, prohibit the levy of the whole or any part of any tax imposed in a cantonment, or exempt any person by name or in virtue of his office or any class of persons, or any property or any class of property, from the operation of any such tax, and may, by a like notification, rescind any such prohibition or exemption.

(2) Where the area subject to the authority of a municipal committee as defined in section 2 of the Municipal Taxation Act, 1881, includes the whole or part of a cantonment, nothing in section 4 or section 5 of that Act or in any other like enactment for the time being in force shall apply to so much of that area as is comprised in the cantonment.

Cantonment Fund.

21. (1) There shall be formed for every cantonment which is not included in a municipality

The Cantonments Act, 1889.

(Chapter IV.—Taxation and Cantonment Fund.—Sections 22-24. Chapter V.—Supplemental Provisions.—Sections 25-26.)

a cantonment fund, and there shall be placed to the credit thereof, among other sums, the following, namely:—

of 1882.

V of 1860.
& 45 Vict.,
53.

(a) subject to deductions under section 545 of the Code of Criminal Procedure, 1832, 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 immovable 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.

The Cantonments Act, 1889.

(Chapter V.—Supplemental Provisions—Sections 27-28.)

- (12) the definition and abatement of nuisances for which sufficient provision has not, in the opinion of the Governor General in Council, been made under section 25;
- (13) the requisitions which may be made on persons having the control of sewers, drains, latrines or other things creating, or likely to create, nuisances, and the mode of enforcing such requisitions;
- (14) the prevention of the overcrowding of buildings and places in a cantonment;
- (15) the construction and maintenance, to the satisfaction of the cantonment authority, of buildings and of boundary-walls, hedges and other fences;
- (16) the regulation of the practice of agriculture and irrigation in a cantonment, the keeping of lands therein in proper order, and the felling, lopping and trimming of trees on such lands;
- (17) the regulation of encamping-grounds, sarais, markets and slaughter-houses, of traffic on roads, and of processions and public assemblies;
- (18) the use and management of burial and burning grounds;
- (19) the supervision and the regulation of the use of public wells, tanks, rivers, streams, springs or other sources from which water is or may be made available for public use, and of the lands in the vicinity thereof;
- (20) the parts of a cantonment in which persons practising any profession or carrying on any trade, calling or occupation may be required to reside for the purpose of practising the profession or carrying on the trade, calling or occupation, and the conditions, if any, to be observed by such persons;
- (21) the prevention of the spread of infectious or contagious disorder, within a cantonment, and the appointment and regulation of hospitals or other places within or without a cantonment for the reception and treatment of persons suffering from any disease;
- (22) the segregation in, or the removal and exclusion from, a cantonment, or the destruction, of animals suffering or supposed to be suffering from any infectious or contagious disease;
- (23) the suppression of mendicancy and of loitering or importuning for the purpose of prostitution, and the removal and exclusion from a cantonment of disorderly persons, of persons who have been convicted of any offence against Chapter XVII of the Indian Penal Code or section 156 of the Army Act, 1881, or have been ordered under the Code of Criminal Procedure, 1882, to execute a bond for their good behaviour, and of persons whom the commanding officer deems it expedient to exclude from the cantonment with or without assigning any reason for excluding them therefrom;
- (24) the prevention of cruelty to animals and the care of animals while grazing;
- (25) the prevention and extinction of fires;
- (26) the registration of births and deaths;
- (27) the appointment by owners of buildings and lands in cantonments, who are absent from cantonments, of persons residing within or near cantonments to act as their agents for all or any of the purposes of this Act or any enactment extended or rule made thereunder;
- (28) the powers of inspection, entry and search which may be exercised in carrying out any of those purposes, and the cases in which breaches of enactments extended or rules made under this Act are to be cognizable offences;
- (29) the mode in which summonses, notices requisitions and other documents are to be served on the persons to whom they are addressed;
- (30) the cases, authorities and conditions in, to and on which executive orders passed under this Act or any enactment extended or rule made thereunder may be appealed from; and,
- (31) generally, the carrying out of the purposes of this Act.
27. (1) The power to make rules under the last foregoing section is subject to the condition of the rules being made after previous publication and of their not taking effect until they have been published in the *Gazette of India* and in such other manner as the Governor General in Council prescribes.
- (2) A rule under the last foregoing section may be general for all cantonments in British India or for all cantonments not expressly excepted from its operation, or may be special for the whole or any part of any one or more than one cantonment, as the Governor General in Council directs.
- (3) A copy of the rules for the time being in force in a cantonment shall be kept open to inspection free of charge at all reasonable times in the office of the Cantonment Magistrate.
- (4) In making any rule under clause (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, and subject to any conditions as to compensation or otherwise which may see fit to impose, extend to any area beyond a cantonment and in the vicinity thereof—
- (a) any enactment which, with or without restriction or modification, has been extended to the cantonment or any part thereof under section 25 or

The Cantonments Act, 1889.

(Chapter V.—Supplemental Provisions.—Sections 29-33. The Schedule.—Enactments repealed.)

(b) any rule in force in the cantonment or any part thereof under clause (12) or any of the following clauses of section 26, as well as any direction there in force under sub-section (4) of section 27, and the enactment, rule or direction specified in the notification shall, so long as the notification remains 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 powers conferred by or under this Act on such authority, Magistrate or officer, whether the thing done was or was not authorized by the powers so conferred.

32. (1) Section 54, paragraphs two and three, and sections 59, 107 and 123 of the Transfer of Property Act, 1882, with respect to the transfer of property by registered instrument, shall, on and from the commencement of this Act, extend to every cantonment in British India.

(2) Where a cantonment has not been constituted a sub-district or district for the purposes of the Indian Registration Act, 1877, under section 9 of that Act, the Registrar of the district in which the cantonment is situated shall cause a copy of such entries in Indexes Nos I and II as relate to immoveable property within the limits of the cantonment to be forwarded to the Cantonment Magistrate annually or at such shorter intervals as the Local Government may prescribe.

33. The Governor General in Council may, by notification in the Gazette of India, exclude from the operation of the whole or any part of this Act the whole or any part of any cantonment.

THE SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

Number and year.	Subject or title	Extent of repeal
1	2	3

Acts of the Governor General in Council.

Act XVIII of 1853	Sale of spirits in cantonments.	The whole, so far as it has not been repealed
Act IV of 1854	Sentences of superintendents of bázars.	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 Explanation 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."

K of 1882.

IV of 1882.

I of 1877.

*The Cantonments Act, 1889.**(The Schedule.—Enactments repealed.)*

Number and year	Subject or title	Extent of repeal.
1	2	3
Act III of 1880.	Cantonments Act, 1880	So much as has not been repealed.
Act XXII of 1881	Excise Act, 1881	The proviso to section 53.
Act X of 1882	Code of Criminal Procedure, 1882.	Clause (b) of section 1.
Act XIV of 1882	Code of Civil Procedure.	Section 6, clause (a), the words "an officer or" in section 468, and the whole of section 469.
Act XX of 1886.	Upper Burma Laws Act, 1886.	In the First Part of the Second Schedule the words and figures "III of 1880, Cantonments."
<i>Regulation of the Bengal Code.</i>		
Regulation XX of 1810	Military laws.	So much as has not been repealed
<i>Regulation of the Bombay Code.</i>		
Regulation XXII of 1827.	Military authority	So much as has not been repealed, except sections 40, 41, 42 and 43.

Number and year.	Subject or title.	Extent of repeal
1	2	3
<i>Acts of the Governor of Fort St. George in Council.</i>		
Act IV of 1865	Madras Cantonments	The whole, so far as it has not been repealed.
Act I of 1866...	Madras Cantonments.	So much as has not been repealed.
<i>Act of the Governor of Bombay in Council.</i>		
Act III of 1867.	Bombay Cantonment Act of 1867.	So much as has not been repealed.
<i>Act of the Lieutenant-Governor of Bengal in Council.</i>		
Act VII of 1878.	Bengal Excise Act, 1878.	The proviso to section 81.
<i>Regulation under the Statute 33 Victoria, Chapter 3.</i>		
III of 1877	Ajmere Laws Regulation, 1877.	Section 39 and so much as relates to Bengal Regulation XX of 1810.

* S. HARVEY JAMES,
Secretary to the Government of India.



Bombay Government Gazette.

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THURSDAY, 24TH OCTOBER 1889.

Separate paging is given to this Part, in order that it may be filed as a separate compilation

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 17th October 1889, and is hereby promulgated for general information:—

Act No. XIV of 1889.

An Act to indemnify certain witnesses.

WHEREAS by an order, dated the sixteenth day of October 1888, a Commission was appointed by the Governor of Bombay in Council under Act XXXVII of 1850 (*for regulating Inquiries into the behaviour of Public Servants*) for the purpose of enquiring into certain imputations of misbehaviour by a public servant;

And whereas in the course of the proceedings before the said Commission, and of certain enquiries preliminary to or connected with the said proceedings and undertaken by direction of the said Governor in Council, and in the investigation and trial of certain criminal charges against one Hunmuntrao Raghavendra, statements were made and evidence given by public servants and other persons, by reason of which statements

or evidence the said public servants and other persons became or might become liable to suits, prosecutions or penalties under the Statute 49 Geo. III, Chapter 126, or the Indian Penal Code of 1860, or otherwise;

And whereas it is expedient to free the said public servants and other persons from all liability to civil or criminal proceedings in respect of any cause of action or charge arising out of any admission of an offence in any statements made or evidence given as aforesaid,

It is hereby enacted as follows:—

1. No suit, prosecution or other proceeding shall be commenced or continued against any person in respect of any cause of action or charge arising out of any offence admitted by him in any statement made or evidence given before the said Commission, or in any enquiry undertaken by direction of the said Governor in Council preliminary to or in connection with the proceedings of the said Commission or in the course of the said investigation and trial.

J. M. MACPHERSON,

Offg. Secretary to the Government of India.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 17th October 1889, and is hereby promulgated for general information:—

Act No. XV of 1889.

An Act to prevent the Disclosure of Official Documents and Information.

WHEREAS it is expedient to prevent the disclosure of official documents and information; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Official Secrets Act, Title, extent and appli- 1889, and cation.

(2) It extends to the whole of British India, and applies—

- (a) to all subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty, and
(b) to all Native Indian subjects of Her Majesty without and beyond British India.

2. In this Act, unless there is something repugnant in the subject or context,—

- (1) any reference to a place belonging to Her Majesty includes a place belonging to any department of the Government, whether the place is or is not actually vested in Her Majesty;
(2) expressions referring to communications include any communication, whether in whole or in part, and whether the document, sketch, plan, model or information itself or the substance or effect thereof only be communicated.
(3) "document" includes part of a document.
(4) "model" includes design, pattern and specimen;
(5) "sketch" includes any photograph or other mode of representation of any place or thing; and
(6) "office under Her Majesty" includes any office or employment in or under any department of the Government.

3. (1) (a) Where a person for the purpose of Disclosure of inform- wrongfully obtaining in- ation. formation—

- (i) enters or is in any part of a place belonging to Her Majesty, being a fortress, arsenal, factory, dockyard, camp, ship, office or other like place, in which part he is not entitled to be, or;
(ii) when lawfully or unlawfully in any such place as aforesaid, either obtains any document, sketch, plan, model or knowledge of anything which he is not entitled to obtain, or takes without lawful authority any sketch or plan, or,

(iii) when outside any fortress, arsenal, factory, dockyard or camp belonging to Her Majesty, takes, or attempts to take without authority given by or on behalf of Her Majesty any sketch or plan of that fortress, arsenal, factory, dockyard or camp, or

(b) where a person knowingly having possession of, or control over, any such document, sketch, plan, model or knowledge as has been obtained or taken by means of any act which constitutes an offence against this Act at any time wilfully and without lawful authority communicates or attempts to communicate the same to any person to whom the same ought not, in the interest of the State, to be communicated at that time, or

(c) where a person after having been entrusted in confidence by some officer under Her Majesty with any document, sketch, plan, model or information relating to any such place as aforesaid, or to the naval or military affairs of Her Majesty, wilfully and in breach of such confidence communicates the same when, in the interest of the State, it ought not to be communicated,

he shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

(2) Where a person having possession of any document, sketch, plan, model or information relating to any fortress, arsenal, factory, dockyard, camp, ship, office or other like place belonging to Her Majesty, or to the naval or military affairs of Her Majesty, in whatever manner the same has been obtained or taken, at any time wilfully communicates the same to any person to whom he knows the same ought not, in the interest of the State, to be communicated at that time, he shall be liable to the same punishment as if he committed an offence under the foregoing provisions of this section.

(3) Where a person commits any act declared by this section to be an offence, he shall, if he intended to communicate to a foreign State any information, document, sketch, plan, model or knowledge obtained or taken by him, or entrusted to him as aforesaid, or if he communicates the same to any agent of a foreign State, be punished with transportation for life or for any term not less than five years, or with imprisonment for a term which may extend to two years.

4. (1) Where a person, by means of his holding or having held an office under Her Majesty, has lawfully or unlawfully either obtained possession of or control over any document, sketch, plan or model, or acquired any information, and at any time corruptly or contrary to his official

duty communicates or attempts to communicate that document, sketch, plan, model or information to any person to whom the same ought not, in the interest of the State, or otherwise in the public interest, to be communicated at that time, he shall be guilty of a breach of official trust.

(2) A person, guilty of a breach of official trust shall—

- (a) if the communication was made or attempted to be made to a foreign State, be punished with transportation for life or for any term not less than five years, or with imprisonment for a term which may extend to two years, and
- (b) in any other case be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

(3) This section shall apply to a person holding a contract with any department of the Government, or with the holder of any office under Her Majesty as such holder, where such contract involves an obligation of secrecy, and to any person employed by any person or body of persons holding such a contract, who is under a like obligation of secrecy, as if the person holding the contract and the person so employed were respectively holders of an office under Her Majesty.

5. A prosecution for an offence against this Act shall not be instituted except by or with the consent of the Local Government or of the Governor-General in Council.

J. M. MACPHERSON,
Offg. Secretary to the Government of India.

THE



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PART I-A.

Notifications under the Bombay Local Boards and District Municipal Acts.

GENERAL DEPARTMENT.

Proclamation.

Bombay Castle, 5th November 1889.

No. 4605.—Whereas it appears to His Excellency the Right Honourable the Governor in Council expedient to constitute the area hereinafter described situated in the town of Tambe in the Indi Taluka of the Bijapur District, a municipal district under Bombay Act II of 1884, notice is hereby given, under Section 10 of the Act that any inhabitant or inhabitants residing in the said area objecting to the formation of the said municipal district may, within two months from the date of this Proclamation, send in his or their objections in writing to the Chief Secretary to Government, General Department, Bombay, and His Excellency the Governor in Council will take such objections into consideration.

The limits proposed for the said municipal district are specified below:—

North.—A straight line drawn from the south corner of Survey No. 322 to the S. W. corner of Survey No. 370, the south side of Survey Nos. 370, 371 and 561.

East.—The west side of Survey No. 558, a straight line drawn from the S. W. corner of Survey No. 558 to the N. W. corner of Survey No. 557, the west sides of Survey Nos. 556 and 696.

South.—The north sides of Survey Nos. 754 and 753, a straight line drawn from the N. W. corner of Survey No. 753 to the N. E. corner of Survey No. 15, the west sides of Survey Nos. 15 and 16, the north side of Survey No. 23, the east side of Survey No. 18, the north side of Survey Nos. 18 and 108.

West.—The east sides of Survey Nos. 109, 110, 111, a straight line drawn from the north corner of Survey No. 111 to the S. E. corner of Survey No. 112, the east side of Survey No. 112, a straight line drawn from the N. E. corner of Survey No. 112 to the south corner of Survey No. 1, the east sides of Survey Nos. 1, 2, 318 and 317.

No. 4605A.—Whereas it appears to His Excellency the Right Honourable the Governor in Council expedient to constitute the area hereinafter described, situated in the town of Nalatwad in the Muddebihal Taluka of the Bijapur District, a municipal district under Bombay Act II of 1884, notice is hereby given, under Section 10 of the Act, that any inhabitant or inhabitants residing in the said area objecting to the formation of the said municipal district may, within two months from the date of this Proclamation, send in his or their objections in writing to the Chief Secretary to Government, General Department, Bombay, and His Excellency the Governor in Council will take such objections into consideration.

The limits proposed for the said municipal district are specified below:—

North.—Survey Nos. 1, 2, 98 and 101.

East.—Survey Nos. 176, 128 and 179.

South.—Survey Nos. 180, 294, 295 and 296.

West.—Survey Nos. 615, 616 and 900.

No. 4605B.—Whereas it appears to His Excellency the Right Honourable the Governor in Council expedient to constitute the area hereinafter described, situated in the town of Bilgi in the Bagalkot Taluka of the Bijapur District, a municipal district under Bombay Act II of 1884, notice is hereby given under Section 10 of the Act that any inhabitant or inhabitants residing in the said area objecting to the formation of the said municipal district may, within two months from the date of this Proclamation, send in his or their objections in writing to the Chief Secretary to Government, General Department, Bombay, and His Excellency the Governor in Council will take such objections into consideration.

The limits proposed for the said municipal district are specified below :—

North.—The whole of Survey Nos. 12, 10, 1 and 11.

East.—The whole of Survey Nos. 238 and 287.

South.—The whole of Survey No. 406 and parts of Survey Nos. 404, 403 and 289.

West.—The whole of Survey Nos. 407, 408, 409, 659, 650, 658, 657, 656, 651 and 652.

No. 4605 C.—Whereas it appears to His Excellency the Right Honourable the Governor in Council expedient to constitute the area hereinafter described, situated in the town of Shirur in the Bágalkot Táluka of the Bijápur District, a municipal district under Bombay Act II of 1884, notice is hereby given under Section 10 of the Act that any inhabitant or inhabitants residing in the said area objecting to the formation of the said municipal district may, within two months from the date of this Proclamation, send in his or their objections in writing to the Chief Secretary to Government, General Department, Bombay, and His Excellency the Governor in Council will take such objections into consideration.

The limits proposed for the said municipal district are specified below :—

North.—The whole of Survey Nos. 654, 653, 655, 656, 657, 658, 659 and 660.

East.—The whole of Survey Nos. 919, 920, 921, 922, 923, 924, 3, 4, 7, 8, 9, 18, 19, 16, 15, 14, 13, 17, 12, 10, 11, 6, 5, 2 and 1.

South.—The whole of Survey Nos. 31, 32, 33, 37, 36 and 38.

West.—The whole of Survey Nos. 93, 331 and 332.

No. 4605 D.—Whereas it appears to His Excellency the Right Honourable the Governor in Council expedient to constitute the area hereinafter described, situated in the town of Kerur in the Bádámi Táluka of the Bijápur District, a municipal district under Bombay Act II of 1884, notice is hereby given under Section 10 of the Act that any inhabitant or inhabitants residing in the said area objecting to the formation of the said municipal district may, within two months from the date of this Proclamation, send in his or their objections in writing to the Chief Secretary to Government, General Department, Bombay, and His Excellency the Governor in Council will take such objections into consideration.

The limits proposed for the said municipal district are specified below :—

North.—Survey No. 474, road from Kerur to Malgi; Survey Nos. 1, 2, 3, 4, 6, 15, Sholápur-Hubli road; Survey Nos. 117, 118, road to Katgeri and Survey No. 121.

East.—Survey No. 169, road from Killa to old peth, Survey No. 170, road from new peth to old peth, Survey Nos. 171, 172, Sholápur-Hubli road, Survey Nos. 173, 122, road to Matikatti, Survey No. 128, road to Kadputti, Survey No. 155 and road to Hulkei.

South.—Survey Nos. 312, 313, 311, road to Musktigeri, Survey Nos. 174, 167, 166, 159 and 156

West.—Survey Nos. 475, 471, 470, 469 and 313.

No. 4605 E.—Whereas it appears to His Excellency the Right Honourable the Governor in Council expedient to constitute the area hereinafter described, situated in the town of Bádámi

in the Bijápur District, a municipal district under Bombay Act II of 1884, notice is hereby given under Section 10 of the Act that any inhabitant or inhabitants residing in the said area objecting to the formation of the said municipal district may, within two months from the date of this Proclamation, send in his or their objections in writing to the Chief Secretary to Government, General Department, Bombay, and His Excellency the Governor in Council will take such objections into consideration.

The limits proposed for the said municipal district are specified below :—

North.—Survey Nos. 1, 536, 106 and 111.

East.—Survey Nos. 111, 109 and 538.

South.—Survey Nos. 114, 121, 122 and 123.

West.—Survey Nos. 184, 194, 195, 196, 197, 198, 199, 211, 212, 213, 215, 531, 1, and road to Railway Station.

By order of His Excellency the Right Honourable the Governor in Council,

J. NUGENT,

Chief Secretary to Government.

REVENUE DEPARTMENT.

Bombay Castle, 1st November 1889.

No. 8353.—In exercise of the power conferred by Section 27 of the Bombay Local Boards Act of 1884 His Excellency the Governor in Council is pleased to approve of the appointment by election of Ráo Sáheb Wasudev Pandurang Late to be Vice-President of the Táluka Local Board of Pátan in the Sátára District.

Bombay Castle, 4th November 1889.

No. 8391.—In exercise of the power conferred by Section 27 of the Bombay Local Boards Act of 1884 His Excellency the Governor in Council is pleased to approve of the appointment by election of Ráo Sáheb Jethalal Varajbhai to be Vice-President of the Táluka Local Board of Jambusar in the Broach District.

By order of His Excellency the Right Honourable the Governor in Council,

J. NUGENT,

Chief Secretary to Government.

BY THE COMMISSIONERS.

NORTHERN DIVISION.

With reference to the Notification published at page 31 of the *Bombay Government Gazette*, Part I-A, dated 28th March last, the following gentleman has been elected a commissioner for the Municipal Board of Surat :—

Ráo Sáheb Anupram Kirpáram Yakil, vice Ráo Sáheb Surajlal Mathuradas, whose election has been set aside by the District Judge of Surat.

Mr. H. O. Quin, Assistant Collector, is appointed to be a nominated member of the District Local Board, Ahmedabad, and the Taluka Local Boards of Daskroi, Parantij and Modasa, vice Mr. C. H. A. Hill, resigned.

Poona, 31st October 1889.

In exercise of the power conferred by His Excellency the Governor in Council under Section 13 of Bombay Act II of 1884 the following officers and gentlemen are appointed to be commissioners for carrying out the provisions of the Bombay District Municipal Acts of 1873 and 1884 in the town of Mahudha in the Kaira District, during the triennial term beginning with 1st October 1889 —

Officials.

1. L. G. Deshmukh, Esquire, C. S., Assistant Collector.
2. Ráo Sáheb Madhavram Harnarayan, Mám-latdár.
3. A'zam Harilal Vrajbhukhandas, Chief Constable.
4. „ Khushalbai Valabhai, Police Patel.
5. „ Mansukh Jeybhai, Taláti.
6. „ Jethalal Asharam, Schoolmaster.
7. „ Ganput Kakday, Hospital Assistant.

Non-officials.

1. A'zam Sudrudin Kamrudin.
2. „ Maneklal Amratlal.
3. „ Manchhabhai Lakhubhai.

In exercise of the power conferred by His Excellency the Governor in Council under Section 13 of Bombay Act II of 1884 the following officers and gentlemen are appointed to be commissioners for carrying out the provisions of the Bombay District Municipal Acts of 1873 and 1884 in the town of Umreth in the Kaira District, during the triennial term beginning with 1st October 1889 :—

Officials.

1. Ráo Bahádur Motilal Chunilal, District Deputy Collector.
2. Ráo Sáheb Valavdas Kashandas, Mám-latdár.
3. A'zam Kishor Asharam, Chief Constable.
4. „ Lalitanand Gavrinand, Sub-Registrar.
5. „ Shekh Husen Abdulbhai, Clerk, Subordinate Judge's Court.
6. „ Tribhovandas Gordhandas, General Duty Kárkún.

Non-officials.

1. A'zam Gordhanbhai Kalidas Parikh.
2. „ Kalidas Mayaram Joshi.
3. „ Kasamah Jiwani.
4. „ Ranchhoddas Nagardas Vakil.

In exercise of the power conferred by His Excellency the Governor in Council under Section 13 of Bombay Act II of 1884 the following officers and gentlemen are appointed to be commissioners for carrying out the provisions of the Bombay District Municipal Acts of 1873 and

1884 in the town of A'nand in the Kaira District, during the triennial term beginning with 1st October 1889.—

Officials.

1. Ráo Bahádur Motilal Chunilal, District Deputy Collector.
2. Ráo Sáheb Valavdas Kashandas, Mám-latdár.
3. A'zam Kishor Asharam, Chief Constable.
4. „ Chhotalal Shivilal, Sub-Registrar.
5. „ Nathji Jibhai, Aval Kárkún.
6. „ Behramji Jiwaji, Hospital Assistant.

Non-officials.

1. The Reverend Mr. Steele.
2. A'zam Bhailal Mulji Patel.
3. „ Kasinath Ramnath Pandia.
4. „ Chunilal Mathuradas Sha.

In exercise of the power conferred by His Excellency the Governor in Council under Section 13 of Bombay Act II of 1884 the following officers and gentlemen are appointed to be commissioners for carrying out the provisions of the Bombay District Municipal Acts of 1873 and 1884 in the town of Od in the Kaira District, during the triennial term beginning with 1st October 1889.—

Officials.

1. Ráo Bahádur Motilal Chunilal, District Deputy Collector.
2. Ráo Sáheb Valavdas Kashandas, Mám-latdár.
3. A'zam Kishor Asharam, Chief Constable.
4. „ Dayabhai Udeyram, Taláti.
5. „ Desabhai Jiwabhai, Police Patel.

Non-officials.

1. A'zam Dadabhai Bhaiba, Patel.
2. „ Jagannath Kirpashankar Pathak.
3. „ Dwarkadas Laldas Sha.

In exercise of the power conferred by His Excellency the Governor in Council under Section 13 of Bombay Act II of 1884 the following officers and gentlemen are appointed to be commissioners for carrying out the provisions of the Bombay District Municipal Acts of 1873 and 1884 in the town of Borsad in the Kaira District during the triennial term beginning with 1st October 1889.—

Officials.

1. Ráo Bahádur Motilal Chunilal, District Deputy Collector.
2. Mr. J. W. S. Diacup, Mám-latdár.
3. A'zam Dhirajlal Bhagwandas, Aval Kárkún.
4. „ Bhawanishankar Naranji, Chief Constable.
5. „ Chhaganlal Parbhashankar, Sub-Registrar.
6. „ Mahadevprasad Krishna Mangal, Hospital Assistant.

Non-officials.

1. The Reverend R. Boyd.
2. A'zam Varjwan Asharam.
3. „ Ghelabhai Bhaishankar Vakil.
4. „ Mia Saheb Umraokhan.

In exercise of the power conferred by His Excellency the Governor in Council under Section 13 of Bombay Act II of 1884 the following officers and gentlemen are appointed to be commissioners for carrying out the provisions of the Bombay District Municipal Acts of 1873 and 1884 in the town of Matar in the Kaira District, during the triennial term beginning with 1st October 1889:—

Officials.

1. Ráo Bahádur Motilal Chunilal, District Deputy Collector.
2. Ráo Sáheb Keshavlal Kalidas, Mámlatdár.
3. A'zam Mohanlal Harkisandas, Ayal Kárkún.
3. " Mustafakhan Murtazakhan, Chief Constable.
5. " Bhaishankar Jagjiwan, Sub-Registrar.
6. " Nanalal Nathu, Sub-Postmaster.

Non-officials.

1. A'zam Mohanlal Mithalal Desai,
2. Kazi Rehmudin Abdusawad.
3. A'zam Amratlal Bhaishankar Pandia,
4. Mathur Savdas Patel.

Poona, 2nd November 1889.

Erratum.—In this Office Notification dated 9th October 1889, published at page 115 of the *Bombay Government Gazette*, Part I-A, for "Kaliandas Girdhar Tehsildár" read "Kahandas Girdhar Tehsildár."

Mr. H. A. Acworth, C. S., acting Collector of Surat, is appointed to be a nominated member of the Municipal Board of Surat vice Ráo Sáheb Parmanandas Surajram, resigned, with effect from the 10th instant.

Poona, 4th November 1889.

Mr. Jamiytram Gaurishankar Shastri, B.A., is appointed to be a nominated member of the Municipal Board of Nadiad in the Kaira District vice Mr. Shrivalabh Bhagwanji, deceased.

Poona, 5th November 1889.

W. H. PROPERT,
Commissioner, N. D.

CENTRAL DIVISION.

Colonel A. Currie is appointed to be a nominated commissioner of the Sirúr Municipality in the Poona District vice Colonel J. C. Hogg, resigned.

Ráo Bahádur Balkisan Amarsing, Police Inspector, is appointed to be a nominated commissioner of the Málegaon Municipality vice Mr. Dhondo Nanaji, resigned.

Shekh Mahamad valad Jamal Mistri is elected to be a commissioner of the Málegaon Municipality in the Násik District vice Mr. Kyam valad Haji, resigned.

Mr. Amrit Govind, Hospital Assistant, is appointed to be a nominated commissioner of the Sháháda Municipality in the Kháudesh District vice Mr. Ramkrishna Sukeswar, resigned.

Mr. G. D. Panse, Assistant Collector, is appointed to be a nominated commissioner of the Municipalities of Islampur and Ashta in the Sátára District vice Mr. G. W. Scott, resigned.

Mr. G. W. Scott is appointed to be a nominated commissioner of the Municipalities of Mhasyad, Vita, Máyni and Pusesávi vice Mr. G. D. Panse, resigned.

Mr. A. H. Plunkett delivered over and Major E. D. Newnham Smith received charge of the office of the Cantonment Magistrate, Poona and Kirki, on the 16th October 1889, in the afternoon.
Poona, 30th October 1889.

Mr. G. D. Panse, Assistant Collector, Sátára, is appointed to be a nominated member of the Táluka Local Boards of Karád, Válva and Pátan vice Mr. G. W. Scott, District Deputy Collector, resigned.

Mr. G. W. Scott, District Deputy Collector, Sátára, is appointed to be a nominated member of the Táluka Local Boards of Mán, Khatáv and Khásapur vice Mr. G. D. Panse, resigned.

Poona, 31st October 1889.

The appointment by election, under Section 24, paragraph 2, of the District Municipal Act Amendment Act II of 1884, of Ráo Sáheb Yashwant Balkrishna Barve as Vice-President of the Municipality of Betávad in the Kháudesh District vice Ráo Sáheb Narayan Visvanath Bhat, is approved.

Poona, 4th November 1889.

J. MOORE,
Commissioner, C. D.

SOUTHERN DIVISION.

Mr. Venkatramana Narayan Bhatta Honakeri is elected a member of the Táluka Local Board of Kumta in the Kánara District vice Mr. Ram-bhatta bin Narayanbhatta, deceased.

Poona, 1st November 1889.

A'zam Maharudrapa Appaya is elected to be a commissioner of the Nipáni Municipality in the Belgaum District vice A'zam Appaya Satlingapa, deceased.

Mr. R. J. Kapadia, Assistant Surgeon in charge Kumta Dispensary, is appointed to be a nominated commissioner of the Kumta Municipality vice Mr. G. M. Dixon, resigned.

Poona, 4th November 1889.

G. F. M. GRANT,
Acting Commissioner, S. D.

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PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 13th November 1889, and is hereby promulgated for general information.

Act No. XX of 1889.

An Act to amend Act XXXVI of 1858.

WHEREAS it is expedient to extend the authority of the Governor General in Council with respect to the appointment of asylums for the reception and detention of lunatics and with respect to the transfer of any lunatic from any one to any other lunatic asylum in British India; it is hereby enacted as follows:—

1. For section 17A of Act XXXVI of 1858

Substitution of new section for section 17A, Act XXXVI, 1858. (an Act relating to Lunatic Asylums), as amended by Act XVIII of 1886 (an Act to amend Act XXXVI

of 1858), the following shall be substituted, namely:—

Provision for provinces having insufficient or no asylums. "17A. In either of the following cases, namely:—

(a) when an Executive Government has not established within its limits a public asylum for the reception and detention of lunatics,

(b) when it appears to the Governor General in Council that a public asylum estab-

ly.—27

lished within such limits is not, conveniently situated, with respect to any part of the territories administered by such Government or does not afford sufficient or, in the case of any class of lunatics, suitable accommodation,

the Governor General in Council may from time to time appoint an asylum in any part of British India beyond the limits of such Government to be an asylum to which any Magistrate or Judge exercising jurisdiction within those limits may send lunatics or any class of lunatics as to an asylum established under this Act for the division in which his jurisdiction is situate."

Addition of new section after section 17B, Act XXXVI, 1858.

2 After section 17B of the said Act XXXVI of 1858 the following section shall be added,

namely:—

"17C. Any lunatic may be removed from any lunatic asylum established or licensed under this Act, by order of an Executive Government, to any other such asylum within the limits of such Government, and, by order of the Governor General in Council, to any other asylum in any part of British India."

Repeal of section 11 of Act XXXVI of 1858.

3. Section 11 of the said Act XXXVI of 1858 is hereby repealed.

S. HARVEY JAMES,
Secretary to the Government of India

	Section	Clause.		Section.	Clause.
II.—CONSTITUTION OF MUNICIPALITIES—continued.			II —CONSTITUTION OF MUNICIPALITIES—continued.		
<i>Provisions relating to Municipal Commissioners.</i>			<i>Conduct of Business—continued</i>		
General disqualifications	16	...	Questions at committees' meetings shall be decided by a majority of votes ...	...	(13)
Re-eligibility of municipal commissioners ..	17	...	Notice of business to be transacted must in certain cases be given to the Government Executive Engineer or Educational Inspector	...	(14)
Term of office ..	18	...	Minutes of proceedings to be kept ..	...	(15)
Casual vacancies how to be filled up ...	19	..	Vacancy not to affect municipality's proceedings ..	...	(16)
Publication of names of commissioners in the <i>Bombay Government Gazette</i> ...	20	...	Acts of a municipality, &c. not to be invalidated by informalties ..	...	(17)
Municipal funds ordinarily liable for all costs and expenses incurred by municipalities, ...	21	...	Certain Government officers may attend meetings of municipalities ...	28	...
but commissioners to be held responsible for misapplied funds ..	ib.	...	Municipalities may require the presence of the said officers at their meetings ...	ib.	...
<i>Municipal Elections.</i>			Written propositions may be circulated for votes ...	29	...
General disqualifications of voters ...	22	...	Mode of executing contracts ..	30	..
Determination of validity of elections ...	23	...	Joint committees of two or more municipalities or other local bodies ...	31	...
<i>Presidents and Vice-Presidents.</i>			III.—RULES AND BYE-LAWS.		
Nomination of presidents, and of vice-presidents ..	24	...	Municipalities may make rules for regulating the conduct of business; ..	32	...
Their term of office and liability to be removed ...	ib.	...	for fixing the establishment; ..	...	(a)
Casual vacancies in their office how to be filled up ...	ib.	...	for determining mode of appointing, &c., municipal servants; ...	...	(b)
Functions of presidents ...	25	..	for granting leave to municipal servants, ...	...	(c)
President in certain cases to have only a casting vote ..	ib.	...	for fixing pensions, &c.; ...	...	(d)
Functions of vice-presidents ..	26	...	for contributing to provident funds; ...	...	(e)
<i>Conduct of Business.</i>			for fixing the amount of the security to be furnished; ..	...	(f)
Provisions regulating municipalities' proceedings ..	27	..	for prescribing the taxes, &c., to be levied for municipal purposes; ..	...	(g)
General meetings ..	...	(1)	for general guidance of municipal servants: ...	...	(h)
A special meeting may be called whenever necessary upon an emergency ...	...	(2)	Proviso as to officers lent by Government, and ..	...	(i)
Notice to be given of meetings ..	...	(3)	as to previous sanction of Government in certain cases ...	...	(j)
One-half of the commissioners shall form a quorum ..	...	(4)	Certain municipalities may make bye-laws: ..	33	...
Meetings must ordinarily be open to the public ..	...	(5)	for markets and slaughter-houses, &c., &c., ...	...	(a)
Every meeting to be presided over by the president ...	...	(6)	for regulation of dangerous or offensive trades; ..	...	(b)
Business to be transacted at meetings ...	...	(7)	for water-supply and conservancy; ..	...	(c)
Adjournments of meetings..	...	(8)	for registration of births, &c., for general administrative purposes ...	...	(d)
All questions must be decided by a majority of votes ..	...	(9)			(e)
Municipality may delegate their functions to committees ...	...	(10)			
Committees' meetings to be presided over by a chairman ...	...	(11)			
Committees shall meet when they think proper...	...	(12)			