

Dhananjayrao Gadgil Library



GIFE-PUNE-124940

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.

MDCCLXXXIX.

Z 2
~~BO~~ B9
124940

CONTENTS TO PART IV.

	PAGE		PAGE
GOVERNMENT OF INDIA ACTS.			
Act No. I of 1889.—An Act for the Protection of Coinage and other Purposes ...	25	Act No. XIV of 1889.—An Act to indemnify certain witnesses ...	90
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 ...	29	Act No. XV of 1889.—An Act to prevent the Disclosure of Official Documents and Information ...	91
Act No. IV of 1889.—An Act to amend the Law relating to Fraudulent Marks on Merchandise ...	31	Act No. XX of 1889.—An Act to amend Act XXXVI of 1858 (an Act relating to Lunatic Asylums) ...	93
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 ...	37	REPORTS OF SELECT COMMITTEES.	
Act No. VII of 1889.—An Act to facilitate the collection of debts on successions and afford protection to parties paying debts to the representatives of deceased persons ...	41	Report on the Bill to prohibit the making or issue by private persons of pieces of metal for use as money and the making of coins in resemblance or similitude of coins of Foreign States ...	27
Act No. VIII of 1889.—An Act to amend the Sea Customs Act, 1878, and the Indian Tariff Act, 1882 ...	58	Report on the Bill to declare the imperial standard yard for the United Kingdom to be the legal standard measure of length in British India ...	30
Act No. X of 1889.—An Act to consolidate and amend the law relating to Ports and Port-charges ...	61	Report on the Bill to amend the Sea Customs Act, 1878, and the Indian Tariff Act, 1882.	60
Act No. XII of 1889.—An Act to amend the Indian Merchandise Marks Act, 1889 ...	81	GOVERNMENT OF BOMBAY ACTS.	
Act No. XIII of 1889.—An Act to amend the law relating to Cantonments ...	82	Act No. V of 1888.—An Act to vest the Port of Aden in a Trust ...	1
		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 ...	48

*act I of 1889 - The Bombay
Village sanitation act.*

THE



Bombay Government Gazette

Published by Authority.

THURSDAY, 7TH FEBRUARY 1889.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 1st February 1889, and is hereby promulgated for general information :—

Act No. I of 1889.

An Act for the Protection of Coinage and other Purposes.

WHEREAS it is expedient to prohibit the making, or the possession for issue, or the issue, by private persons of pieces of metal for use as money;

And whereas it is also expedient to amend section 28 of the Indian Penal Code;

It is hereby enacted as follows :—

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

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

(3) It shall come into force at once.

2. In this Act "issue" means to put a piece of metal into circulation for the first time for use as money in British India, such piece having been made in contravention of this Act or brought into British India by sea or by land in contravention of any notification for the time being in force under section 19 of the Sea Customs Act, 1878.

3. No piece of copper or bronze or of any other metal or mixed metal, which, whether stamped or unstamped, is intended to be used as money, shall be made except by the authority of the Governor General in Council.

Penalty for unlawful making, issue or possession of such pieces. 4. (1) In either of the following cases namely :—

(a) if any person makes in contravention of the last foregoing section, or issues or attempts to issue, any such piece as is mentioned in that section,

(b) if, after the expiration of three months from the commencement of this Act, any person has in his possession, custody or control any such piece as is mentioned in the last foregoing section, with intent to issue the piece,

the person shall be punished,—

(i) if he has not been previously convicted under this section, with imprisonment which may extend to one year, or with fine, or with both; or,

(ii) if he has been previously convicted under this section, with imprisonment which may extend to three years, or with fine, or with both.

(2) If any person is convicted of an offence under sub-section (1), he shall, in addition to

any other punishment to which he may be sentenced, forfeit all such pieces as aforesaid, and all instruments and materials for the making of such pieces, which may have been found in his possession, custody or control.

(3) If in the trial of any such offence the question arises whether any piece of metal or mixed metal was intended to be used or to be issued for use as money, the burden of proving that the piece was not intended to be so used or issued shall lie on the accused person.

5. (1) The offence of making, in contravention of section 3, any such piece as is mentioned in that section shall be a cognizable offence.

Cognizance of offences under the last foregoing section.

X of 1882.

(2) Notwithstanding anything in the Code of Criminal Procedure, 1882, no other offence punishable under section 4 shall be a cognizable offence, or beyond the limits of a presidency-town be taken cognizance of by any Magistrate, except a District Magistrate or Subdivisional Magistrate, without the previous sanction of the District Magistrate or Subdivisional Magistrate.

6. If at any time the Governor General in Council sees fit, by notification under section 19 of the Sea Customs Act, 1878, to prohibit or restrict the bringing by sea

VIII of 1878.

Application of certain of the foregoing provisions of this Act to importation of pieces of metal for use as money.

or by land into British India of any such pieces of metal as are mentioned in section 3, he may by the notification direct that any person contravening the prohibition or restriction shall be liable to the punishment to which he would be liable if he were convicted under this Act of making such pieces in British India, instead of to the penalty mentioned in section 167 of the Sea Customs Act, 1878, and that the provisions of sub-section (3) of section 4 and sub-section (1) of section 5, or of either sub-section, in relation to the offence of making such pieces shall, notwithstanding anything in the Sea Customs Act, 1878, apply, so far as they can be made applicable, to the offence of contravening the prohibition or restriction notified under section 19 of that Act.

X of 1882.

7. To section 98 of the Code of Criminal Procedure, 1882, the following shall be added, namely:—

“The provisions of this section with respect to—

(a) counterfeit coin,

(b) coin suspected to be counterfeit, and

(c) instruments or materials for counterfeiting coin,

shall, so far as they can be made applicable, apply, respectively, to—

(a) pieces of metal made in contravention of the Metal Tokens Act, 1889, or brought into British India in contravention of any notification for the time being in force under section 19 of the Sea Customs Act, 1878, VIII of 1878

(b) pieces of metal suspected to have been so made or to have been so brought into British India or to be intended to be issued in contravention of the former of those Acts, and

(c) instruments or materials for making pieces of metal in contravention of that Act.”

8. (1) No piece of metal which is not coin as defined in the Indian Penal Code shall be received as money by or on behalf of any railway, administration or local authority.

Prohibition of receipt by local authorities and railways as money of metal which is not coin.

XLV of 1880

(2) If any person on behalf of a railway-administration, or on behalf of a local authority, or on behalf of the lessee of the collection of any toll or other impost leviable by a railway-administration or local authority, receives as money any piece of metal which is not such coin as aforesaid, he shall be punished with fine which may extend to ten rupees.

9. For the *Explanation* to section 28 of the Indian Penal Code the following shall be substituted, namely:—

Amendment of section 28 of the Indian Penal Code.

“*Explanation 1*.—It is not essential to counterfeiting that the imitation should be exact.

“*Explanation 2*.—When a person causes one thing to resemble another thing, and the resemblance is such that a person might be deceived thereby, it shall be presumed, until the contrary is proved, that the person so causing the one thing to resemble the other thing intended by means of that resemblance to practise deception or knew it to be likely that deception would thereby be practised.”

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

The following Report of the Select Committee on the Bill to prohibit the making or issue by private persons of pieces of metal for use as money and the making of coins in resemblance or similitude of coins of Foreign States was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 18th January 1889:—

LEGISLATIVE DEPARTMENT.

We, the undersigned, Members of the Select Committee to which the Metal Tokens Bill was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report, with the Bill as revised by us annexed thereto.

2. We have amended the definition of "issue" in section 2, so as to make it clear that the Act is not intended to apply to tokens now in circulation.

3. From section 3, sub-section (1) (section 3 of the revised Bill), we have omitted the words "or likely." Section 4, sub-section (3), of the revised Bill appears to us to render the retention of those words unnecessary.

4. We have proposed, in section 4 of the revised Bill, that an attempt to "issue," and possession with intent to "issue," any pieces of metal made in British India in contravention of the Act or imported into British India in contravention of any prohibition under the Sea Customs Act, 1878, shall be offences punishable in the same manner as the offence of issuing such pieces.

5. For section 3, sub-section (5), of the Bill as introduced we have proposed to substitute a section (section 7 of the revised Bill) applying to the pieces of metal to which the Bill mainly relates the provisions of section 98 of the Code of Criminal Procedure, 1882, respecting counterfeit coin.

6. For section 3, sub-section (6), of the Bill as introduced we have substituted a section (section 5 of the revised Bill) providing that no offence relating in any way to the "issue" of unauthorised pieces of metal for use as money is to be cognizable by the police or, without the previous sanction of the District Magistrate or Sub-divisional Magistrate, by any Magistrate except a District Magistrate or Sub-divisional Magistrate.

7. In section 4 we have reduced the maximum period of imprisonment to one year for a first offence, and to three years after a previous conviction.

8. We have added to section 5 of the Bill as introduced (section 8 of the revised Bill) a clause making it an offence for any person on behalf of a railway-administration or local authority, or on behalf of the lessee of any tolls leviable by such an administration or authority, to receive as money any piece of metal which is not coin as defined in the Indian Penal Code.

9. As regards section 6 of the Bill as introduced (section 9 of the revised Bill) we agree with Mr. R. J. Crosswaite, the Judicial Commissioner of the Central Provinces, in thinking that the effect of that section might be to weaken the existing law as to Queen's coin, and we think that the purposes not only of section 231 but also of other sections of the Indian Penal Code will be better served by the addition to the definition of "counterfeit," in section 28 of that Code, of an *Explanation* applicable as well to coin as to every other thing with reference to which the word "counterfeit" is used in the Code.

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

<i>Gazette.</i>	<i>In English.</i>	<i>Date.</i>
Gazette of India	18th February 1888.
Fort Saint George Gazette	23rd February 1888.
Bombay Government Gazette	23rd February 1888.
Calcutta Gazette	22nd February 1888.
North-Western Provinces and Oudh Government Gazette...	...	25th February 1888.
Punjab Government Gazette	1st March 1888.
Central Provinces Gazette	25th February 1888.
Burma Gazette	10th March 1888.
Assam Gazette	10th March 1888.
Coorg District Gazette	2nd April 1888.
Sindh Official Gazette	22nd March 1888.

<i>Province.</i>	<i>In the Vernaculars.</i>		<i>Date.</i>
	<i>Language.</i>		
Madras ...	Kánarese ...	...	27th March 1888.
	Malayalam ...	...	10th April 1888.
	Tamil ...	...	10th April 1888.
	Telugu ...	...	17th April 1888.
	Hindustani ...	...	24th April 1888.
Bombay ...	Maráthi ...	...	5th April 1888.
	Kánarese ...	...	5th April 1888.
	Gujaráthi ...	...	12th April 1888.
Bengal ...	Bengali ...	...	20th March 1888.
	Uriya ...	...	29th March 1888.
	Hindi ...	...	10th April 1888.
Central Provinces ...	Maráthi ...	...	18th April 1888.
	Hindi ...	...	23rd May 1888.
Burma ...	Burmese ...	...	31st March 1888.
Assam ...	Bengali ...	...	14th April 1888.
Coorg ...	Kánarese ...	...	1st May 1888.
Sindh ...	Sindhi ...	...	22nd March 1888.

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

The 17th January 1889.

D. BARBOUR.
ANDREW R. SCOBLE.
ROBT. STEEL.
FRED. M. HALLIDAY.
ANANDAGAJAPATI RAZU.

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



Bombay Government Gazette

Published by Authority.

THURSDAY, 21st FEBRUARY 1889.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 15th February, 1889, and is hereby promulgated for general information:—

Act No. II of 1889.

An Act to declare the imperial standard yard for the United Kingdom to be the legal standard measure of length in British India.

WHEREAS it is expedient to declare the imperial standard yard for the United Kingdom to be the legal standard measure of length in British India; It is hereby enacted as follows:—

1. (1) This Act may be called the Measures of Length Act, 1889.

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

(3) It shall come into force on such day as the Governor-General in Council may appoint in this behalf.

2. The imperial standard yard for the United Kingdom shall be the legal standard measure of length in British India and be called the standard yard.

3. A copy, approved by the Governor-General in Council, of the imperial standard for determining the length of the imperial standard yard for the United Kingdom shall be kept in such place within the limits of the Town of Calcutta as the Governor General in Council may prescribe, and shall be the standard for determining the length of the standard yard.

4. One-third part of the standard yard shall be called a standard foot, and one thirty-sixth part of such a yard shall be called a standard inch.

5. Any measure having stamped thereon or affixed thereto a certificate purporting to be made under the authority of the Governor-General in Council or of a Local Government, and stating that the measure is of the length of the standard yard or that a measure marked thereon as a foot or inch is of the length of the standard foot or standard inch, as the case may be, shall, when produced before any Court by any public servant having charge of the measure in pursuance of any direction published in an official Gazette by order of the Governor-General in Council or the Local Government, or by any person acting under the general or special authority of such a public servant, be deemed to be correct until its inaccuracy is proved.

6. A public servant having in pursuance of such a direction charge of such a measure as is mentioned in the last foregoing section shall allow any person to inspect it free of charge at all reasonable times and to compare therewith or with any measure marked thereon any measure which such person may have in his possession.

7. There shall be kept by the Commissioner of Police in the Town of Calcutta under section 55 of the Calcutta Police Act, 1866, by the Commissioners in Calcutta under section 370 of the Calcutta Municipal Consolidation Act, 1839, by the Commissioner of Police in the City of Madras under section 32 of the Madras City Police Act, 1838, by the Municipal Commissioner in the City of Bombay under section 413 of the City of Bombay Municipal Act, 1853, 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 1863.
Mad. Act III of 1838.

Ben. Act III of 1858.

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.

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.

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].

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:—

<i>Gazette.</i>	<i>In English.</i>	<i>Date.</i>
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, 28th May, and 2nd and 9th June, 1888.
Burma Gazette	7th April, 1888.
Assam Gazette	7th April, 1888.
Coorg District Gazette	2nd April, 1888.

<i>Provinces.</i>	<i>Language.</i>	<i>Date.</i>
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.
Bengal... ..	Maráthi	24th May, 1888.
	Bengáli	3rd April, 1888.
	Uríya	5th April, 1888.
North-Western Provinces and Oudh.	Hindi	17th April, 1888.
	Urdu	12th May, 1888.
	Urdu	10th May, 1888.
Punjab	Hindi	23rd May, 1888.
	Maráthi.....	6th and 13th June, 1888.
Burma	Burmese	31st 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.
 DINESHAW MANOCKJEE PETIT.
 DOORGA CHURN LAW.

The 28th January 1889.

S. HARVEY JAMES,
 Secretary to the Government of India



Bombay Government Gazette

Published by Authority.

THURSDAY, 7TH MARCH 1889.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor-General on the 1st March 1889, and is hereby promulgated for general information:—

Act No IV of 1889.

An Act to amend the Law relating to Fraudulent Marks on Merchandise.

WHEREAS it is expedient to amend the law relating to fraudulent marks on merchandise; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Title, extent and Merchandise Marks Act, 1889.

(2) It extends to the whole of British India; and, subject to the provision of the last section of this Act,

(3) It shall come into force on the first day of April 1889.

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

(1) "trade mark" has the meaning assigned to that expression in section 478 of the Indian Penal Code as amended by this Act:

(2) "trade description" means any description, statement or other indication, direct or indirect,—

(a) as to the number, quantity, measure, gauge or weight of any goods, or,

(b) as to the place or country in which, or the time at which, any goods were made or produced, or

(c) as to the mode of manufacturing or producing any goods, or

(d) as to the material of which any goods are composed, or

(e) as to any goods being the subject of an existing patent, privilege or copyright;

and the use of any numeral, word or mark which, according to the custom of the trade, is commonly taken to be an indication of any of the above matters shall be deemed to be a trade description within the meaning of this Act:

(3) "false trade description" means a trade description which is untrue in a material respect as regards the goods to which it is applied, and includes every alteration of a trade description, whether by way of addition, effacement, or otherwise, where that alteration makes the description untrue in a material respect, and the fact that a trade description is a trade mark or part of a trade mark shall not prevent such trade description being a false trade description within the meaning of this Act:

(4) "goods" means anything which is the subject of trade or manufacture: and

(5) "name" includes any abbreviation of a name.

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.

"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.

46 & 47 Vict., c. 57.

"479. A mark used for denoting that moveable property belongs to a particular person is called a property mark.

"480. Whoever marks any goods or any case, package or other receptacle containing goods, or uses any case, package or other receptacle with any mark thereon, in a manner reasonably calculated to cause it to be believed that the goods so marked, or any goods contained in any such receptacle so marked, are the manufacture or merchandise of a person whose manufacture or merchandise they are not, is said to use a false trade mark.

"481. Whoever marks any moveable property or goods or any case, package or other receptacle containing moveable property or goods, or uses any case, package or other receptacle having any mark thereon, in a manner reasonably calculated to cause it to be believed that the property or goods so marked or any property or goods contained in any such receptacle so marked, belong to a person to whom they do not belong, is said to use a false property mark.

"482. Whoever uses any false trade mark or any false property mark shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

"483. Whoever counterfeits any trade mark or property mark used by any other person shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

"484. Whoever counterfeits any property mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place, or that the property is of a particular quality or has passed through a particular office, or that it is entitled to any exemption, or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

"485. Whoever makes or has in his possession any die, plate or other instrument for the purpose of counterfeiting a trade mark or property mark, or has in his possession a trade mark or property mark for the purpose of denoting that any goods are the manufacture or merchandise of a person whose manufacture or merchandise they are not, or that they belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

"486. Whoever sells, or exposes or has in possession for sale or any purpose of trade or manufacture, any goods or things with a counterfeit trade mark or property mark affixed to or impressed upon the same or to or upon any case, package or other receptacle in which such goods are contained, shall, unless he proves—

(a) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the mark, and

(b) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things or

(c) that otherwise he had acted innocently, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

"487. Whoever makes any false mark upon any case, package or other receptacle containing goods, in a manner reasonably calculated to cause any public servant or any other person to believe that such receptacle contains goods which it does not contain or that it does not contain goods which it does contain or that the goods contained in such receptacle are of a nature or quality different from the real nature or quality thereof shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Counterfeiting a mark used by a public servant.

Making or possession of any instrument for counterfeiting a trade mark or property mark.

Selling goods marked with a counterfeit trade mark or property mark.

Making a false mark upon any receptacle containing goods.

"488. Whoever makes use of any such false mark in any manner prohibited by the last foregoing section shall, unless he proves that he acted without intent to defraud, be punished as if he had committed an offence against that section.

"489. Whoever removes, destroys, defaces or adds to any property mark, intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to one year or with fine, or with both.

Trade Descriptions.

4. (1) The provisions of this Act respecting the application of a false trade description to goods or respecting goods to which a false trade description is applied, shall extend to the application to goods of any such numerals, words or marks, or arrangement or combination thereof, whether including a trade mark or not, as are or is reasonably calculated to lead persons to believe that the goods are the manufacture or merchandise of some person other than the person whose manufacture or merchandise they really are and to goods having such numerals, words or marks, or arrangement or combination, applied thereto.

(2) The provisions of this Act respecting the application of a false trade description to goods, or respecting goods to which a false trade description is applied, shall extend to the application to goods of any false name or initials of a person, and to goods with the false name or initials of a person applied, in like manner as if such name or initials were a trade description, and for the purpose of this enactment the expression false name or initials means as applied to any goods any name or initials—

- (a) not being a trade mark, or part of a trade mark, and
- (b) being identical with, or a colourable imitation of, the name or initials of a person carrying on business in connection with goods of the same description and not having authorised the use of such name or initials.

(3) A trade description which denotes or implies that there are contained in any goods to which it is applied more yards, feet or inches than there are contained therein standard yards, standard feet or standard inches is a false trade description.

5. (1) A person shall be deemed to apply a trade description to goods who—

- (a) applies it to the goods themselves, or
- (b) applies it to any covering label, reel or other thing in or with which the goods are sold or are exposed or had in possession for sale or any purpose of trade or manufacture, or

(c) places, encloses or annexes any goods which are sold, or are exposed or had in possession for sale or any purpose of trade or manufacture, in, with or to any, covering, label, reel or other thing to which a trade description has been applied, or

(d) uses a trade description in any manner reasonably calculated to lead to the belief that the goods in connexion with which it is used are designated or described by that trade description.

(2) A trade description shall be deemed to be applied whether it is woven, impressed or otherwise worked into or annexed or affixed to the goods or any covering, label, reel or other thing.

(3) The expression "covering" includes any stopper, cask, bottle, vessel, box, cover, capsule, case, frame or wrapper, and the expression "label" includes any band or ticket.

6. If a person applies a false trade description to goods, he shall, subject to the provisions of this Act and unless he proves that he acted without intent to defraud, be punished with imprisonment for a term which may extend to three months or with fine which may extend to two hundred rupees, and in the case of a second or subsequent conviction with imprisonment which may extend to one year, or with fine, or with both.

7. If a person sells, or exposes or has in possession for sale or any purpose of trade or manufacture, any goods or things to which a false trade description is applied, he shall, unless he proves—

- (a) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the trade description, and
- (b) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or
- (c) that otherwise he had acted innocently,

be punished with imprisonment for a term which may extend to three months or with fine which may extend to two hundred rupees, and in case of a second or subsequent conviction with imprisonment which may extend to one year, or with fine, or with both.

Unintentional Contravention of the Law relating to Marks and Descriptions.

8. Where a person is accused under section 482 of the Indian Penal Code of using a false trade mark or property mark by reason of his having applied a mark to any goods, property or receptacle in the manner mentioned in section 480 or section 481 of that Code, as the case may be, or under section 6 of this Act of applying to goods

any false trade description, or under section 485 of the Indian Penal Code of making any die, plate or other instrument for the purpose of counterfeiting a trade mark or property mark, and proves—

- (a) that in the ordinary course of his business he is employed, on behalf of other persons, to apply trade marks or property marks, or trade descriptions, or, as the case may be, to make dies, plates or other instruments for making, or being used in making, trade marks or property marks, and that in the case which is the subject of the charge he was so employed and was not interested in the goods or other thing by way of profit or commission dependent on the sale thereof, and
- (b) that he took reasonable precautions against committing the offence charged, and
- (c) that he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the mark or description, and
- (d) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons on whose behalf the mark or description was applied,
- he shall be acquitted.

Forfeiture of Goods.

XLV of 1860.

9. (1) When a person is convicted under section 482 of the Indian Penal Code of using a false trade mark, or under section 486 of that Code of selling, or exposing or having in possession for sale or any purpose of trade or manufacture, any goods or things with a counterfeit trade mark applied thereto, or under section 487 or section 488 of that Code of making, or making use of, a false mark, or under section 6 or section 7 of this Act of applying a false trade description to goods or of selling, or exposing or having in possession for sale or any purpose of trade or manufacture, any goods or things to which a false trade description is applied, or is acquitted on proof of the matter or matters specified in section 486 of the Indian Penal Code or section 7 or section 8 of this Act, the Court convicting or acquitting him may direct the forfeiture to Her Majesty of all goods and things by means of, or in relation to, which the offence has been committed or, but for such proof as aforesaid, would have been committed.

(2) When a forfeiture is directed on a conviction and an appeal lies against the conviction, an appeal shall lie against the forfeiture also.

(3) When a forfeiture is directed on an acquittal and the goods or things to which the direction relates are of value exceeding fifty rupees, an appeal against the forfeiture may be preferred, within thirty days from the date of the direction, to the Court to which in appealable cases appeals lie

from sentences of the Court which directed the forfeiture.

Amendment of the Sea Customs Act, 1873.

10. (1) For clause (d) of section 18 of the Sea Customs Act, 1873, VIII Amendment of section 18, Act VIII of 1873. 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

(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, 1873 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 1873.

11. The following shall be added after section 19 of the Sea Customs Act, VIII of 1873, namely:—

“19A. (1) Before detaining any such goods as are or may be specified in or under section 18 or section 19, as the case may be, or taking any further proceedings with a view to the confiscation thereof under this Act, the Chief Customs-officer or other officer appointed by the Local Government

in this behalf may require the regulations under this section, whether as to information, security, conditions or other matters, to be complied with and may satisfy himself in accordance with those regulations that the goods are such as are prohibited to be imported.

(2) The Governor General in Council may make regulations, either general or special, respecting the detention and confiscation of goods the importation of which is prohibited, and the conditions, if any, to be fulfilled before such detention and confiscation, and may by such regulations determine the information, notices and security to be given, and the evidence requisite for any of the purposes of this section and the mode of verification of such evidence.

(3) Where there is on any goods a name which is identical with, or a colourable imitation of, the name of a place in the United Kingdom or British India, that name, unless accompanied in equally large and conspicuous letters, and in the same language and character, by the name of the country in which such place is situate, shall be treated for the purposes of sections 18 and 19 as if it were the name of a place in the United Kingdom or British India.

(4) Such regulations may apply to all goods the importation of which is prohibited by section 18 or under section 19, or different regulations may be made respecting different classes of such goods or of offences in relation to such goods.

(5) The regulations may provide for the informant reimbursing any public officer and Secretary of State for India in Council all expenses and damages incurred in respect of any detention made on his information, and of any proceedings consequent on such detention.

(6) All regulations under this section shall be published in the Gazette of India and in the Calcutta, Fort St. George, Bombay and Burmah Gazettes.

Stamping of Length of Piece-goods manufactured in British India.

12. (1) Piece-goods, such as are ordinarily sold by length or by the 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. VIII of 1878.

14. (1) On any such prosecution as is mentioned in the last foregoing section, or on any prosecution for an offence against any of the sections of the Indian Penal Code, as amended by this Act, which relate to trade, property and other marks, the Court may order costs to be paid to the defendant by the prosecutor, or to the prosecutor by the defendant, having regard to the information given by and the conduct of the defendant and prosecutor respectively. XLV of 1870

(2) Such costs shall on application to the Court be recoverable as if they were a fine.

15. No such prosecution as is mentioned in the last foregoing section shall be commenced after the expiration of three years next after the commission of the offence, or one year after the first discovery thereof by the prosecutor, whichever expiration first happens.

16. (1) The Governor General in Council may, by notification in the Gazette of India and in local official Gazettes, issue instructions 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, gage 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-

Date of commencement of this Act as regards unstamped piece-goods.

goods as are described in clause (f) of section 18 of the Sea Customs Act, VIII o

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.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 8th March, 1889, and is hereby promulgated for general information:—

Act No. VI of 1889.

An Act to amend the Indian Succession Act, 1865, the Probate and Administration Act, 1881, the Court-fees Act, 1870, and the Indian Stamp Act, 1879, and to make provision with respect to certain other matters.

WHEREAS it is expedient to amend the Indian Succession Act, 1865, the Probate and Administration Act, 1881, the Court-fees Act, 1870, and the Indian Stamp Act, 1879, and to make provision with respect to certain other matters; It is hereby enacted as follows:—

1. (1) This Act may be called the Probate and Administration Act, 1889.

(2) It applies to the whole of British India (inclusive of Upper Burma except the Shan States); and

(3) It shall come into force at once.

Indian Succession Act, 1865.

2. After the 4th clause of the explanation to section 234 of the Indian Succession Act, 1865, the following shall be added, namely:—

"5th, that the person to whom the grant was made has wilfully and without reasonable cause

omitted to exhibit an inventory or account in accordance with the provisions of Part XXXIV of this Act or has exhibited under that Part an inventory or account which is untrue in a material respect."

3. In section 244 of the same Act, for the words "and that the petitioner is the executor therein named" the following shall be substituted, namely:—

"the amount of assets which are likely to come to the petitioner's hands, and

"that the petitioner is the executor named in the will."

4. For the last forty-two words of section 254 of the same Act, the following shall be substituted, namely:—

"he having undertaken to administer the same, and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint."

5. For the last forty-five words of section 255 of the same Act the following shall be substituted, namely:—

"he having undertaken to administer the same, and to make a full and true inventory of the said property and credits and exhibit the

X of 1865.
V of 1881.
VII of 1870.
I of 1879.

X of 1865.

Amendment of section 234 of the Indian Succession Act, 1865.

Amendment of section 254, Act X, 1865.

Amendment of section 255, Act X, 1865.

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

XLV of 1860. 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."

Substitution of new section for sections 90, Act V, 1881.

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 immovable 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 immovable 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 immovable 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."

Substitution of new section for section 98, Act V, 1881.

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, 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."

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, 1882."

(3) In article 3 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, 1881, or section 9 or section 10 of the Succession Certificate Act, 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. 19. Notwithstanding anything in section 90 of the Probate and Administration Act, 1881, a disposal of property by an executor or administrator who was appointed before the commencement of this Act, and to whom the provisions of that section were applicable, shall not be void by reason only that the consent of the Court to the disposal of the property was not obtained.

VII of 1870. 20. (1) Any penalty or forfeiture under section 19G or section 19H of the Court-fees Act, 1870, may, on the certificate of the Chief Controlling Revenue-authority, be recovered from the executor or administrator as if it were an

arrear of land-revenue by any Collector in any part of British India.

(2) The Chief Controlling Revenue-authority may remit the whole or any part of any such penalty or forfeiture, or any part of any further penalty payable under section 19E of the said Act.

21. The following portion of section 7, clause (3), of the Act of the Lieutenant-Governor of Bengal in Council No. VII of 1880, entitled the Public Demands Recovery Act, 1880, namely:—

"or in the following sections and portions of the following Act passed by the Governor General in Council, that is to say, in Act VII of 1870, 'the Court-fees Act,' sections 19G, 19H,"

is hereby repealed.

S. HARVEY JAMES,

Secretary to the Government of India.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 8th March 1889, and is hereby promulgated for general information:—

Act No VII of 1889.

THE SUCCESSION CERTIFICATE
ACT, 1889.

CONTENTS.

SECTIONS.

1. Title, commencement, extent and application.
2. Repeal.
3. Definitions.
4. Proof of representative title a condition precedent to recovery through the Courts of debts from debtors of deceased persons.
5. Court having jurisdiction to grant certificate.
6. Application for certificate.
7. Procedure on application.
8. Contents of certificate.
9. Requisition of security from grantees of certificate.
10. Extension of certificate.
11. Forms of certificate and extended certificate.
12. Amendment of certificate in respect of powers as to securities.
13. Amendment of Act VII, 1870.
14. Mode of collecting court-fees on certificates.
15. Local extent of certificate.
16. Effect of certificate.
17. Effect of certificate granted or extended by British representative in Foreign State.
18. Revocation of certificate.
19. Appeal.
20. Effect on certificate of previous certificate, probate or letters of administration.
21. Effect on certificate of subsequent probate or letters of administration.
22. Validation of certain payments made in good faith to holder of invalid certificate.
23. Prohibition of exercise of certain powers by curators.
24. Effect of certain probates and letters.
25. Effect of decisions under this Act, and liability of holder of certificate thereunder.
26. Investiture of inferior Courts with jurisdiction of District Court for purposes of this Act.
27. Surrender of superseded and invalid certificate.
28. Provisions with respect to certificates under Bombay Regulation VIII of 1827.

THE FIRST SCHEDULE.—ENACTMENTS
REPEALED.THE SECOND SCHEDULE.—FORMS OF
CERTIFICATE AND EXTENDED CERTIFICATE.

An Act to facilitate the collection of debts on successions and afford protection to parties paying debts to the representatives of deceased persons.

WHEREAS it is expedient to facilitate the collection of debts on successions and afford protection to parties paying debts to the representatives of deceased persons; It is hereby enacted as follows:—

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

(2) It shall come into force on the first day of May 1889; and

(3) It extends to the whole of British India (inclusive of Upper Burma except the Shan States);

(4) But a certificate shall not be granted thereunder with respect to any debt or security to which a right can be established by probate or letters of administration under the Indian Succession Act, 1865, or by probate of a will to which the Hindu Wills Act, 1870, applies, or by 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

Court having jurisdiction to grant certificate.

of which the deceased ordinarily resided at the time of his death, or if at that time he had no fixed place of residence then within the jurisdiction of which any part of the property of the deceased may be found, may grant a certificate under this Act.

6. (1) Application for such a certificate

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 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 VII 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.
<p>“12A. Certificate under the Regulation of the Bombay Code No. VIII of 1827.”</p>	<p>on, or for the negotiation or transfer of, the security, or for both purposes, the value of the security is its market-value on the day on which the inclusion of the security in the certificate is applied for, so far as such value can be ascertained.</p> <p>(1) As regards debts and securities, the same fee as would be payable in respect of a certificate under the Succession Certificate Act, 1889, or in respect of an extension of such a certificate, as the case may be, and</p> <p>(2) as regards other property in respect of which the certificate is granted, two per centum on so much of the amount or value of such property as exceeds one thousand rupees.”</p>

respect of such debts or securities to or with the person to whom the certificate was granted.

17. Where a certificate in the form, as nearly as circumstances admit, granted or extended by British representative in Foreign State, has been granted to a resident within a Foreign State by the British representative accredited to the State, or where a certificate so granted has been extended in such form by such representative, the certificate shall, when stamped in accordance with the provisions of the Court-fees Act, 1870, with respect to certificates under this Act, have the same effect in British India as a certificate granted or extended under this Act.

18. A certificate granted under this Act may be revoked for any of the following causes, namely:—

- (a) that the proceedings to obtain the certificate were defective in substance;
- (b) that the certificate was obtained fraudulently by the making of a false suggestion, or by the concealment from the Court of something material to the case;
- (c) that the certificate was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant thereof, though such allegation was made in ignorance or inadvertently;
- (d) that the certificate has become useless and inoperative through circumstances;
- (e) that a decree or order made by a competent Court in a suit or other proceeding with respect to effects comprising debts or securities specified in the certificate renders it proper that the certificate should be revoked.

19. (1) Subject to the other provisions of this Act, an appeal shall lie to the High Court from an order of a District Court granting, refusing or revoking a certificate under this Act, and the High Court may, if it thinks fit, by its order on the appeal, declare the person to whom the certificate should be granted and direct the District Court, on application being made therefor, to grant it accordingly, in supersession of the certificate, if any, already granted.

(2) An appeal under sub-section (1) must be preferred within the time allowed for an appeal under the Code of Civil Procedure.

(3) Subject to the provisions of sub-section (1) and of Chapters XLVI and XLVII of the Code of Civil Procedure as applied by section 647 of that Code, an order of a District Court under this Act shall be final.

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.

Effect on certificate of previous certificate, probate or letters of administration.

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

VII.

XIV

*The Succession Certificate Act, 1889.**(Sections 21—26.)*

grant of such a certificate or of probate or letters of administration in respect of the estate of the deceased person and if such previous grant is in force.

21. (1) A grant of probate or letters of administration under the Probate and Administration Act, 1881, in respect of an estate shall be deemed to supersede any certificate previously granted under this Act in respect of any debts or securities included in the estate.

(2) When at the time of the grant of the probate or letters any suit or other proceeding instituted by the holder of the certificate regarding any such debt or security is pending, the person to whom the grant is made shall, on applying to the Court in which the suit or proceeding is pending, be entitled to take the place of the holder of the certificate in the suit or proceeding.

22. Where a certificate under this Act has been superseded or is invalid by reason of the certificate having been revoked under section 18, or by reason of the grant of a certificate to a person named in an appellate order under section 19, or by reason of a certificate having been previously granted, or by reason of a grant of probate or letters of administration, or for any other cause, all payments made, or dealings had, as regards debts and securities specified in the superseded or invalid certificate, to or with the holder of that certificate in ignorance of its supersession or invalidity shall be held good against claims under any other certificate or under the probate or letters of administration.

23. (1) Where a certificate has been granted under this Act or Act XXVII of 1860, or a grant of probate or letters of administration has been made, a curator appointed under Act XIX of 1841 shall not exercise any authority lawfully belonging to the holder of the certificate or to the executor or administrator:

(2) But persons who have paid debts or rents to a curator authorised by a Court to receive them shall be indemnified, and the curator shall be responsible for the payment thereof to the person who has obtained the certificate, probate or letters of administration, as the case may be.

24. Any probate or letters of administration granted before the first day of April 1881, by any Supreme or High Court of Judicature, or by the Court of a Recorder in Burma, in any case in which the deceased person was not a British subject within the meaning of that expression as used in the charters of the Supreme Courts of Judicature, and in which any assets belonging to him were at the time of his death within the local limits of the jurisdiction of the Court shall, for the purpose of the recovery

of debts, the protection of persons paying debts, and the negotiation or transfer of securities included in the estate of the deceased, be deemed to have and to have had the effect which a grant of probate or letters of administration has under the Indian Succession Act, 1865:

Provided that nothing in this section shall be construed to validate any disposal of property by an executor or administrator which has before the commencement of this Act been declared by any competent Court to be invalid.

25. No decision under this Act upon any question of right between any parties shall be held to bar the trial of the same question in any suit or in any other proceeding between the same parties, and nothing in this Act shall be construed to affect the liability of any person who may receive the whole or any part of any debt or security, or any interest or dividend on any security, to account therefor to the person lawfully entitled thereto.

26. (1) The Local Government may, by notification in the official Gazette, invest any Court inferior in grade to a District Court with the functions of a District Court under this Act, and may cancel or vary any such notification.

(2) Any inferior Court so invested shall, within the local limits of its jurisdiction, have concurrent jurisdiction with the District Court in the exercise of all the powers conferred by this Act upon the District Court, and the provisions of this Act relating to the District Court shall apply to such an inferior Court as if it were a District Court:

Provided that an appeal from any such order of an inferior Court as is mentioned in sub-section (1) of section 19 shall lie to the District Court, and not to the High Court, and that the District Court may, if it thinks fit by its order on the appeal, make any such declaration and direction as that sub-section authorises the High Court to make by its order on an appeal from an order of a District Court.

(3) An order of a District Court on an appeal from an order of an inferior Court under the last foregoing sub-section shall, subject to the provisions of Chapters XLVI and XLVII of the Code of Civil Procedure as applied by section 647 of that Code, be final.

(4) The District Court may withdraw any proceedings under this Act from an inferior Court and may either itself dispose of them or transfer them to another such Court established within the local limits of the jurisdiction of the District Court and having authority to dispose of the proceedings.

(5) A notification under sub-section (1) may specify any inferior Court specially or any class of such Courts in any local area.

1887. Effect on certificate of subsequent probate or letters of administration.

X of 1865.

Effect of decisions under this Act, and liability of holder of certificate thereunder.

Investiture of inferior Courts with jurisdiction of District Court for purposes of this Act.

XIV of 1882

The Succession Certificate Act, 1889.

(Sections 27—28.)

(The First Schedule.—Enactments repealed.) (The Second Schedule.—Forms of certificate and extended certificate.)

(6) Any Civil Court which for any of the purposes of any enactment is subordinate to, or subject to the control of, a District Court shall for the purposes of this section be deemed to be a Court inferior in grade to a District Court.

27. (1) When a certificate under this Act has been superseded or is invalid from any of the causes mentioned in section 22, the holder thereof shall, on the requisition of the Court which granted it, deliver it up to that Court.

(2) If he wilfully and without reasonable cause omits so to deliver it up, he shall be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to three months, or with both.

28. Notwithstanding anything in the Regulation of the Bombay Code No. VIII of 1827, the provisions of section 3, section 6, sub-section (1), clause (f), and sections 8, 9, 10, 11, 12, 14, 16, 18, 19, 25, 26 and 27 of this Act with respect to certificates under this Act, and applications therefor, and of section 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.
------------------	-------------------	-------------------

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.
------------------	-------------------	-------------------

Acts of the Governor General in Council—contd.

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 (3), 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."
--------------	-------------------------------------	---

THE SECOND SCHEDULE.

FORMS OF CERTIFICATE AND EXTENDED CERTIFICATE.

(See section 11.)

In the Court of

To A. B.

Whereas you applied on the _____ day of _____ for a certificate under the Succession Certificate Act, 1889, in respect of the following debts and securities, namely:—

*The Succession Certificate Act, 1889.**(The Second Schedule.—Forms of certificate and extended certificate.)**Debts.*

Serial number.	Name of debtor.	Amount of debt, including interest, on date of application for certificate.	Description and date of instrument, if any, by which the debt is secured.

Securities.

Serial number.	DESCRIPTION.			Market-value of security on date of application for certificate.
	Distinguishing number or letter of security.	Name, title or class of security.	Amount or par value of security.	

This certificate is accordingly granted to you and empowers you to collect those debts [and] [to receive] [interest] [dividends] [on] [to negotiate] [to transfer] [those securities].

Dated this day of

District Judge.

In the Court of

On the application of *A. B.* made to me on the day of , I hereby extend this certificate to the following debts and securities, namely —

Debts.

Serial number.	Name of debtor.	Amount of debt, including interest, on date of application for extension.	Description and date of instrument, if any, by which the debt is secured.

Securities.

Serial number.	DESCRIPTION.			Market-value of security on date of application for extension.
	Distinguishing number or letter of security.	Name, title or class of security.	Amount or par value of security.	

This extension empowers *A. B.* to collect those debts [and] [to receive] [interest] [dividends] [on] [to negotiate] [to transfer] [those securities].

Dated this day of

District Judge.

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

THE



Bombay Government Gazette

Published by Authority.

THURSDAY, 28TH MARCH 1889.

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

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 22nd March 1889, and is hereby promulgated for general information:—

Act No. VIII of 1889.

An Act to amend the Sea Customs Act, 1878, and the Indian Tariff Act, 1882.

WHEREAS it is expedient to amend the Sea Customs Act, 1878, and the Indian Tariff Act, 1882; It is hereby enacted as follows:—

Sea Customs Act, 1878.

1. For the provisos to section 37 of the Sea Customs Act, 1878, the following proviso shall be substituted, namely:—

“Provided that, if such goods are warehoused under this Act, the rate and valuation (if any) applicable thereto shall be the rate and valuation in force on the date on which application is made to clear such goods from the warehouse for home-consumption.”

2. In section 115 of the same Act, for the words and figures “the second proviso to section 37” the words “such alteration” shall be substituted.

Amendment of section 115, Act VIII, 1878.

Indian Tariff Act, 1882.

3. In section 1 of the Indian Tariff Act, 1882, XI of 1882. Amendment of section 1, Act XI, 1882. the words “and Perim” shall be inserted after the word “Aden”.

4. The following section shall be added to the same Act, namely:—
Addition of new section to Act XI, 1882.

“10. In the event of any duty of customs or excise on any article being imposed, increased, decreased or remitted after the making of any contract for the sale of such article without stipulation as to the payment of duty where duty was not chargeable at the time of the making of the contract, or for the sale of such article duty-paid where duty was chargeable at that time,—
When contracts have been entered into, amount of increased or decreased duty to be added or deducted.

(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 percent.
	Gunpowder, sporting.	lb.	1 0	
	All other sorts	...	<i>Ad valorem.</i>	

there shall be substituted the following, namely:—

No.	Names of Articles.	Per	Tariff valuation	Rate of duty.
			Re. a.	
	Gunpowder, common.	lb.	0 5	} 10 percent.
	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, X 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

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	31st 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.
	Gujarathi	7th February 1889.
	Kanarese	7th February 1889.
Bengal	Bengali	5th February 1889.
	Uríya	14th February 1889.
	Hindi	5th March 1889.
Burma	Burmese	9th February 1889.
Assam	Bengali	23rd February 1889.
Sindh	Sindhi	7th February 1889.

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

D. BARBOUR.
ANDREW R. SCOBLE.
ROBT. STEEL.
FEED. M. HALLIDAY.
DINSHAW MANOCKJEE PETIT.
DOORGA CHURN LAW.

The 13th March 1889.

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



Bombay Government Gazette

Published by Authority.

THURSDAY, 4TH APRIL 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 29th March 1889, and is hereby promulgated for general information:—

Act No. X of 1889. *Act 21874*

THE INDIAN PORTS ACT, CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Title, commencement and extent.
2. Repeal.
3. Definitions.

CHAPTER II.

POWERS OF THE LOCAL GOVERNMENT.

4. Power to extend or withdraw the Act or certain portions thereof.
5. Alteration of limits of ports.
6. Power to make port-rules.

CHAPTER III.

PORT-OFFICIALS AND THEIR POWERS AND DUTIES.

7. Appointment of conservator.
8. Power of conservator to give and enforce directions for certain specified purposes.
9. Power to cut warps and ropes.
10. Removal of obstructions within limits of port.
11. Recovery of expenses of removal.
12. Removal of lawful obstructions.

SECTIONS.

13. Fouling of Government moorings.
14. Raising or removal of wreck impeding navigation within limits of port.
15. Power to board vessels and enter buildings.
16. Power to require crews to prevent or extinguish fire.
17. Appointment and powers of health-officer.
18. Indemnity to Government against act or default of port-official or pilot.

CHAPTER IV.

RULES FOR THE SAFETY OF SHIPPING AND THE CONSERVATION OF PORTS.

General Rules.

19. Injuring buoys, beacons and moorings.
20. Wilfully loosening vessel from moorings.
21. Improperly discharging ballast.
22. Graving vessel within prohibited limits.
23. Boiling pitch on board vessel within prohibited limits.
24. Drawing spirits by unprotected artificial light.
25. Warping.
26. Leaving out warp or hawser after sunset.
27. Discharge of fire-arms in port.
28. Penalty on master omitting to take order to extinguish fire.
29. Unauthorized person not to search for lost stores.
30. Removing stones or injuring shores of port prohibited.

Special Rules.

31. Moving of vessels without pilot or permission of harbour-master.
32. Provision of certain vessels with fire-extinguishing apparatus.

The Indian Ports Act, 1879.

(Chapter I.—Preliminary.—Sections 1-2.)

CHAPTER V.

PORT-DUES, FEES AND OTHER CHARGES.

SECTIONS.

33. Levy of port-dues.
 34. Variation of port-dues by Local Government.
 35. Fees for pilotage and certain other services.
 36. Receipt, expenditure and account of port-charges.
 37. Grouping of ports.
 38. Receipts for port-charges.
 39. Master to report arrival.
 40. Conservator may in certain cases ascertain draught and charge expense to master.
 41. Ascertainment of tonnage of vessel liable to port-dues.
 42. Distraint and sale on refusal to pay port-charges.
 43. No port-clearance to be granted until port-charges are paid.
 44. Port-charges payable in one port recoverable at any other port.
 45. Penalty for evading payment of port-charges.
 46. Port-due on vessels in ballast.
 47. Port-due on vessels not discharging or taking in cargo.
 48. Port-dues not chargeable on pleasure-yachts or on vessels re-entering from stress of weather.
 49. Power to impose hospital port-dues.
 50. Application on account of hospital port dues.

CHAPTER VI.

HOISTING SIGNALS.

51. Master to hoist number of vessel.
 52. Pilot to require master to hoist number.
 53. Penalty on pilot disobeying provisions of this Chapter.

CHAPTER VII.

PROVISIONS WITH RESPECT TO PENALTIES.

54. Penalty for disobedience to rules and orders of the Local Government.
 55. Offences how triable, and penalties how recovered.
 56. Costs of conviction.
 57. Ascertainment and recovery of expenses and damages payable under this Act.
 58. Costs of distress.
 59. Magistrate to determine the amount to be levied in case of dispute.
 60. Jurisdiction over offences beyond local limits of jurisdiction.
 61. Conviction to be quashed on merits only.

CHAPTER VIII.

SUPPLEMENTAL PROVISIONS.

62. Hoisting unlawful colours in port.
 63. Foreign deserters.
 64. Application of sections 10 and 21.
 65. Application of Maulmain and Bassein port-dues.
 66. Validation of irregular contributions.
 67. Grant of sites for sailors' institutes.
 68. Exercise of powers of conservator by his assistants.
 69. Service of written notices of directions.
 70. Publication of orders of Local Government.

THE FIRST SCHEDULE.—PORTS, VESSELS CHARGEABLE, RATE OF PORT-DUES AND FREQUENCY OF PAYMENT.

THE SECOND SCHEDULE.—ENACTMENTS REPEALED.

An Act to consolidate and amend the law relating to Ports and Port-charges.

WHEREAS it is expedient to consolidate and amend the law relating to ports and port-charges; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

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

(2) It shall come into force on the first day of April 1889.

(3) It shall extend, save as otherwise appears from its subject or context,—

(a) to the ports mentioned in the first schedule, and to such parts of the navigable rivers and channels leading to such ports respectively as have been declared to be subject to Act XXII of 1855 (for the regulation of Ports and Port-dues) or to the Indian Ports Act, 1875;

(b) to the other ports or parts of navigable rivers or channels to which the Local Government, in exercise of the power hereinafter conferred, extends this Act;

(4) But nothing in this Act shall—

(i) apply to any vessel belonging to, or in the service of, Her Majesty or the Government of India, or to any vessel of war belonging to any Foreign Prince or State, or

(ii) deprive any person of any right of property or other private right, except as hereinafter expressly provided, or

(iii) affect any law or rule relating to the customs or any order or direction lawfully made or given pursuant thereto;

(5) And nothing in section 31 or section 32 shall apply to any port, river or channel to which the section has not been specially extended by the Local Government.

2. (1) The enactments mentioned in the second schedule are hereby repealed to the extent

specified in the third column of that schedule.

(2) All declarations, appointments, requisitions, orders and rules made, authorizations, directions and permissions given, prohibitions issued and notifications published under any of those enactments or under any enactment repealed by any of them shall, if in force at the commencement of this Act, be deemed, so far as may be, to have been made, given, issued and published under this Act; and

(3) Any enactment or document referring to any such repealed enactment shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

The Indian Ports Act, 1889.

(Chapter I.—Preliminary.—Section 3. Chapter II.—Powers of the Local Government.—
Sections 4-6.)

Definitions.

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

(1) "port" includes also any part of a river or channel in which this Act is for the time being in force;

(2) "port officer" is synonymous with master-attendant.

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

(4) "master," when used in relation to any vessel, means, subject to the provisions of any other enactment for the time being in force, any person (except a pilot or harbour-master) having for the time being the charge or control of the vessel:

(5) "pilot" means a person for the time being authorized by the Local Government to pilot vessels:

(6) "ton" means a ton as determined or determinable by the rules for the time being in force for regulating the measurement of the net tonnage of British ships: and

(7) "Magistrate" means a person exercising powers under the Code of Criminal Procedure, 1882, not less than those of a Magistrate of the second class, and includes, in the towns of Calcutta, Madras and Bombay, a Presidency Magistrate.

X of 1882.

CHAPTER II.

POWERS OF THE LOCAL GOVERNMENT.

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

Power to extend or withdraw the Act or 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 Alteration of limits of previous sanction of the Governor General in Council, and subject to any rights of private property, alter the limits of any port in which this Act is in force.

(2) When the Local Government alters the limits of a port under sub-section (1), it shall declare or describe, by notification in the official Gazette, and by such other means, if any, as it thinks fit, the precise extent of such limits.

6. (1) The Local Government may, in addition to any rules which it may make under any other enactment for the time being in force, make such rules, consistent with this Act, as it thinks necessary for any of the following purposes, namely:—

(a) for regulating the time at which, and the manner in which, vessels are to enter or leave any port subject to this Act;

(b) for regulating the berths, stations and anchorages to be occupied by vessels in any such port;

(c) for striking the yards and top-masts, and for rigging-in the booms and yards, of vessels in any such port, and for swinging or taking-in davits, boats and other things projecting from such vessels;

(d) for the removal or proper hanging or placing of anchors, spars and other things being in or attached to vessels in any such port;

(e) for regulating vessels whilst taking-in or discharging passengers, ballast or cargo, or any particular kind of cargo, in any such port, and the stations to be occupied by vessels whilst so engaged;

(f) for keeping free passages of such width as may be deemed necessary within any such port, and along or near to the piers, jetties, landing-places, wharves, quays, docks, moorings and other works in or adjoining to the same, and for marking out the spaces so to be kept free;

(g) for regulating the anchoring, fastening, mooring and unmooring of vessels in any such port;

(h) for regulating the moving and warping of all vessels within any such port and the use of warps therein;

(i) for regulating the use of the mooring buoys, chains and other moorings in any such port;

(j) for fixing the rates to be paid for the use of such moorings when belonging to the Government, or of any boat, hawser or other thing belonging to the Government;

(k) for licensing and regulating catamarans plying for hire, and flats and cargo, passenger and other boats plying, whether for

The Indian Ports Act, 1889.

(Chapter III.—Port-officials and their Powers and Duties.—Sections 7-11.)

hire or not and whether regularly or only occasionally in, or partly within and partly without, any such port, and for determining the quantity of cargo or number of passengers to be carried by any such vessel;

- (l) for regulating the use of fires and lights within any such port;
- (m) for enforcing and regulating the use of signals or signal-lights by vessels by day or by night in any such port;
- (n) for regulating the number of the crew which must be on board any vessel afloat within the limits of any such port;
- (o) for regulating the employment of persons engaged in cleaning or painting vessels, or in working in the bilges, boilers or double bottoms of vessels, in any such port; and
- (p) for regulating the action to be taken by a master when 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) as 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.

Removal of obstructions within limits of port.

(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 assist-

ants may, whenever he and enter buildings. suspects that any offence against this Act has been, or is about to be committed, or whenever it is necessary for him so to do in the performance of any duty imposed upon him by this Act,

and the person appointed under this Act to receive any port-dues, fees or other charges payable in respect of any vessel, may, whenever it is necessary for him so to do in the performance of any duty imposed upon him by this Act,

either alone or with any other person, board any vessel, or enter any building or place, within the limits of any port subject to this Act.

(2) If the master of the vessel, or any person in possession or occupation of the building or place, without lawful excuse, refuses to allow any such person as is mentioned in sub-section (1) to board or enter such vessel, building or place in the performance of any duty imposed upon him by this Act, he shall for every such offence be punished with fine which may extend to two hundred rupees.

16. (1) For the purpose of preventing or extinguishing fire in any

port subject to this Act, the conservator or port-officer may require the master of any vessel within the port to place at his disposal such number as he requires, not exceeding three-fourths, of the crew then under the orders of such master.

(2) Any master refusing or neglecting to comply with such requisition shall be punished with fine which may extend to five hundred rupees, and any seaman then under his orders who, after being directed by the master to obey the orders of the conservator or port-officer for the purpose aforesaid, refuses to obey such orders shall be punished with fine which may extend to twenty-five rupees.

17. (1) The Local Government may appoint

at any port subject to this Act an officer to be called the health-officer, and may suspend or remove from office any officer so appointed.

(2) A health-officer shall, subject to the control of the Local Government, have the following powers within the limits of the port for which he is appointed, namely :—

The Indian Ports Act, 1889.

(Chapter III.—Port-officials and their Powers and Duties.—Section 18. Chapter IV.—Rules for the Safety of Shipping and the Conservation of Ports.—Sections 19-25.)

- (a) with respect to any vessel, the powers conferred on a shipping-master by Act I of 1859, section 71;
- (b) power to enter on board any vessel and medically examine all or any of the seamen or apprentices on board the vessel;
- (c) power to require and enforce the production of the log-book and any other books, papers or documents which he thinks necessary for the purpose of enquiring into the health and medical condition of the persons on board the vessel;
- (d) power to call before him and question for any such purpose all or any of those persons and to require true answers to any questions which he thinks fit to ask;
- (e) power to require any person so questioned to make and subscribe a declaration of the truth of the statements made by him.

18. The Government shall not be responsible for any act or default of any conservator, port-officer or harbour-master of any port subject

Indemnity to Government against act or default of port-official or pilot.

to this Act, or of any deputy or assistant of any of the authorities aforesaid, or of any person acting under the control or direction of any such authority, deputy or assistant, or for any act or default of any pilot, or for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers or other things belonging to the Government which may be used by the vessel:

Provided that nothing in this section shall protect the Secretary of State for India in Council from a suit in respect of any act done by or under the express order or sanction of the Government.

CHAPTER IV.

RULES FOR THE SAFETY OF SHIPPING AND THE CONSERVATION OF PORTS.

General Rules.

19. (1) No person shall, without lawful excuse, lift, injure, loosen or set adrift any buoy, beacon or mooring fixed or laid down by, or by the authority of, the Local Government in any port subject to this Act.

(2) If any person offends against the provisions of this section, he shall for every such offence be liable, in addition to the payment of the amount of damage done, to fine which may extend to two thousand rupees, or to imprisonment for a term which may extend to two years.

20. If any person willfully 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, beams or smokes any vessel within any such port, contrary to the directions of the conservator, or at any time or within any limits at or within which such act is prohibited by the Local Government, he and the master of the vessel shall for every such offence be punished with fine which may extend to five hundred rupees each.

23. If any person boils or heats any pitch, tar, resin, dammer, turpentine, oil or other such combustible matter on board any vessel within any such port, or at any place within its limits where such act is prohibited by the Local Government, or contrary to the directions of the conservator, he and the master of the vessel shall for every such offence be punished with fine which may extend to two hundred rupees each.

24. If any person, by an unprotected artificial light, draws off spirits on board any vessel within any port subject to this Act, he and the master of the vessel shall for every such offence be punished with fine which may extend to two hundred rupees each.

25. (1) Every master of a vessel in any port subject to this Act shall, when required so to do by the conservator, permit warps or hawsers to be made fast to the vessel for the purpose of warping any other vessel in the port, and shall not allow any such warp or hawser to be let go until required so to do.

The Indian Ports Act, 1889.

(Chapter IV—Rules for the Safety of Shipping and the Conservation of Ports.—Sections 26-32.
Chapter V.—Port-dues, Fees and other Charges.—Section 33.)

(2) A master offending against sub-section (1) shall be punished for every such offence with fine which may extend to two hundred rupees.

26. (1) A master of a vessel shall not cause or suffer any warp or hawser attached to his vessel to be left out in any port subject to this Act after sunset in such a manner as to endanger the safety of any other vessel navigating in the port.

(2) A master offending against sub-section (1) shall be punished for every such offence with fine which may extend to two hundred rupees.

27. If any person, without lawful excuse, discharges any fire-arm in any port subject to this Act, or on or from any pier, landing-place, wharf or quay thereof, except a gun loaded only with gunpowder for the purpose of making a signal of distress, or for such other purpose as may be allowed by the Local Government, he shall for every such offence be punished with fine which may extend to fifty rupees.

28. If the master of any vessel in which fire takes place while lying in any such port wilfully omits to take order to extinguish the fire or obstructs the conservator or the port-officer, or any person acting under the authority of the conservator or port-officer, in extinguishing or attempting to extinguish the fire, he shall be punished with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

29. (1) No person, without the permission of the conservator, shall in any port subject to this Act creep or sweep for anchors, cables or other stores lost or supposed to be lost therein.

(2) If any person offends against the provisions of sub-section (1), he shall be punished with fine which may extend to one hundred rupees.

30. (1) No person without the permission of the conservator shall in any port subject to this Act remove or carry away any rock, stones, shingle, gravel, sand or soil or any artificial protection from any part of the bank or shore of the port;

and no person shall sink or bury in any part of such bank or shore, whether the same is public or private property, any mooring-post, anchor or any other thing, or do any other thing which is likely to injure or to be used so as to injure such bank or shore, except with the permission of the conservator, and with the aid or under the inspection of such person, if any, as the conservator may appoint to take part in, or overlook the performance of, such work.

(2) If any person offends against sub-section (1), he shall for every such offence be punished with fine which may extend to one hundred rupees and shall pay any reasonable expenses

which may be incurred in repairing any injury done by him to the bank or shore.

Special Rules.

31. (1) No vessel of the measurement of two hundred tons or upwards shall enter, leave or be moved in any port to which this section has been specially extended without having a pilot, harbour-master or assistant of the port-officer or harbour-master on board;

and no vessel of any measurement less than two hundred tons and exceeding one hundred tons shall enter, leave or be moved in any such port without having a pilot, harbour-master or assistant of the port-officer or harbour-master on board, unless authority in writing so to do has been obtained from the conservator or some officer empowered by him to give such authority.

(2) If any vessel, except in case of urgent necessity, enters, leaves or is moved in the port contrary to the provisions of sub-section (1), the master of the vessel shall for every such offence be punished with fine which may extend to two hundred rupees, unless upon application to the proper officer the master was unable to procure a pilot, harbour-master or assistant of the port-officer or harbour-master to go on board the vessel.

(3) Nothing in sub-sections (1) and (2) shall apply to Native vessels when they are entering, leaving or being moved in the port of Bombay.

(4) If any question arises as to whether any vessel is a Native vessel within the meaning of this section, the decision thereon of such authority as the Governor of Bombay in Council may appoint in this behalf shall be conclusive.

32. (1) Every vessel exceeding the measurement of two hundred tons and lying in any port to which this section has been specially extended shall be provided with a proper force-pump and hose and appurtenances, for the purpose of extinguishing any fire which may occur on board.

(2) The master of such a vessel who, having been required by the conservator to comply with the provisions of sub-section (1), neglects or refuses, without lawful excuse, so to do for the space of seven days after such requisition, shall be punished with fine which may extend to five hundred rupees.

CHAPTER V.

PORT-DUES, FEES AND OTHER CHARGES.

33. (1) In each of the ports mentioned in the first schedule such port-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 detain 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 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 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 59—61.)

(Chapter VIII.—Supplemental Provisions, Sections 62—64.)

CHAPTER VIII.

SUPPLEMENTAL PROVISIONS.

(2) Whenever any person is liable to pay any sum, not exceeding one thousand rupees, as expenses or damages under this Act, any Magistrate, upon application made to him by the authority to whom the sum is payable, may, in addition to or instead of any other means for enforcing payment, recover the sum as if it were a fine.

58. Whenever any fine, expenses or damages is or are levied under this Act by distress and sale, the costs of the distress and sale may be levied in addition to such fine, expenses or damages, and in the same manner.

59. If any dispute arises concerning the amount leviable by any distress or arrest under this Act or the costs payable under the last foregoing section, the person making the distress or using the arrest may detain the goods distrained or arrested, or the proceeds of the sale thereof, until the amount to be levied has been determined by a Magistrate, who, upon application made to him for that purpose, may determine the amount, and award such costs to be paid by either of the parties to the other of them as he thinks reasonable, and payment of such costs, if not paid on demand, shall be enforced as if they were a fine.

60. (1) Any person offending against the provisions of this Act in any port subject to this Act shall be punishable by any Magistrate having jurisdiction over any district or place adjoining the port.

(2) Such Magistrate may exercise all the powers of a Magistrate under this Act, in the same manner and to the same extent as if the offence had been committed locally within the limits of his jurisdiction, notwithstanding that the offence may not have been committed locally within such limits, and, in case any such Magistrate exercises the jurisdiction hereby vested in him, the offence shall be deemed, for all purposes, to have been committed locally within the limits of his jurisdiction.

61. (1) No conviction, order or judgment of any Magistrate under this Act shall be quashed for error of form or procedure, but only on the merits, and it shall not be necessary to state, on the face of the conviction, order or judgment, the evidence on which it proceeds.

(2) If no jurisdiction appears on the face of the conviction, order or judgment, but the depositions taken supply that defect, the conviction, order or judgment shall be aided by what so appears in the depositions.

62. (1) If any vessel belonging to any of Her Majesty's subjects, or Hoisting unlawful colours in port. sailing under British colours, hoists, carries or wears, within the limits of any port subject to this Act, any flag, jack, pennant or colours, the use whereof on board such vessel has been prohibited by the Merchant Shipping Act, 1854, or any other statute now or hereafter to be in force, or by any proclamation made or to be made in pursuance of any such statute; or by any of Her Majesty's regulations in force for the time being, the master of the vessel shall, for every such offence, be punished with fine which may extend to fifty rupees.

(2) Such fine shall be in addition to any other penalty recoverable in respect of such an offence.

(3) The conservator of the port, or any officer of Her Majesty's Navy or Indian Marine Service, may enter on board any such vessel, and seize and take away any flag, jack, pennant or colours so unlawfully hoisted, carried or worn on board the same.

63 Any Magistrate, upon an application being made to him by the Foreign deserters. 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 :

Provided that a deposit be first made of such sum as the Magistrate deems necessary for the subsistence of the deserter during the detention, and that the detention of the deserter shall not be continued beyond twelve weeks.

64. (1) The provisions of sections 10 and 21 shall be applicable to all ports heretofore or hereafter declared by the Local Government to be ports for the shipment and landing of goods but not otherwise subject to this Act, and may be enforced by any Magistrate to whose ordinary jurisdiction any such port is subject.

(2) Any penalties imposed by him, and any expenses incurred by his order, under the said provisions shall be recoverable respectively in the manner provided in sections 55 and 57.

*The Indian Ports Act, 1889.**(Chapter VIII.—Supplemental Provisions.—Sections 65—70.)*

(3) In any of the said ports for the shipment and landing of goods the consent referred to in section 21, sub-section (4), may be given by the principal officer of customs at such port or by any other officer appointed in that behalf by the Local Government.

65. The port-due leviable under this Act in either of the ports of Maulmain and Bassein shall, to the extent of one anna and six pie per ton, be applicable in the first place to defray the expenses of maintaining the existing port-lights of Burma.

66. Any money contributed before the passing of this Act from any port fund for any purpose connected with the health, recreation and well-being of sailors shall be deemed to have been lawfully contributed from the fund.

67. Any local authority in which any immovable property in or near a port is vested may, with the previous sanction of the Local Government, appropriate, and either retain and apply, or transfer by way of gift or otherwise, the whole or any part of the property as a site for, or for use as, a sailors' home or other institution for the health, recreation and temporal well-being of sailors.

68. (1) All acts, orders or directions by this Act authorized to be done or given by any conservator by his assistants, 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, Rates of Port-dues and Frequency of Payment.)

THE FIRST SCHEDULE.

PORTS, VESSELS CHARGEABLE, RATE OF PORT-DUES AND FREQUENCY OF PAYMENT.

(See Sections 1 and 33.)

PART I.—BENGAL.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Calcutta	Sea-going vessels of twenty tons and upwards.	Not exceeding four annas per ton: provided that, in the case of <i>dhonis</i> and country vessels employed in the coasting trade, the rate shall be one-half the rate chargeable in respect of other vessels.	Whenever the vessel enters the port, except in the case of <i>dhonis</i> and country vessels employed in the coasting trade, which shall not be chargeable with port-dues at the same port more than once in sixty days.
	Tug-steamers and river-steamers.	Not exceeding four annas per ton.	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.
Chittagong	Sea-going vessels of ten tons and upwards, not being ballam-boats.	Not exceeding four and a half annas per ton.	Whenever the vessel enters the port, except in the case of mail-steamers and coasting vessels, which shall not be chargeable more than once in sixty days.
	Tug-steamers and river-steamers.	Ditto	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.
	Ballam-boats...	Not exceeding one anna per ton.	Whenever the vessel enters the port.
Cuttack Ports,—namely, False Point and Pooree.	Sea-going vessels of ten tons and upwards.	Not exceeding four annas per ton.	Whenever the vessel enters any one of the ports, except in the case of mail-steamers and coasting vessels, which shall not be chargeable more than once in sixty days.
Balasore Ports,—namely, Balasore, Chúrámán, Laichhanpur, Chánua, Subarnarekha, 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>	
<i>Eastern Group.</i>		Sea-going vessels of fifteen tons and upwards.	(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>Foreign Vessels.</i>	
			(e) 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.
Ganjam ...		Sea-going vessels of fifteen tons and upwards.	(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.
			<i>Coasting Vessels.</i>	
Vizagapatam ...		Sea-going vessels of fifteen tons and upwards.	(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.
			(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.
Godavari ...		Sea-going vessels of fifteen tons and upwards.	(e) 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 for a period of sixty days from liability to pay the due again at that port.
			<i>Coasting Vessels.</i>	
Kistna ...		Sea-going vessels of fifteen tons and upwards.	(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.
			<i>Coasting Vessels.</i>	
Nellore ...		Sea-going vessels of fifteen tons and upwards.	(a) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at any one port in the Eastern group, not exceeding three annas a ton.	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that port.
			(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.

* *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.	Sea-going vessels of fifteen tons and upwards.	<i>Foreign Vessels.</i>	
Nellore—contd.	36. Iskapalle. 37. Ponnappudi. 38. Manpadi. 39. Kistnapatnam. 40. Pamanji. 41. Tuplu. 42. Dugarazpatnam. 43. Pudi.		(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.
Chingleput...	44. Palicat. 45. Ennore. 46. Covelong.		(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.
South Arcot.	47. Marakanam. 48. Cuddalore. 49. Porto Novo. 50. Tirumalavesal. 51. Kadiyampalayam. 52. Tranquebar. 53. Nagore. 54. Negapatnam. 55. Velankani. 56. Toppaturai.		(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.
Tanjore ...	57. Point Calimere. 58. Mutupet. 59. Adirampatnam. 60. Gopalapatnam. 61. Kattumavadi. 62. Krishnajipatnam. 63. Ammapatnam. 64. Kottapatnam. 65. Sundarapandiyapatnam.		(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.
Madura ...	66. Pasipatnam. 67. Damodaraspatnam. 68. Tondi. 69. Nambitalai. 70. Pudupatnam. 71. Karangadu. 72. Truppalkanudi. 73. Devipatnam. 74. Mudiyanpatnam. 75. Attankarai. 76. Emsangundu.		<i>Coasting Vessels.</i>	
			(e) In the case of a coasting ship calling at any port, not exceeding one and a half annas a ton.	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again at that port.
			(f) In the case of a coasting steamer calling at one or more ports in the 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.
Tinnevely ...	77. Pilleimadam. 78. Pambam. 79. Ramesvaram. 80. Mandapam. 81. Vedalai. 82. Marakayapatnam. 83. Muttipattai. 84. Kilekurai. 85. Ervadi. 86. Vainokkam. 87. Vaippar. 88. Tuticorn. 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
Western Group.				
District.	Port.			
Malabar	91. Cochin.	Sailing vessels of fifteen tons and upwards.	<p style="text-align: center;"><i>Foreign Vessels.</i></p> <p>(a) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at any one port in the Western group, not exceeding three annas a ton.</p> <p>(b) In the case of any other foreign ship or steamer calling at any one port in the Western group, not exceeding three annas a ton.</p> <p>(c) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at more than one port in the Western group, not exceeding four and a half annas a ton.</p> <p>(d) In the case of any other foreign ship or steamer calling at more than one port in the Western group, not exceeding four and a half annas a ton.</p>	<p>The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that port.</p> <p>The due is payable on each entry into the port.</p> <p>The payment of the due at the first port called at in the group will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that or any other port in the group.</p> <p>The due is payable once for the voyage.</p>
	92. Arripuram.			
	93. Kukkuyi.			
	94. Madayi.			
	95. Attakuri.			
	96. Chavakkad.			
	97. Veliyangod.			
	98. Ponani.			
	99. Kuttyai.			
	100. Parapanna.			
	101. Tanur.			
	102. Parpanangadi.			
	103. Kadalvandi.			
	104. Beypore.			
	105. Molakkadava.			
	106. Calicut.			
	107. Fudiyangadi.			
	108. Elatturu.			
	109. Kappatta.			
	110. Quilanda.			
	111. Kollam.			
	112. Kadalura.			
	113. Trikkodi.			
	114. Kottakkal.			
	115. Badagara.			
116. Muttankal.				
117. Chompayi.				
118. Kallayi.				
119. Talayi.				
120. Tellicherry.				
121. Dharmapatnam.				
122. Ezhara.				
123. Cannanore.				
124. Fudiyangadi.				
125. Palapatnam (Baliapatnam).				
126. Ettikulam.				
127. Karayi.				
128. Huedrug.				
129. Palkal.				
130. Kasangod.				
131. Kumbale.				
132. Manjesvara.				
133. Mangalore.				
134. Mulki.				
135. Padubidri.				
136. Erumbla.				
137. Uchhula.				
138. Kappi.				
139. Udiyavara.				
140. Malpe.				
141. Barkur or Bangarakatta.				
142. Coondapoor.				
143. Nvakunkutte (Nayakankottai).				
144. Bandur.				
145. Siruru.				
South Canara			<i>Coasting Vessels.</i>	
			(e) In the case of a coasting ship calling at any port, not exceeding one and a half annas a ton.	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again at that port.
			(f) In the case of a coasting steamer calling at one or more ports in the Western group, not exceeding three annas a ton.	The payment of the due at the first port called at in the group will exempt the steamer for a period of thirty days from liability to pay the due again at that or any other port in the group.

Explanations to Part II of the First Schedule.

Explanation 1.—In this Part of the Schedule—

- (a) "ship" means a sailing vessel, and "steamer" a steam-vessel;
- (b) "coasting ship" or "coasting steamer" means respectively a ship or steamer which at any port discharges cargo exclusively from, or takes in cargo exclusively for, any port in the island of Ceylon or in any part of India between the westernmost part of Sind and the south-easternmost part of Burma; and "coasting steamer" includes a coasting steam-vessel having a general pass under section 164 of the Sea Customs Act, 1878;
- (c) "foreign ship" or "foreign steamer" means respectively a ship or steamer not being a coasting ship or coasting steamer.

Explanation 2.—As regards the levy of port-dues, each of the following pairs of ports, namely, Cocanada and Coringa, Nagore and Negapatam, Beypore and Calicut, is to be treated as if it were only one port; every vessel in respect of which such dues have been charged and taken at one of any of the said pairs being exempted from the dues on entering the other of the same pair immediately after leaving the one in which the dues were charged and taken.

VIII of 1878.

*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. Gholiwād ...			
17. Dāhānu Creek ...			
18. Tārāpur ...			
19. Olivārā Navāpur ...			
20. Sātpāti Creek ...			
21. Māhīm (Kelva) ...			
22. Kelva ...			
23. Dāntiora ...			
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 ...	Sea-going vessels of ten tons and upwards (except fishing-boats).	Not exceeding three annas per ton: provided that a coasting steamer whenever it enters any port may be charged at a rate to be determined by the Local Government and not exceeding the highest rate of port-dues leviable at any port of the group to which such port belongs, and an addition of one-half of such highest rate.	Once in thirty days at the same port; provided that no coasting vessel or coasting steamer, having paid port-dues at any port, shall be chargeable with port-dues again at the same or any other port of the same group within thirty days.
2. Vesáva ...			
3. Manori ...			
4. Útan ...			
5. Bassein...			
6. Bhiwndi ...			
7. Kalyán ...			
8. Tháoa ...			
9. Trombay ...			
10. Panvel ...			
11. Karanjá ...			
12. Rewas ...			
13. Nágothna ...			
14. Thai ...			
15. Alibág ...			
16. Revdándá ...			
17. Mándád ...			
18. Bánkót ...			
19. Keshi ...			
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. Nivti ...			
33. Venguria ...			
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 ...			
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, 1878, as amended by section 10, sub-section (2) of the Indian Merchandise Marks Act, 1889, shall, as regards any piece-goods mentioned in the declaration, be deemed to be in abeyance up to, and inclusive of, the thirty-first day of October 1889.

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

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



Bombay Government Gazette.

Published by Authority.

THURSDAY, 17TH 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 11th October 1889, and is hereby promulgated for general information.—

Act No. XIII of 1889.

THE CANTONMENTS ACT, 1889.

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTION

1. Title, extent and commencement.
2. Repeal
3. Interpretation

CHAPTER II.

CANTONMENTS AND CANTONMENT AUTHORITIES, COURTS AND POLICE.

Cantonments.

4. Definition of cantonments.
Cantonment Authorities and Magistrates.
5. Cantonment authority and Magistrate.
6. Cantonment authority.
7. Cantonment Magistrate.
Cantonment Court of Small Causes
8. Appointment of Cantonment Magistrate as Judge of Cantonment Court of Small Causes
9. Appointment of Additional Judge of Cantonment Court of Small Causes.
10. Judges of existing Cantonment Courts of Small Causes.
11. Continuance of jurisdiction of Cantonment Court of Small Causes in certain cases notwithstanding reduction of jurisdiction of Judge.
Cantonment Police.

12. Police

IV.—24

SECTION.

CHAPTER III.

SPIRITUOUS LIQUORS AND INTOXICATING DRUGS.

13. Unauthorised sale of spirituous liquor or intoxicating drug.
14. Unauthorised possession of spirituous liquor.
15. Arrest of persons and seizure and confiscation of things for offences against the two last foregoing sections.
16. Saving of articles sold or supplied for medicinal purposes.

CHAPTER IV.

TAXATION AND CANTONMENT FUND.

Taxation.

17. General power of taxation.
18. Extension of Act XX of 1856 to certain cantonments.
19. Restriction of power of taxation in cantonments in which Act XX of 1856 is in force.
20. Power to prohibit or exempt from taxation
Cantonment Fund.
21. Cantonment fund.
22. Custody of cantonment fund.
23. Vesting and management of cantonment fund.
24. Acquisition of immoveable property at cost of cantonment fund.

CHAPTER V.

SUPPLEMENTAL PROVISIONS.

25. Extension of enactments to cantonments.
26. Matters respecting which rules may be made
27. Supplemental provisions respecting rules.
28. Extension of certain enactments and rules to places beyond cantonments.
29. Inapplicability of section 555, Act X, 1882, to trials of offences against this Act
30. Cantonments in presidency-towns.
31. Protection of cantonment authority, Magistrate and commanding officer.
32. Registration.
33. Limitation of the operation of this Act.

The Cantonments Act, 1889.

(Chapter I.—Preliminary—Sections 1-3. Chapter II.—Cantonments and
Cantonment Authorities, Courts and Police—Sections 4-6.)

THE SCHEDULE—ENACTMENTS REPEALED.

A Act to amend the law relating to Cantonments.

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

CHAPTER I.

PRELIMINARY.

Title, extent and commencement. L. (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 bazárs, 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) "spirited 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 spirited 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 Act, 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.

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, 1857, and the General Clauses Act, 1887.

The Cantonments Act, 1889.

(Chapter II—Cantonments and Cantonment Authorities, Courts and Police.—Sections 7-12. Chapter III.—Spiritous 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 **Appointment of Cantonment Magistrate as Judge of a Court of Small Causes.** 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 15, sub-section (1), 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 **Appointment of Additional Judge of Cantonment Court of Small Causes.** Additional Judge of a Court of Small Causes of which a Cantonment Magistrate is the Judge, it shall, in its order appointing him to be such Additional Judge, declare, and may by notification in the official Gazette vary, within a limit of fifty rupees, the value of the suits with respect to which the functions of the Judge of the Court may be assigned to, and discharged by, the Additional Judge under section 8 of the Provincial Small Cause Courts Act, 1887.

10. Every Cantonment Magistrate presiding **Judges of existing Cantonment Courts of Small Causes.** over a Court of Small Causes in a cantonment at the commencement of this Act, and every Assistant Cantonment Magistrate then having any of the powers of the Judge of such Court, shall be deemed to have been appointed Judge and Additional Judge, respectively, under section 6 and section 8 of the Provincial Small Cause Courts Act, 1887, and, in the absence of any order of the Local Government to the contrary, to have jurisdiction with respect to all suits which are cognizable by a Court of Small Causes under that Act and of which the value does not exceed, in the case of a Cantonment Magistrate, five hundred rupees and, in the case of an Assistant Cantonment Magistrate, fifty rupees.

11. A Cantonment Magistrate as Judge of a **Continuance of jurisdiction of Cantonment Court of Small Causes in certain cases notwithstanding reduction of jurisdiction of Judge.** 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 **Police.** 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.

SPIRITOUS LIQUORS AND INTOXICATING DRUGS.

13. If within a cantonment, or within such **Unauthorised sale of spirituous liquor or intoxicating drug.** limits around a cantonment as the Local Government may, by notification in the official Gazette, prescribe in this behalf, any person not subject to military law or any person subject to military law otherwise than as an officer or soldier, knowingly barter, sells or supplies, or offers or attempts to barter, sell or supply, any spirituous liquor or intoxicating drug to or for the use of any European soldier, or to or for the use of any European or Eurasian being a follower or a soldier's wife, without the written permission of the commanding officer of the cantonment or of some person authorised by the commanding officer to grant such permission he shall be punished with fine which may extend to one hundred rupees or with imprisonment for a term which may extend to three months, or with both.

14. If within a cantonment, or within such **Unauthorised possession of spirituous liquor.** limits around a cantonment as the Local Government may, by notification in the official Gazette, prescribe in this behalf,—

- (a) any person subject to military law otherwise than as an officer or soldier, or
- (b) the wife or servant of any such person or of a soldier,

has in his or her possession except on behalf of the Government or for the private use of an officer more than one quart of any **spirituous liquor other than fermented malt-liquor** without the written permission of the commanding officer of the cantonment or of some person authorised by the commanding officer to grant such permission, he or she shall be punished in the case of a first offence against this section with fine which may extend to fifty rupees, and in the case of a

100 Rs or
3m or both

Rs 50

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 Chuukidars in Cities, Towns, Stations, Suburbs and Bādars 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 protection to be afforded, of which Act XX of 1856 is in force, 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. a cantonment fund, and there shall be placed to the credit thereof, among other sums, the following, namely :—

f 1882.

(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 of 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;

LV of 1860. & 45 Vict., 53.

(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 thereon or of any detachment of any such force.

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

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

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

Vesting and management of cantonment fund.

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

X of 1870.

CHAPTER V.

SUPPLEMENTAL PROVISIONS

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

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

- (1) the manner in which, and the authority to which, application for permission to occupy land belonging to the Government in a cantonment is to be made;
- (2) the conditions to be annexed to every such permission given in pursuance of such an application;
- (3) the preparation and maintenance of registers of 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 Supplemental provisions last foregoing section 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 uncanceled, apply to that area as if the area were included in the cantonment.

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

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

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

32. (1) Section 54, paragraphs two and three, and sections 59, 107 and 123 of the Transfer of Property Act, 1882, with respect to the transfer of property by registered instrument, shall, on and from the commencement of this Act, extend to every cantonment in British India.

(2) Where a cantonment has not been constituted a sub-district or district for the purposes of the Indian Registration Act, 1877, under section 9 of that Act, the Registrar of the district in which the cantonment is situated shall cause a copy, of such entries in Indexes Nos. I and II as relate to immovable 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 bazars.	The whole, so far as it has not been repealed.
Act XLV of 1860.	Indian Penal Code.	The words "or before a Military Court of Request" in <i>Explanation 1</i> to section-193.
Act V of 1869.	Indian Articles of War.	Part III, clause (c); and for the last twenty-seven words of Part I, clause (f), the following shall be substituted, namely — "and officers in charge of the Police in cantonments are defined and controlled."
Act VII of 1870.	Court-fees Act, 1870.	Section 19, clause iv, and in Schedule II, article 1, clause (a), the words "or to any Cantonment Magistrate sitting as a Court of Civil Judicature under Act No. III of 1859."
Act XV of 1874.	Laws Local Extent Act, 1874.	So much of the second schedule as relates to Madras Regulation XIV of 1832; so much of the third schedule as relates to sections 18, 19, 20, 45, 46 and 47 of Bombay Regulation XXII of 1827, and so much of the fourth and fifth schedules as relates to Bengal Regulation XX of 1810.
Act XX of 1875.	Central Provinces Laws Act, 1875.	So much as relates to Bengal Regulation XX of 1810.
Act XVII of 1876.	Oudh Laws Act, 1876.	So much as relates to Bengal Regulation XX of 1810.
Act III of 1877.	Indian Registration Act, 1877.	The second paragraph of section 9, beginning with the word "Whenever" and ending with the word "thereof."
Act XIV of 1879.	Hackney-carriage Act, 1879.	Section 4, from and inclusive of the words "and the Governor General in Council may" down to and inclusive of the words "in which British troops are cantoned."

X of 1882.

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 barracks.	So much as has not been repealed.
<i>Regulation of the Bombay Code.</i>		
Regulation XXII of 1827.	Military authority.	So much as has not been repealed, except sections 40, 41, 42 and 43.

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

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



Bombay Government Gazette.

Published by Authority.

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 Hunmuntroo 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 XLV of 1860, Code, or otherwise;

And whereas it is expedient to free the said public servants and other persons from all liability to civil or criminal proceedings in respect of any cause of action or charge arising out of any admission of an offence in any statements made or evidence given as aforesaid;

It is hereby enacted as follows:—

1. No suit, prosecution or other proceeding shall be commenced or Indemnity to witnesses. 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, 1889; and

(2) It extends to the whole of British India, and applies—

(a) to all subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty, and

(b) to all Native Indian subjects of Her Majesty without and beyond British India.

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

(1) any reference to a place belonging to Her Majesty includes a place belonging to any department of the Government, whether the place is or is not actually vested in Her Majesty:

(2) expressions referring to communications include any communication, whether in whole or in part, and whether the document, sketch, plan, model or information itself or the substance or effect thereof only be communicated.

(3) "document" includes part of a document:

(4) "model" includes design, pattern and specimen:

(5) "sketch" includes any photograph or other mode of representation of any place or thing: and

(6) "office under Her Majesty" includes any office or employment in or under any department of the Government.

3. (1) (a) Where a person for the purpose of Disclosure of information wrongfully obtaining information—

(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



Bombay Government Gazette.

Published by Authority.

TUESDAY, 19TH DECEMBER 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 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:—*

“17A. In either of the following cases, namely:—

Provision for provinces having insufficient or no asylums.

- (a) when an Executive Government has not established within its limits a public asylum for the reception and detention of lunatics,
- (b) when it appears to the Governor General in Council that a public asylum estab-

lished within such limits is not conveniently situated with respect to any part of the territories administered by such Government or does not afford sufficient or, in the case of any class of lunatics, suitable accommodation,

the Governor General in Council may from time to time appoint an asylum in any part of British India beyond the limits of such Government to be an asylum to which any Magistrate or Judge exercising jurisdiction within those limits may send lunatics or any class of lunatics as to an asylum established under this Act for the division in which his jurisdiction is situate.”

2. After section 17B of the said Act XXXVI of 1858 the following section shall be added,

namely:—

“17C. Any lunatic may be removed from any lunatic asylum established or licensed under this Act, by order of an Executive Government, to any other such asylum within the limits of such Government, and, by order of the Governor General in Council, to any other asylum in any part of British India.”

3. Section 11 of the said Act XXXVI of 1858 is hereby repealed.

S. HARVEY JAMES,
Secretary to the Government of India

THE



Bombay Government Gazette.

Published by Authority.

FRIDAY, 23RD MAY 1890.

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 January 1890, and the assent of His Excellency the Viceroy and Governor General on the 4th March 1890, and is published for general information:—

Bombay Act No. I of 1889.

The Bombay Village Sanitation Act, 1889.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 23rd May 1890.)

TABLE OF CONTENTS.

	Section.	Sub-section.		Section.	Sub-section.
PART I.—PRELIMINARY.			PART II.—SANITARY COMMITTEES		
Short title	1	...	<i>—continued.</i>		
Extent	2	...	Magistrates having jurisdiction in the village may take part in Committee's proceedings ...	10	...
Repeal of enactments	3	...	Sanitary Committee to make village rules	11	...
Definitions	4	...	Provisions concerning the making of rules	12	...
"Village"	id.	(a)	Prosecution of offenders against the rules	13	...
"Prescribed"	id.	(b)	Ognuzance by the Committee of offences against the rules ...	14	...
"Chávdí"	id.	(c)	Appeals against the Committee's decisions	15	...
Operation of Parts II, III & IV	5	...	Sanitary Committee may authorize expenditure for necessary works or measures	16	...
Part II how to be extended to a village	6	...			
Part III how to be extended to a village	7	...			
PART II.—SANITARY COMMITTEES.					
Each village to have a Sanitary Committee	8	...			
Record of Committee's proceedings	9	...			

	Section.	Sub-section.		Section.	Sub-section.
PART II.—SANITARY COMMITTEES <i>—continued.</i>			PART IV.—GENERAL PROVISIONS <i>—continued.</i>		
Voluntary subscriptions may be raised for such works or measures	17	...	Questions to be decided by majorities	34	...
Necessary moneys for expenditure may be raised by a rate on the inhabitants	18	...	Signing of summonses, &c.	35	...
PART III.—SANITARY BOARDS.			Punishment for breach of rules made under this Act	36	...
Constitution of Sanitary Boards	19	...	Order for levy of fines	37	...
Sanitary Boards may make rules. . .	20	...	Levy of fines and rates	38	...
Appointment of Sanitary Inspector and other officers	21	...	Net proceeds of fines to be credited to account of Committee or Board having authority over the villages in which offences are committed	39	...
Duties of the Sanitary Inspector . . .	22	...	Contributions and loans from Local Boards	40	...
Prosecutions for breaches of rules at instance of the Board	23	...	Execution of works in which two or more Sanitary Committees or Boards are jointly interested	41	(1)
Cognizance by the Board of offences against the rules	24	...	Recovery of cost of such works	42	(2)
Sanitary Board's orders by whom to be carried out	25	...	Abandonment of a work proposed to be undertaken by a Sanitary Committee or Board in favour of a work to be undertaken by a Local Board	43	(3)
Sanitary Board may enter into certain contracts	26	...	Local Boards may call for information in such cases	44	(4)
Works and buildings which may be provided by a Sanitary Board.	27	...	Certain village servants to be placed under command of Sanitary Committee or Board	45	...
Voluntary subscription may be raised to meet a Sanitary Board's expenditure	28	...	Determination and recovery of dues of village servants placed under command of Sanitary Committee or Board... ..	46	...
Purposes for which expenditure is to be incurred by a Sanitary Board	29	...	Collector's functions under this Act may be delegated	47	...
Sanitary Board's ways and means	30	...	Collectors, Magistrates, and other public servants subject to usual control in the exercise of their authority... ..	48	...
PART IV.—GENERAL PROVISIONS.			Indemnity of persons acting in good faith under this Act	49	...
Certain Government officers to advise Sanitary Committees and Boards	31	...	SCHEDULE		
Removal from office of members, &c., of Sanitary Committees and Boards	32	...			
Filling up of vacancies	33	...			

Bombay Act No. I of 1889.

The Bombay Village Sanitation Act, 1889.

WHEREAS, for the purpose of improving the sanitary condition of villages in the presidency of Bombay, it is expedient to provide for the constitution of sanitary committees and boards having authority over such villages; It is enacted as follows:

PART I.

PRELIMINARY.

- This Act may be cited as "The Bombay Village Sanitation Act, 1889."
Short title.
- It is applicable to the whole of the presidency of Bombay, except the city of Bombay, Aden and its dependencies,
Extent.

Perim, and the scheduled district of the Mehwasí Chiefs' villages, as defined in the Scheduled Districts Act, 1874.

XIV of 11

3. During such time as Part II or Part III and the rules made thereunder shall be in force in any village, the enactments mentioned in the schedule shall, to the extent specified in the third column of the schedule, cease to have any operation in the said village.

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

(a) "village" means the site of a village or town, determined for the time being as under section 126 of the Bombay Land Revenue Code, 1879, Bo. Act V of 1879.

Bo. Act V of 1879.

together with the area included within a distance of a quarter of a mile from any part of such site, in so far as such site or area is not included within a permanent municipal district or a military cantonment;

(b) "prescribed" means prescribed by a rule made under this Act;

(c) "chávdi" means, in any village in which there is no chávdi, such place as the Collector directs shall be deemed to be the chávdi for the purposes of this Act.

5. (1) Part II shall come into force in any village to which the Collector extends the same, under the power hereinafter conferred upon him in this behalf, from such date as the Collector shall direct, and shall continue in force, when so extended, until the Governor in Council directs by notification in the *Bombay Government Gazette* that it shall cease to have operation in such village, or extends Part III to such village.

(2) Part III shall come into force in any village to which the Governor in Council extends the same, under the power hereinafter conferred upon him in this behalf, from such date as is directed in this behalf by the Governor in Council, and shall continue in force, when so extended, until the Governor in Council directs by notification in the *Bombay Government Gazette* that it shall cease to have operation in such village.

(3) Part IV shall have operation, as far as its provisions apply, in and in respect of every village in which either Part II or Part III is in force.

6. (1) Subject to the control of the Commissioner and of the Government, the Collector may at any time extend Part II to any village in his district in which Part III is not in force.

(2) For the purpose of extending Part II to any such village, the Collector shall cause to be published by posting up copies thereof in conspicuous places in his own office and in the office of the Mámálatdár and of the Mahálkari within whose taluka or mahal the said village is situate and in the chávdi or some other public building in the said village, a proclamation in the language of the district directing that, unless a proclamation be thereafter issued

by him to the contrary, Part II shall extend to the said village on and from a date to be specified in the proclamation, which shall not be less than two months after that on which the proclamation is posted up in the village, and stating that any objection which any inhabitant of the village may desire to make to the said extension will, if submitted to the Collector not later than one month before the said specified date, be received and considered.

(3) If, after considering any objections which may have been made as aforesaid, the Collector shall be of opinion that good cause exists for not extending Part II to the village or for not extending it thereto immediately, he may, by proclamation published as aforesaid:

(a) cancel his previous proclamation;

or
(b) suspend the extension of Part II to the said village for a specified period.

(4) If the Collector suspends the extension of Part II to the village for a specified period, he may thereafter, by proclamation published as aforesaid:

(c) at any time abandon the proposed extension; or

(d) from time to time defer the extension for a further specified period.

7. (1) The Governor in Council may at any time extend Part III how to be extended to a village. Part III to any village in any part of the presidency to which this Act is applicable, whether Part II is at the time in force in such village or not. Such extension, to a village where Part II is in force, shall cause Part II to cease to operate therein.

(2) For the purpose of extending Part III to any such village, the Governor in Council shall, by notification in the *Bombay Government Gazette*, direct that, unless a notification be thereafter issued by him to the contrary, Part III shall extend to the said village on and from a date to be specified in the notification, which shall not be less than three months from the date of the notification and stating that any objection which any inhabitant of the village may desire to make to the said extension will, if submitted to a Secretary to Government, or to the Collector not later than one month before the said specified date, be received and considered.

(3) If, after considering any objections which may have been made as aforesaid, Government shall be of opinion that good

cause exists for not extending Part III to the village or for not extending it thereto immediately, it may, by notification in the *Bombay Government Gazette*, exercise the like powers with respect to the extension of the said Part as the Collector is authorized to exercise, with respect to Part II by sub-sections (3) and (4) of section 6.

(4) Translations in the language of the district of every notification issued by Government under this section shall be published by the Collector, without delay, in the manner prescribed in sub-section (2) of section 6 for the publication of a proclamation issued by himself.

PART II.

SANITARY COMMITTEES.

8. (1) There shall be a Sanitary Committee in every village to which this Part is extended. Each village to have Sanitary Committee. The said committee shall consist of three or more adult householders, residents of the village, chosen, with their own consent, by the Collector, of whom the Police Patel shall be one, unless the Collector for reasons recorded in writing in any particular case determines otherwise. For the purpose of aiding him in his choice, the Collector may, in his discretion, procure the nomination or election, by the householders of the village, of qualified persons, in such mode as he shall deem expedient.

(2) The chairman of the said committee shall be nominated by the Collector.

(3) The chairman and other members of the committee shall hold office for the prescribed period.

9. The proceedings of the Sanitary Committee shall be recorded in the prescribed manner (or, until rules are made under section 11, in such manner as the Collector by written order directs), by the village accountant or such other person as the Collector appoints in this behalf, and in the absence of the village accountant or person so appointed, by such other person as the committee may employ for this purpose; and the said record shall be verified by the signature of the chairman or of some other member of the committee authorized by the committee in that behalf, below each day's proceedings.

Record of committee's proceedings.

10. Every Magistrate having jurisdiction in the village may take part in the proceedings of the committee at any meeting thereof at which he is present, and such Magistrate or if there be more than one, the highest in magisterial rank of such Magistrates, shall for this purpose be deemed to be a member and President of the committee for the occasion.

11. The Sanitary Committee may from time to time make rules, and repeal or vary the same, with the approval of the Collector:

(a) for regulating the terms of office of its members and its proceedings;

(b) for determining the manner in which its proceedings shall be recorded;

(c) for procuring and preserving for the use of the village an adequate supply of pure potable water;

(d) for the cleansing of the streets and open spaces of the village;

(e) for preventing accumulations of offensive and noxious matter in the village;

(f) for preventing nuisances and indecent or insanitary acts or omissions in the village; and

(g) generally for giving effect in the village to the purposes of this Act.

12. (1) For not less than three months before any rule which it is proposed to make under section 11 is to come into force, the committee shall exhibit a copy thereof at the chavdi or some other public building in the village and there shall be affixed to such copy a notice that objections thereto, made in writing to the Collector not later than one month before the date fixed for their coming into force—which date shall be specified—will be received and considered.

(2) Any objections so made shall be considered by the Collector, in conference with the committee. If, on such consideration, it shall seem desirable to alter or withdraw the proposed rule, such alteration or withdrawal shall be effected by a notice exhibited as aforesaid. If the Collector deems it expedient to suspend the operation of a rule, it may be suspended for a specified period by a notice exhibited

as aforesaid, which shall state that objections thereto, made as aforesaid not later than one month before the expiry of the said period, will be received and considered. Any objection so made shall be considered as aforesaid and if it then seems desirable to alter or withdraw the rule, the same shall be notified as aforesaid.

(3) Subject to the provisions of subsection (2), every rule made by the committee, with the approval of the Collector and notified as aforesaid, shall come into force on the day notified in this behalf.

13. Whenever it shall come to the notice or knowledge of the Sanitary Committee that any person in the village has apparently committed or is accused of having committed a breach of any rule made by the committee under section 11, such committee may, by notice in writing, require such person's attendance before the committee.

14. (1) All offences against the rules made by the committee under section 11 shall be cognizable by the committee against the rules.

(2) For the purpose of exercising this jurisdiction, the committee shall assemble as often as shall be necessary or as the Magistrate of the District shall direct at the chavdi or some other convenient place within the village or near thereto.

(3) The committee shall in the presence of the accused person, or if notwithstanding the service of a notice upon the said person as aforesaid he fails to appear, then in his absence, take evidence as to the alleged offence and any evidence produced by the said person in his defence, and shall thereupon either acquit or convict the accused person and, if he is convicted, may sentence him to such punishment authorized by this Act or by the rules as it thinks reasonable.

15. (1) A person convicted by the committee may, at any time within ten days after sentence is passed against him, appeal to the Magistrate of the District or other Magistrate vested under the Code of Criminal Procedure with appellate jurisdiction over the place where the sentence is passed, or to such other Magistrate, not being a member of such committee, as the Magistrate of

the District may, subject to the orders of Government from time to time, appoint in this behalf.

(2) If such person gives notice of his intention to appeal and deposits with an officer appointed by the Magistrate of the District in this behalf the amount of the fine inflicted upon him, execution of the sentence shall be suspended until the lapse of ten days from the date of the sentence, or, if an appeal is made, until it is disposed of. If within ten days no appeal is made, the sum deposited shall be appropriated to payment of the fine inflicted.

(3) The Magistrate who hears the appeal may confirm, reverse or modify the decision of the Sanitary Committee and may pass any order as to punishment which it was competent to the committee to pass. His order shall be enforced in like manner as one made by the Sanitary Committee.

(4) The said Magistrate may suspend execution of the sentence pending disposal of the appeal when such suspension shall appear to him necessary or expedient, on such terms as shall seem reasonable.

16. For the purpose of providing for the village an adequate supply of pure potable water, of cleansing the streets and open spaces thereof, of removing offensive and noxious matter therefrom and for other purposes conducive to the health and comfort of the inhabitants of the village, the Sanitary Committee may utilize, as far as available, the voluntary labour of inhabitants of the village and the services of village servants placed at its command under section 42; and when these means are insufficient, may from time to time, with the approval of the Collector, employ such servants, enter into such contracts, make such deductions and allowances from any rate leviable under its authority, and may authorize the expenditure by the Collector or under his control, of such sums of money as shall be necessary and reasonable, for the purpose aforesaid.

17. The inhabitants of the village may by voluntary subscription raise any sum of money for any of the purposes aforesaid and such sum may be paid to the Mám-latdár or other officer appointed by the Collector in that behalf and shall by him be placed to the credit of an account which

he shall keep in the name of the Sanitary Committee, for the defrayal of charges incurred under this Act for the purpose for which the subscription was raised.

18. (1) If any sum of money of which the expenditure is authorized by the committee is not raised by voluntary subscription and is not available from any other source, the same may be recovered by a rate charged on the inhabitants of the village and assessed by the Collector, in conference with the Sanitary Committee.

(2) Provided that the aggregate amount to be so charged in any year, on the inhabitants of any village, shall not exceed one-half of the aggregate amount leviable in that year as Local Fund Cess from the inhabitants of such village.

(3) It shall be lawful for the Sanitary Committee, out of any unappropriated balance of money standing to its credit under the provisions hereinafter enacted, to make such contribution on such terms as it shall deem expedient, to the cost of any work under construction by a Local Board, in fulfilment of the duties imposed on it by section 30, clauses (c), (e) and (f) of Bombay Act I of 1884.

PART III.

SANITARY BOARDS.

19. (1) There shall be a Sanitary Board in every village to which this Part is extended, or one such board for a group of two or more such villages, as Government may direct. Each such board shall consist of such number of persons appointed by the Collector as Government directs, the said persons being residents within or near to the area which is to be subject to the board's authority and having property therein, and shall ordinarily include the Police Patels. For the purpose of aiding him in his choice, the Collector may in his discretion obtain the nomination or election of qualified persons from amongst whom he will select all or some of the members, according to such mode and local distribution, as shall seem expedient.

(2) Each meeting of such board shall be presided over by the magistrate of highest rank present thereat who is a member, or, in the absence of any such magistrate, by such member as the Collector, subject to the orders of Government,

appoints to be the president of the board. In the absence of any magistrate and of the president, a meeting of the board shall be presided over by such one of the members present as may be chosen by the meeting to be chairman for the occasion.

(3) The president and members of the board shall hold office for the prescribed period.

20. The Sanitary Board may from time to time make rules, with the approval of the Collector, and, save as hereinafter provided, shall discharge functions and exercise authority for the area subject to its authority in respect of the same matters, in the same manner, and subject to like provisions, restrictions and conditions as are hereinbefore enacted in the case of a sanitary committee.

21. (1) The Collector may, subject to the orders of Government, appoint from time to time a Sanitary Inspector and other officers to point a Sanitary Inspector for any area or any part of the area subject to the authority of a sanitary board, and also such other subordinates as shall appear necessary, and determine the amount of salary to be paid to each of such officers. He may also dismiss or suspend the said officers.

(2) Such Sanitary Inspector may be a person employed by the Taluka or District Local Board having authority at the place. He may be employed by or on behalf of two or more Sanitary Boards.

22. (1) The Sanitary Inspector shall take measures for preventing breaches of the rules in force in the area for which he is appointed, by, from time to time :

(a) posting up and otherwise publishing a general admonition respecting the observance of the said rules ; or

(b) admonishing any person whom he finds offending against any of the said rules ; or

(c) summoning to appear before the Sanitary Board any person who, from his own observation or from reports made to him by his subordinates, he has reason to think should be prosecuted for offending against any of the said rules.

(2) The Sanitary Inspector shall make such reports and be in such relation to the Sanitary Commissioner, consistent with the duties and obligations imposed on him by

this Act or arising out of his position as a servant of a Local or Sanitary Board, as Government may prescribe.

23. The board may also by notice in writing require the attendance before the board of any person who is accused of having committed, or who, to the knowledge of the board, has apparently committed, a breach of any rule made by the board under section 20.

24. (1) All offences against the rules made by the board under section 20 shall be cognizable by the board, who, for the purpose of exercising this jurisdiction shall assemble as often as shall be necessary or as the Magistrate of the District shall direct, at some convenient place within or near to the area subject to its authority.

(2) The provisions of sub-section (3) of section 14 and of section 15 shall apply, as nearly as may be, to the hearing and decision of cases under this section by a sanitary board and to appeals by persons convicted by such board.

25. (1) The orders of every sanitary board shall be carried out and its orders and proceedings shall be recorded in the prescribed manner and preserved by such member of the board or by such officer of the board or by such other officer, as the Collector may from time to time nominate in this behalf.

(2) The person authorised in this behalf shall be bound to keep a true record of the board's proceedings and orders, under his signature, and truly to prepare all summonses, notices and orders issuing by direction of the board or of any member thereof in accordance with this Act or with rules made under section 20.

26. A Sanitary Board may, with the approval of the Collector, contract with any person :

(a) for the daily surface-cleansing of the streets and public spaces within the area or any portion of the area subject to its authority, so far as the same cannot be effected by means of the village servants, if any, whose services are placed at its command under section 42; or

(b) for the removal from the said area of sweepings, dust, ashes, refuse,

rubbish, carcasses of dead animals and any offensive or noxious matter.

27. Every sanitary board may, with the approval of the Collector, cause to be constructed such works and buildings as shall be necessary for providing for the area subject to its authority or any part thereof :

(a) an adequate supply of water;

(b) proper and convenient places for the temporary deposit or final disposal of sweepings, dust, ashes, refuse, rubbish, carcasses of dead animals and other offensive or noxious matter;

(c) means for conveying away or removing the several matters and things specified in clause (b).

28. The inhabitants of the area or of any part of the area subject to the authority of a sanitary board may by voluntary subscription raise any sum of money for any purpose for which the board may incur expenditure and such sum may be paid to the Mámíatdár or other officer appointed by the Collector under section 30, and shall by him be placed to the credit of the board for expenditure within the area in which and on the purpose for which the subscription was raised.

29. Every sanitary board shall be bound to provide for, or authorize the expenditure is to be incurred by Sanitary Board, for:

(a) paying the salaries of the Sanitary Inspector and other officers, if any, appointed under section 21; and

(b) providing stationery and other requisites for the use of the board and of the said Sanitary Inspector and other officers, if any; and

(c) fulfilling any contract entered into by it under section 26; and

(d) constructing necessary works and buildings under section 27.

30. (1) A debit and credit account shall be kept by the Mámíatdár or other officer appointed by the Collector in that behalf in the name of each sanitary board. To the debit of such account shall be placed all expenditure authorizedly incurred under section 29.

To its credit shall be placed all sums raised by voluntary subscription under section 28, all sums realized from any other source for meeting the board's expenditure and the net proceeds of any rate assessed as hereinafter provided.

(2) For the purpose of raising money for expenditure by a sanitary board under this Act, the Collector may, subject to the same limit as is by section 18 (2) provided in respect of rates charged under section 18 (1), from time to time, in conference with such board, charge and assess a rate on the inhabitants of the area or of any part of the area subject to the board's authority.

(3) The burden of any rate charged under sub-section (2) shall be distributed over the several parts of the area subject to the board's authority in such proportions as the Collector, in conference with the board, directs, or, if the Collector, in conference with the board, so determines, shall be placed wholly on one or more such parts.

PART IV.

GENERAL PROVISIONS.

31. The Executive Engineer of the district and any subordinate of the Executive Engineer, of the Sanitary Commissioner or of a Local Board, having authority at the place, whom the Collector may appoint generally or specially in this behalf shall have, in relation to a Sanitary Committee or Board, such rights and duties as are assigned to certain officers in relation to Local Boards by the first paragraph of section 33 of Bombay Act I of 1884.

32. The Collector may, after recording his reasons for the same, remove from office any member or chairman of a sanitary committee and, with the sanction of Government, any member, or president of a sanitary board, who appears to be incompetent or who has been guilty of any misconduct or neglect of duty which appears to render his removal expedient.

33. (1) Whenever for any reason a vacancy occurs or is about to occur in the office of a member, or chairman of a sanitary committee or of a

member or president of a sanitary board, the Collector shall without delay appoint a person to fill such vacancy.

(2) During any such vacancy the continuing members of a sanitary committee or board may act as if no vacancy had occurred.

34. Every question which comes before a sanitary committee or board for decision, shall be decided by a majority of votes of the members present and voting at a prescribed meeting of such committee or board or at a meeting thereof assembled by direction of the Collector or otherwise after notice duly issued to all the members, the member who presides having a second or casting vote, when there is an equality of votes.

35. Summonses, notices and orders issued by a sanitary committee or board or with its authority may be signed on behalf of the committee or board by the member presiding at any meeting of such committee or board.

36. A breach of any rule made by a sanitary committee or board under this Act in respect of any matter other than the matters specified in clauses (a) and (b) of section 11 shall be punishable, unless in any case a smaller maximum punishment is prescribed by the said rules, with fine which may extend to ten rupees and in default, with confinement in the chavdi for a period which may extend to forty-eight hours and, in the case of a continuing breach, with fine which may extend to two rupees for every day after conviction for the first breach or after receipt of notice from the committee or board or from the sanitary inspector, to discontinue the breach, during which the breach continues and, in default, with confinement as aforesaid.

37. (1) A sanitary committee or board may allow to a person sentenced to pay a fine such time not exceeding four days as it may think proper for payment of the fine, on such terms as to security as it shall seem to the committee or board necessary to impose.

(2) Whenever default is made in the payment of a fine, the sanitary committee or board, which passed the sentence or on appeal from whose decision the sentence

was passed, may in its discretion by written order direct the levy of the amount, although the sentence directs that, in default of payment of the fine, the offender shall be confined and the offender is or has been confined.

38. All fines for the levy of which an order has been issued as aforesaid, all sums assessed on account of any rate under this Act, which are not paid after reasonable notice, shall be leviable by the patel or by such other person as the Collector or the sanitary committee or board, with the Collector's sanction, appoints in that behalf, by distress and sale of any moveable property of the person liable therefor, subject to such exceptions as are enacted in the Code of Civil Procedure in respect of the sale of moveable property in execution of decrees.

XIV of 1882.

39. All fines levied in respect of breaches of rules made under this Act shall, after deducting the expenses, if any, of prosecuting the offenders, be paid to the Mámlatdár or other officer appointed by the Collector under section 17 or 30 and shall by him be placed to the credit of the account of the sanitary committee or board having authority over the village in which the breach was committed, for expenditure on any purpose contemplated by this Act.

40. (1) Any district or táluca local board may from time to time assign, by way of donation or loan, to the sanitary committee or board of any village or group of villages in the area subject to its authority, for expenditure on any purpose contemplated by this Act, such sum out of the portion of the local fund at its disposal as it shall think proper.

(2) Any sum so assigned shall be paid to the Mámlatdár or other officer appointed by the Collector under section 17 or 30 and shall by him be placed to the credit of the account of the sanitary committee or board to which it is assigned.

(3) But no sum shall be so assigned by way of loan, without the sanction of the Collector, and every sum assigned by way of loan with such sanction shall be recoverable by the Collector in such instalments of interest and of principal as shall be agreed upon between the parties, by a rate charged and assessed by the Collector, in conference with the sanitary committee or

board, upon the inhabitants of the area subject to the authority of such committee or board.

41. (1) Works for the supply of water or for the drainage of

Execution of works in which two or more sanitary committees or boards are jointly interested.

two or more villages subject to the authority of different sanitary committees or boards and any other

work or measure conducive to the common health or comfort of two or more such villages may, upon request made, with the approval of the Collector, by all such committees and boards or by a majority of them, be executed by or under the direction of the Collector or of such other officer as Government appoints in this behalf.

(2) The cost of any such work or measure shall be divided

Recovery of cost of such works.

between the several committees and

boards in such proportions as shall be agreed upon by them, or in default of such agreement, as the Collector shall determine; and shall be recoverable in the said proportions by a rate charged and assessed by the Collector, in conference with each committee and board, upon the inhabitants of the areas subject respectively to the said committee's and board's authority: Subject to the same limit as is provided by section 18, clause (2) in respect of rates charged under section 18, clause (1).

(3) Where any work undertaken or proposed by a committee

Abandonment of a work proposed to be undertaken by a Sanitary Committee or Board in favour of a work to be undertaken by a Local Board.

of board constituted under this Act shall be such as to interfere with or materially affect any work undertaken or proposed

by a District or Táluca Local Board, such latter Board may require the Sanitary Committee or Board to desist from such work as aforesaid, and it shall thereupon be the duty of the District or Táluca Local Board to make reasonable provision within reasonable time, for supplying to the area under the authority of the Sanitary Committee or Board, such means of health, cleanliness and decency, or means equivalent thereto, as would have been furnished by the work abandoned in consequence of such requisition as aforesaid.

(4) For the purpose of obtaining information as to any

Local Boards may call for information in such cases.

work intended or in course of construction, to which the provisions of the preceding clause may apply, it

shall be lawful for the Taluka or District Local Board to call for such report from the Sanitary Committee or Board, through the Collector, as shall be necessary and reasonable, and to cause such inspection and report to be made by any person in its employment, as it shall deem necessary in this behalf, and it shall be the duty of the Sanitary Committee or Board concerned to comply with such requisition and to give reasonable aid and furtherance to any inspection ordered as aforesaid.

42. Village servants who hold land, profits of land or other emoluments by way of remuneration, wholly or partly, for services consisting in or connected with cleansing or conservancy may, as to such services, be placed by the Collector, subject to the control of Government, under the command and superintendence of the sanitary committee or board having authority in the place in respect of which the said services are due and shall be bound to fulfil all reasonable orders of the said committee or board under such reasonable penalties as may be provided in any rule made under this Act.

43. (1) The Collector shall :

(a) determine all questions as to the amount of any payment at any time by custom or under any settlement mentioned in section 18, 19 or 20 of the Bombay Hereditary Offices Act due to a village servant placed under the command of a sanitary committee or board under the last preceding section ; and

(b) if necessary, cause the amount

which he determines to be due or the money value thereof at the market-rate of the time being, if the due is payable in kind, to be recovered on behalf of the village servant entitled thereto, free of charge, as if the same were an arrear of land-revenue :—

(2) Provided that the Collector may decline to cause such recovery to be made on behalf of any servant, if, in his opinion, the duty in respect of which the payment is due has not been duly performed by such servant.

44. Any power conferred or duty imposed by this Act upon the Collector may, with the sanction of Government, be delegated by him to an Assistant or Deputy Collector.

45. In the discharge of the duties and the exercise of other public servants authority assigned to them by this Act, Collectors, Magistrates and other public servants shall be subject to the like control as in the discharge of their ordinary functions.

46. (1) No Magistrate, Collector, president, or member of a sanitary committee or board, or sanitary inspector shall be liable to any penalty or to payment of damages for any act by him done in good faith in pursuance or intended pursuance of any authority or duty conferred or imposed upon him by this Act.

(2) And no public servant or person duly authorized or appointed shall be liable as aforesaid for giving effect in good faith to any order or direction issued with apparent authority by a person empowered in that behalf under this Act or under any rule made hereunder.

SCHEDULE.

(See Section 3.)

No. and year of enactment.	Subject or title.	Extent of repeal.
Bo. Act VII of 1867 ...	The Bombay District Police Act, 1867.	Sections 33 and 34.
Bo. Act VIII of 1867 ...	The Bombay Village Police Act, 1867.	Clauses 2, 3 and 4 (except the first two and the last thirteen words) and 5 of section 16.

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

A. C. LOGAN,

Secretary to the Council of the Governor of Bombay
Bombay Castle, 17th May 1890. for making Laws and Regulations.

Acts passed by the Courts of
India & Bombay
for
1890

THE



Bombay Government Gazette.

1890.

PART IV.

ACTS

PASSED BY THE

GOVERNMENT OF INDIA

AND BY THE

GOVERNMENT OF BOMBAY.

Bombay:

PRINTED AT THE GOVERNMENT CENTRAL PRESS.

MDCCCXCL

CONTENTS TO PART IV.

	PAGE
GOVERNMENT OF INDIA ACTS.	
Act No. I of 1890.—An Act to make better provision for recovering certain public demands	1
Act No. II of 1890.—An Act to amend Acts XVII of 1864 (an Act to constitute an Office of Official Trustee), X of 1865 (the Indian Succession Act), II of 1874 (the Administrator General's Act), and V of 1881 (the Probate and Administration Act) ...	3
Act No. III of 1890.—An Act to amend Acts VI (the Inland Steam-vessels Act) and VII (the Indian Steam-ships Act) of 1884 ...	7
Act No. V of 1890.—An Act to amend the Indian Forest Act, 1878, and the Burma Forest Act, 1881	10
Act No. VI of 1890.—An Act to provide for the Vesting and Administration of Property held in trust for charitable purposes ...	14
Act No. VII of 1890.—An Act to enable the Comptoir National D'Escompte de Paris to sue and be sued in the name of the Chief Manager for the time being of the Indian Agencies of the said Comptoir	17
Act No. VIII of 1890.—An Act to consolidate and amend the law relating to Guardian and Ward... ..	21
Act No. IX of 1890.—An Act to consolidate, amend and add to the law relating to Railways in India	32
Act No. X of 1890.—An Act to amend Act XXV of 1867 (an Act for the regulation of Printing-presses and Newspapers, for the preservation of copies of books printed in British India, and for the registration of such books)	58
Act No. XI of 1890.—An Act for the Prevention of Cruelty to Animals	60

	PAGE
GOVERNMENT OF INDIA ACTS—continued.	
Act No. XII of 1890.—An Act to amend the Indian Tariff Act, 1882	62
Act No. XIII of 1890.—An Act to amend the Excise Act, 1881, and the Bengal Excise Act, 1878, and to apply to Malt Liquor certain provisions of the Sea Customs Act, 1878, respecting Spirit	63
Act No. XIV of 1890.—An Act to amend the Schedule to the Petroleum Act, 1886 ...	91
Act No. XV of 1890.—An Act to amend the Indian Paper Currency Act, 1882	93
Act No. XVI of 1890.—An Act to amend the Births, Deaths and Marriages Registration Act, 1886	115
Act No. XVII of 1890.—An Act to provide for certain matters in connection with the taking of the Census	116
Act No. XVIII of 1890.—An Act to amend the Indian Emigration Act, 1883	119
Act No. XIX of 1890.—An Act to amend the Indian Salt Act, 1882	120
GOVERNMENT OF BOMBAY ACTS.	
Bombay Act No. I of 1889.—The Bombay Village Sanitation Act, 1889	65
Bombay Act No. I of 1890.—An Act to amend the Prevention of Gambling Act (Bombay IV of 1887)	75
Bombay Act No. II of 1890.—An Act to consolidate and amend the Law relating to Salt and the Salt-revenue throughout the Presidency of Bombay	76
Bombay Act No. III of 1890.—An Act to amend the Matádárs Act (Bombay VI of 1887)... ..	92
Bombay Act No. IV of 1890.—An Act to amend the Law for the regulation of the District Police in the Presidency of Bombay.	94

*Bombay act II of 1890 - The
Bombay Municipal servants act Reg 1*

THE



Bombay Government Gazette.

Published by Authority.

THURSDAY, 20TH FEBRUARY 1890.

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 14th February 1890, and is hereby promulgated for general information:—

Act No. I of 1890.

An Act to make better provision for recovering certain public demands.

WHEREAS it is expedient to make better provision for recovering certain public demands; it is hereby enacted as follows:—

1. (1) This Act may be called the Revenue Title, extent and commencement. Recovery Act, 1890.

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

(3) It shall come into force at once.

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

(1) "district" includes a presidency-town:

(2) "Collector" means the chief officer in charge of the land-revenue administration of a district: and

(3) "defaulter" means a person from whom an arrear of land-revenue, or a sum recoverable as an arrear of land-revenue, is due, and includes a person who is responsible as surety for the payment of any such arrear or sum.

3. (1) Where an arrear of land-revenue, or a sum recoverable as an arrear of land-revenue, is payable to a Collector by a defaulter being or having property in a district other than that in which the arrear accrued or the sum is payable, the Collector may send to the Collector of that other district a certificate in the form as nearly as may be of the schedule, stating—

(a) the name of the defaulter and such other particulars as may be necessary for his identification, and

(b) the amount payable by him and the account on which it is due.

(2) The certificate shall be signed by the Collector making it, and, save as otherwise provided by this Act, shall be conclusive proof of the matters therein stated,

(3) The Collector of the other district shall, on receiving the certificate, proceed to recover the amount stated therein as if it were an arrear of land-revenue which had accrued in his own district,

4. (1) When proceedings are taken against a person under the last foregoing section for the recovery of an amount stated in a certificate, that person may, if he denies his liability to pay the amount or any part thereof and pays the same under protest made in writing at the time of payment and signed by him or his agent, institute a suit for the repayment of the amount or the part thereof so paid.

(2) A suit under sub-section (1) must be instituted in a Civil Court having jurisdiction in the local area in which the office of the Collector who made the certificate is situate, and the suit shall be determined in accordance with the law in force at the place where the arrear accrued or the liability for the payment of the sum arose.

(3) In the suit the plaintiff may, notwithstanding anything in the last foregoing section, but subject to the law in force at the place aforesaid, give evidence with respect to any matter stated in the certificate.

5. Where any sum is recoverable as an arrear of land-revenue by any public officer other than a Collector or by any local authority, the Collector of the district in which the office of that officer or authority is situate shall, on the request of the officer or authority, proceed to recover the sum as if it were an arrear of land-revenue which had accrued in his own district, and may send a certificate of the amount to be recovered to the Collector of another district under the foregoing provisions of this Act as if the sum were payable to himself.

6. (1) When the Collector of a district receives a certificate under this Act, he may issue a proclamation prohibiting the transfer or charging of any immovable property belonging to the defaulter in the district.

(2) The Collector may at any time; by order in writing, withdraw the proclamation, and it shall be deemed to be withdrawn when either the amount stated in the certificate has been recovered or the property has been sold for the recovery of that amount.

(3) Any private alienation of the property or of any interest of the defaulter therein, whether by sale, gift, mortgage or otherwise, made after the issue of the proclamation and before the withdrawal thereof shall be void as against the Government and any person who may purchase the property at a sale held for the recovery of the amount stated in the certificate.

(4) Subject to the foregoing provisions of this section, when proceedings are taken against any immovable property under this Act for the recovery of an amount stated in a certificate, the interests of the defaulter alone therein shall be so proceeded against, and no incumbrances created, grants made or contracts entered into by him in good faith shall be rendered invalid by reason only of proceedings being taken against those interests.

(5) A proclamation under this section shall be made by beat of drum or other customary method and by the posting of a copy thereof on a con-

spicuous place in or near the property to which it relates.

7. Nothing in the foregoing sections shall be saving of local laws construed—relating to revenue.

(a) to impair any security provided by, or affect the provisions of, any other enactment for the time being in force for the recovery of land-revenue or of sums recoverable as arrears of land-revenue, or

(b) to authorise the arrest of any person for the recovery of any tax payable to the corporation, commissioner, committee, board, council or person having authority over a municipality under any enactment for the time being in force.

8. When this Act has been applied to any Recovery in British India of certain public demands among beyond British India. local area which is under the administration of the Governor General in Council but which is not part of British India, an arrear of land-revenue accruing in that local area, or a sum recoverable as an arrear of land-revenue and payable to a Collector or other public officer or to a local authority in that local area, may be recovered under this Act in British India.

THE SCHEDULE.

CERTIFICATE.

(See section 3, sub-section (1).)

From

The Collector of

To

The Collector of

Dated the of 18 .

The sum of Rs. is payable on account of by , son of , resident of , who is believed (to be at) (to have property consisting of at) in your district.

Subject to the provisions of the Revenue Recovery Act, 1890, the said sum is recoverable by you as if it were an arrear of land-revenue which had accrued in your own district, and you are hereby desired so to recover it and to remit it to my office at

A. B.,

Collector of

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 14th February 1890, and is hereby promulgated for general information:—

Act No. II of 1890.

An Act to amend Acts XVII of 1864, X of 1865, II of 1874, and V of 1884.

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

Act XVII of 1864.

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

Addition to section 1, Act XVII, 1864.

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

2. After section 1 of the said Act the following shall be inserted, namely:—

"2. In this Act references to the Presidency of Fort William in Bengal, the Presidency of Fort St. George and the Presidency of Bombay shall, as regards all persons for whom the Governor General in Council has for the time being power to make laws and regulations, be read as references to the Presidency of Bengal, the Presidency of Madras and the Presidency of Bombay, respectively, as those expressions are severally defined in the law for the time being in force relating to the office and duties of Administrator General."

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

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

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

5. For the portion of section 7 of the said Act beginning with the words "It shall be lawful for the Chief Justice of the High Court" and ending with the words "it shall be

lawful for the Chief Justice to appoint some person to officiate as Official Trustee" the following shall be substituted, namely:—

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

Addition to section 11, Act XVII, 1864.

6. To section 11 of the said Act the following shall be added, namely:—

"Provided that the High Court, by its order appointing the Official Trustee to be trustee of such property, may, for special reasons to be recorded by the Court, direct that the Official Trustee shall be entitled by way of remuneration, in respect of the capital moneys, sums and rents aforesaid, or any of them, to a commission at rates or a rate to be specified in the order and exceeding the rates or rate hereinbefore in this section prescribed."

Addition of sections to Act XVII, 1864.

7. To the said Act, after section 32, the following shall be added, namely:—

"33. The Official Trustee shall comply with such requirements as may be made by the Government for returns and statements, in such form and manner as the Government may deem proper.

"34. (1) Notwithstanding anything in the foregoing provisions of this Act, the Governor General in Council, upon the occurrence of any vacancy in the office of the Official Trustee of Bengal, may, by notification in the Gazette of India,—

- (a) divide the Presidency of Fort William in Bengal into so many Provinces as he thinks fit,
- (b) define the limits of each of those Provinces, and
- (c) appoint an Official Trustee for each Province,

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

- (i) the office of Official Trustee of Bengal shall cease to exist;
- (ii) the Official Trustee of a Province shall have the like rights and privileges, and perform the like duties, in the territories and dominions included in the Province as the Official Trustee of Bengal had and performed as Official Trustee therein;
- (iii) the functions of the Government under this Act shall, as regards the territories and dominions included in the Province, be discharged by the Governor General in Council:

(iv) the functions of whatsoever kind assigned by the foregoing provisions of this Act to the High Court of Judicature at Fort William in Bengal in respect of the territories and dominions included in a Province shall be discharged by such High Court as the Governor General in Council may, by notification in the *Gazette of India*, appoint in this behalf:

(v) in the foregoing provisions of this Act, the word 'Presidency' shall be deemed to include a Province, the expression 'Chief Justice' the Chief Justice, senior Judge or sole Judge, as the case may be, of a High Court appointed by the Governor General in Council under clause (iv) of this subsection, and the expression 'Advocate General' a Government Advocate or other officer appointed by the Governor General in Council to discharge for a Province the functions under this Act of an Advocate General for a Presidency; and,

(vi) generally, the provisions of the foregoing sections and of any other enactment for the time being in force with respect to the Official Trustee of Bengal shall, in relation to a Province, be construed, so far as may be, to apply to the Official Trustee appointed for the Province under this section.

(2) Any proceeding which was commenced before the publication of the notification dividing the Presidency of Fort William in Bengal into Provinces, and to or in which the Official Trustee of Bengal in his representative character was a party or was otherwise concerned, shall be continued as if the notification had not been published, and the Official Trustee of the Province in which the town of Calcutta is comprised shall for the purposes of the proceeding be deemed to be the successor in office of the Official Trustee of Bengal, and shall hold, and execute the trusts of which immediately before the publication of the notification the Official Trustee of Bengal was trustee in all respects as if he were such successor.

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

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

The Indian Succession Act, 1865.

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

X of 1865
Addition of new section after section 326, Act X, 1865.

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

The Administrator General's Act, 1874.

10. In clause (b) of the definition of the expression "Presidency of Bengal" in section 3 of the Administrator General's Act, 1874, the word "Burma" shall be substituted for the words "British Burma," and to clause (a) of the definition of the expression "Presidency of Bombay" in the same section of that Act the words "and under the administration of the Chief Commissioner of British Baluchistan" shall be added.

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

"If, in cases falling within section 36, no person claiming otherwise than as a creditor to be entitled to a share of the effects of the deceased obtains, within three months, a certificate from the Administrator General under the same section, or letters of administration to the estate and effects of the deceased, and such deceased was not a Hindu, Muhammadan, Parsi or Buddhist, or exempted under the Indian Succession Act, 1865, section 332, from the operation of that Act, the Administrator General may administer the estate and effects without letters of administration, in the same manner as if such letters had been granted to him:—"

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

12. After section 41 of the said Act the following shall be inserted, namely:—

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

II of 1874.

IX of 1881.

X of 1865.

IX of 1881.

"41A. Where a person not having his domicile in British India has died leaving assets both in British India and in the country in which he had his domicile at the time of his death, and proceedings for the administration of his estate with respect to assets in British India have been taken under section 36 or section 37, and there has been a grant of administration in the country of domicile with respect to the assets in that country, the holder of the certificate granted under section 36 or section 37, or the Administrator General, as the case may be, after having given such notices as the High Court may by any general rule to be made from time to time prescribe, for creditors and others to send in to him their claims against the estate of the deceased, and after having discharged, at the expiration of the time therein named, such lawful claims as he knows of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons."

13. To section 64 of the said Act the following shall be added, namely:—

"The District Judge may cause to be paid out of any property of which he or such officer has charge, or out of the proceeds of such property or of any part thereof, such sums as may appear to him to be necessary for all or any of the following purposes, namely:—

- (a) the payment of the expenses of the funeral of the deceased and of obtaining probate of his will or letters of administration to his estate and effects,
- (b) the payment of wages due for services rendered to the deceased within three months next preceding his death by any labourer, artisan or domestic servant, and
- (c) the relief of the immediate necessities of the family of the deceased,

and nothing in section 279, section 280 or section 281 of the Indian Succession Act, 1865, or in any other law for the time being in force with respect to rights of priority of creditors of deceased persons, shall be held to affect the validity of any payment so caused to be made."

14. To Part VI, and after section 66, of the said Act the following shall be added, namely:—

"67. The Administrator General shall comply with such requisitions as may be made by the Government for returns and statements, in such form and manner as the Government may deem proper."

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

15. To the said Act, after Part VI and section 67 thereof, the following shall be added, namely:—

"PART VII.

DIVISION OF THE PRESIDENCY OF BENGAL INTO PROVINCES.

68. (1) Notwithstanding anything in the foregoing provisions of this Act, the Governor General in Council, upon the occurrence of any vacancy in the office of the Administrator General of Bengal, may, by notification in the Gazette of India,—

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

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

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

- (v) in the foregoing provisions of this Act the word 'Presidency' shall be deemed to include a Province, the expression 'Presidency-town' the place of sitting of a High Court appointed by the Governor General in Council under clause (iv) of this sub-section, and the expression 'Advocate General' a Government Advocate or other officer appointed by the Governor General in Council to discharge for a Province the functions under this Act of an Advocate General for a Presidency :
- (vi) the provisions of this Act with respect to the commission of the Administrator General of Bengal shall regulate the commission payable to the Administrator General of a Province : and,
- (vii) generally, the provisions of the foregoing sections of this Act with respect to the High Court at Calcutta, and the provisions of those sections or of any other enactment with respect to the Administrator General of Bengal, shall, in relation to a Province, be construed, so far as may be, to apply to the High Court and Administrator General, respectively, appointed for the Province under this section.
- (2) Any proceeding which was commenced before the publication of the notification dividing the Presidency of Bengal into Provinces and to or in which the Administrator General of Bengal in his representative character was a party or was otherwise concerned shall be continued as if the notification had not been published, and the Administrator General of the Province in which the town of Calcutta is comprised shall for the purposes of the proceeding be deemed to be the successor in office of the Administrator General of Bengal.

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

(4) Notwithstanding any division of the Presidency of Bengal, as defined in this Act, into Provinces under this section, the Administrator General of the Province in which the town of Calcutta is comprised shall be deemed to be the Administrator General for the whole of the said Presidency for the purposes of the Regimental Debts Act, 1863." 25 and
Vict.

The Probate and Administration Act, 1881.

16. After section 145 of the Probate and Administration Act, 1881, the following shall be inserted, namely :—

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

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



Bombay Government Gazette.

Published by Authority.

THURSDAY, 27TH FEBRUARY 1890.

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 February 1890, and is hereby promulgated for general information:—

Act No. III of 1890.

An Act to amend Acts VI and VII of 1884.

WHEREAS it is expedient to amend the Inland Steam-vessels Act, 1884, and the Indian Steamships Act, 1884, in manner hereinafter appearing; It is hereby enacted as follows:—

Inland Steam-vessels Act, 1884.

1. For the definition of "inland water" in section 5, clause (3), of the Inland Steam-vessels Act, 1884, the following shall be substituted, namely:—

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

2. After section 8 of the said Act the following section shall be inserted, namely:—

"3A. Before a survey under this Act is commenced, the owner or master of the steam-vessel to be surveyed shall pay to such officer as the Local Government, from time to time, appoints in this behalf—

- (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 to be 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."

3. In section 10, sub-section (3), of the said Act the words "in addition to the fee payable for the certificate" are hereby repealed.

Repeal of part of section 10 (3), Act VI, 1884.

4. (1) In section 11, sub-section (1), of the said Act the words "fees and other" are hereby repealed.

Amendment of, and addition to, section 11, Act VI, 1884.

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

"(4) The Local Government may, from time to time, delegate,—

- (a) with the previous sanction of the Governor General in Council, to any person, by name or as holding an office, the function, assigned to the Local Government by sub-section (1), of granting a certificate of survey under that sub-section;

(b) of its own authority, to any person, by name or as holding an office, the function, assigned to the Local Government by sub-section (3), of causing notice to be given of a certificate of survey being ready for delivery:

Provided, with respect to clause (a) of this sub-section, that no delegation of the function mentioned in that clause shall be construed to authorise the grant of a certificate of survey by the surveyor who gave the declaration of survey under section 9.

Repeal of section 12, Act VI, 1884.

5. Section 12 of the said Act is hereby repealed.

6. In section 17 of the said Act, between the word "which" and the word "granted", in both places where the expression "which granted" occurs, the words "or whose delegate" shall be inserted.

7. In section 19, sub-section (1), of the said Act, after the words "on the application of the owner or master," the words "and the payment by him of such fee, not exceeding twice the amount of the fee for the previous survey, as the Local Government may require," shall be inserted.

8. In section 21, sub-section (2), clause (d), of the said Act, for the words "for certificates of survey" the words "in respect of surveys" shall be substituted.

Insertion of new section after section 25, Act VI, 1884.

9. After section 25 of the said Act the following shall be inserted, namely:—

"25A. (1) The Local Government may in its discretion grant without examination to any person who has served as a master, or as an engineer, or as an engine-driver, of an inland steam-vessel before the first day of April 1890, a certificate of service to the effect that he may act as a first-class or second-class master, or as an engineer or as an engine-driver, as the case may be, of an inland steam-vessel.

(2) A certificate of service so granted shall have the same effect as a certificate of competency granted under this Act after examination."

10. In section 26 of the said Act the words "or service" shall be inserted after the word "competency".

Amendment of section 26, Act VI, 1884.

11. To section 29 of the said Act the following shall be added, namely:—

"The Local Government may also make rules with respect to the grant of certificates of service under this Act, and may by such rules—

(a) fix the fees to be paid for such certificates, and

(b) prescribe the form in which such 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."

12. To Chapter VII of the said Act the following shall be added, namely:—

"51A. (1) The Local Government may also make rules for the protection of passengers in inland steam-vessels, and may by such rules require, among other matters, a sufficient quantity of fresh water to be provided free of charge in such vessels for the use of passengers, and the prices of passenger-tickets to be printed or otherwise denoted on such tickets.

(2) Any rule under this section may contain a provision that any owner, master or passenger committing a breach of it shall be punished with fine which may extend to fifty rupees."

Insertion of new section after section 54, Act VI, 1884.

13. After section 54 of the said Act the following shall be inserted, namely:—

"54 A. If an inland steam-vessel has on board thereof or on or in any part thereof a number of passengers which is greater than the number of passengers set forth in the certificate of survey as the number which the vessel or the part thereof is, in the judgment of the surveyor, fit to carry, the owner and master shall, for every passenger over and above that number, be each liable to a fine which may extend to ten rupees."

14. In the second schedule to the said Act, for the words and figures "See section 12" the words, figure and letter "See section 8A" shall be substituted.

Amendment of heading to second schedule, Act VI, 1884.

Indian Steamships Act, 1884.

Insertion of new section after section 10, Act VII, 1884.

15. After section 10 of the said Act the following shall be inserted, namely:—

"10A: Before a survey under this Act is commenced, the owner or master of the steamship to be surveyed shall pay to such officer as the Local Government, from time to time, appoints in this behalf—

(a) a fee calculated on the tonnage of the steamship according to the rates in the schedule hereto annexed or according to any other prescribed rates and

(b) when the survey is to be 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."

16. In section 12, sub-section (3), of the said Act, the words "in addition to the fee payable for the certificate" are hereby repealed.

Repeal of part of section 12 (3), Act VII, 1884.

Amendment of, and addition to, section 13, Act VII, 1884.

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

"(4) The Local Government may, from time to time, delegate,—

(a) with the previous sanction of the Governor General in Council, to any person, by name or as holding an office, the function, assigned to the Local Government by sub-section (1), of granting a certificate of survey under that sub-section;

(b) of its own authority, to any person, by name or as holding an office, the function, assigned to the Local Government by sub-section (3), of causing notice to be given of a certificate of survey being ready for delivery:

Provided, with respect to clause (a) of this sub-section, that no delegation of the function mentioned in that clause shall be construed to authorize the grant of a certificate of survey by the surveyor who gave the declaration of survey under section 11."

Repeal of section 14, Act VII, 1884.

18. Section 14 of the said Act is hereby repealed.

19. In section 19 of the said Act, between the word "which" and the word "granted," in both the places where the expression "which granted" occurs, the words "or whose delegate" shall be inserted.

20. In section 21, sub-section (1), of the said Act, after the words "on the application of the owner or master,"

the words "and the payment by him of such fee, not exceeding twice the amount of the fee for the previous survey, as the Local Government may require," shall be inserted.

21. In section 24, sub-section (2), clause (d), for the words "for certificates of survey" the words "in respect of surveys" shall be substituted.

22. In the schedule to the said Act, for the words and figures "See section 14" the words, figures and letter "See section 10A" shall be substituted.

S. HARVEY JAMES,

Secretary to the Government of India.



Bombay Government Gazette.

Published by Authority.

THURSDAY, 6TH MARCH 1890.

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 February 1890, and is hereby promulgated for general information :—

Act No. V of 1890.

An Act to amend the Indian Forest Act, 1878, and the Burma Forest Act, 1881.

Whereas it is expedient to amend the Indian Forest Act, 1878, and the Burma Forest Act, 1881; It is hereby enacted as follows :—

1. (1) This Act may be called the Forest Title and commencement Act, 1890; and

(2) It shall come into force at once.

Indian Forest Act, 1878.

2. (1) For the definition of "Tree" in section 2 of the Indian Forest Act, 1878, the following shall be substituted, namely :—

"'Tree' includes palms, bamboos, stumps, brushwood and canes."

(2) For the definition of "Timber" in the same section the following shall be substituted, namely :—

"'Timber' includes trees when they have fallen or have been felled, and all wood, whether cut up or fashioned or hollowed out for any purpose or not."

(3) For the definition of "Forest-produce" in the same section the following shall be substituted, namely :—

"'Forest-produce' includes—

(a) the following, whether found in, or brought from, a forest or not, that is to say :—

timber, charcoal, caoutchouc, wood-oil, resin, natural varnish, bark, lac, mahua flowers and myrabolams, and

(b) the following when found in, or brought from, a forest, that is to say :—

(i) trees and leaves, flowers and fruits, and all other parts or produce not hereinbefore mentioned of trees,

(ii) plants not being trees (including grass creepers, reeds and moss), and all parts or produce of such plants;

(iii) wild animals, and skins, tusks, horns, bones, silk, cocoons, honey and wax, and all other parts or produce of animals, and

(iv) peat, surface-soil, rock, and minerals (including limestone, laterite, mineral oils and all products of mines or quarries) :—

3. For clause (b) of section 4 of the said Act Amendment of section 4, the following shall be substituted, namely :—

"(b) specifying as nearly as possible the situation and limits of such land; and"

4. To section 5 of the said Act the words "except in accordance with rules prescribed by the Local Government" shall be added.

5. For clause (a) of section 6 of the said Act Amendment of section 6, the following shall be substituted, namely:—

"(a) specifying as nearly as possible the situation and limits of the proposed forest;"

6. After section 9 of the said Act the following shall be inserted, namely:—

9A. (1) In the case of a claim relating to the practice of shifting cultivation, the Foresting Settlement-officer shall record a statement setting forth the particulars of the claim and of any local rule or order under which the practice is allowed or regulated, and submit the statement to the Local Government together with his opinion as to whether the practice should be permitted or prohibited wholly or in part.

(2) On receipt of the statement and opinion the Local Government may make an order permitting or prohibiting the practice wholly or in part.

(3) If such practice is permitted wholly or in part, the Forest-Settlement-officer may arrange for its exercise—

(a) by altering the limits of the land under settlement so as to exclude land of sufficient extent, of a suitable kind, and in a locality reasonably convenient for the purposes of the claimants, or

(b) by causing certain portions of the land under settlement to be separately demarcated, and giving permission to the claimants to practise shifting cultivation therein under such conditions as he may prescribe.

All arrangements made under this sub-section shall be subject to the previous sanction of the Local Government.

(4) The practice of shifting cultivation shall in all cases be deemed a privilege subject to control, restriction and abolition by the Local Government."

7. For clause (b) of section 25 of the said Act Amendment of section 25, Act VII, 1878. the following shall be substituted, namely:—

"(b) sets fire to a reserved forest, or, in contravention of any rules made by the Local Government, kindles any fire, or leaves any fire burning, in such manner as to endanger such a forest;"

8. (1) In the heading of Chapter VII of the Amendment of Chapters VII and VIII, Act VII, 1878. said Act, for the words "OF THE DUTY ON TIMBER" the words "OF THE DUTY ON TIMBER AND OTHER FOREST-PRODUCE" shall be substituted.

(2) In section 39 of the said Act, after the word "timber", in both places where the word occurs, the words "or other forest-produce" shall be inserted.

(3) In clause (a) of section 41 of the said Act, for the words "and other" the words "or other" shall be substituted.

(4) To section 41 of the said Act the following Addition to section 41, Act VII, 1878. shall be added, namely:—

"The Local Government may direct that any rule made under this section shall not apply to any specified class of timber or other forest-produce or to any specified local area."

9. In section 47 of the said Act the words Amendment of section 47, Act VII, 1878. "within three months" shall be substituted for the words "within two months".

10. To section 48 of the said Act, after the Addition to section 48, Act VII, 1878. word "encumbrances" the words "not created by him" shall be added.

11. In section 56 of the said Act, for the Amendment of section 56, Act VII, 1878. words "whom he deems to be entitled to the same" the words "whom the Magistrate deems to be entitled to the same" shall be substituted.

12. In section 63 of the said Act, after the Amendment of section 63, Act VII, 1878. words "before the Magistrate having jurisdiction in the case", the words "or to the officer in charge of the nearest police-station" shall be added.

13. (1) For section 67 of the said Act the following Amendment of section 67, Act VII, 1878. shall be substituted, namely:—

"67. (1) The Local Government may, from time to time, by notification in the official Gazette, empower a Forest-officer by name, or as holding an office,—

(a) to accept from any person against whom a reasonable suspicion exists that he has committed any forest-offence, other than an offence specified in section 61 or section 62, a sum of money by way of compensation for the offence which such person is suspected to have committed, and,

(b) when any property has been seized as liable to confiscation, to release the same on payment of the value thereof as estimated by such officer.

(2) On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the suspected person, if in custody, shall be discharged, the property, if any, seized shall be released, and no further proceedings shall be taken against such person or property,

(3) A Forest-officer shall not be empowered under this section unless he is a Forest-officer of a rank not inferior to that of a ranger and is in receipt of a monthly salary amounting to at least one hundred rupees, and the sum of money accepted as compensation under sub-section (1),

clause (a) shall in no case exceed the sum of fifty rupees."

14. After section 83 of the said Act the following shall be added, namely:—

84. When any person, in compliance with any rule under this Act, binds himself by any instrument to perform any duty of act, or covenants by any instrument that he, or that he and his servants and agents, will abstain from any act, the whole sum mentioned in such instrument as the amount to be paid in case of a breach of the conditions thereof may, notwithstanding anything in section 74 of the Indian Contract Act, 1872, be recovered from him in case of such breach as if it were an arrear of land revenue."

X of 1878

Burma Forest Act, 1881.

15. (1) For the definition of "tree" in section 3 of the Burma Forest Act, 1881, the following shall be substituted, namely:—

"tree" includes palms, bamboos, stumps, brushwood and canes."

(2) For the definition of "forest-produce" in the same section the following shall be substituted, namely:—

"forest-produce" includes—

- (a) the following, whether found in, or brought from, a forest or not, that is to say:—
timber, charcoal, caoutchouc, catechu, wood-oil, resin, natural varnish, bark, lac, mahua flowers and myrabolams, and
- (b) the following when found in, or brought from, a forest, that is to say:—
- (i) trees and leaves, flowers and fruits, and all other parts or produce not hereinbefore mentioned of trees,
- (ii) plants not being trees (including grass, creepers, reeds and moss,) and all parts or produce of such plants,
- (iii) wild animals, and skins, tusks, horns, bones, silk, cocoons, honey and wax, and all other parts or produce of animals, and
- (iv) peat, surface-soil, rock and minerals (including limestone, laterite, mineral oils and all products of mines or quarries):".

16. For clause (b) of section 26 of the said Act the following shall be substituted, namely:—

"(b) sets fire to a reserved forest, or, in contravention of any rules made by the Chief Commissioner, kindles any fire, or leaves any fire burning, in such manner as to endanger such a forest,".

17. (1) In the heading of Chapter V of the said Act, for the words

Amendment of Chapters V and VI, Act XIX, 1881. "OF THE DUTY ON TIMBER" the words "OF THE DUTY ON TIMBER AND OTHER FOREST-PRODUCE", and in the heading of Chapter VI of the said Act, for the words "OF THE CONTROL OF TIMBER IN TRANSIT" the words "OF THE CONTROL OF TIMBER AND OTHER FOREST-PRODUCE IN TRANSIT" shall be substituted.

(2) In sections 39, 41 and 42, after the word "timber"; wherever it occurs, the words "or other forest-produce" shall be inserted.

(3) Throughout section 43; after the word "timber", except in the first paragraph, where the word first occurs, and in clauses (e), (f), (g) and (m), the words "or other forest-produce" shall be inserted.

(4) To section 43 of the said Act the following shall be added, namely:—

"The Chief Commissioner may direct that any rule made under this section shall not apply to any specified class of timber or other forest-produce or to any specified local area."

18. In section 48 of the said Act the words "within three months" shall be substituted for the words "within two months".

19. In section 63 of the said Act, after the words "before the Magistrate having jurisdiction in the case", the words "or to the officer in charge of the nearest police-station" shall be added.

20. For section 66 of the said Act the following shall be substituted, namely:—

"66. (1) The Chief Commissioner may, from time to time, by notification in the official Gazette, empower a Forest-officer by name, or as holding an office,—

(a) to accept from any person against whom a reasonable suspicion exists that he has committed any forest-offence, other than an offence specified in section 61 or section 62, a sum of money by way of compensation for the offence which such person is suspected to have committed, and,

(b) when any property has been seized as liable to confiscation, to release the same on payment of the value thereof as estimated by such officer.

(2) On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the suspected person, if in custody, shall be discharged, the property, if any, seized shall be released, and no further proceedings shall be taken against such person or property.

(3) A Forest-officer shall not be empowered under this section unless he is a Forest-officer

of a rank not inferior to that of a ranger and is in receipt of a monthly salary amounting to at least one hundred rupees, and the sum of money accepted as compensation under subsection (J), clause (a), shall in no case exceed the sum of fifty rupees."

Repeal of section 70 (k),
Act XIX, 1881.

21. Clause (k) of section 70 of the said Act is hereby repealed.

Addition of new section after section 80,
Act XIX, 1881.

22. After section 80 of the said Act the following section shall be added, namely:—

"§1. When any person, in compliance with any rule under this Act, binds himself by any instrument to perform any

Recovery of penalties due under bond. duty or act, or covenants by any instrument that he, or that he and his servants and agents, will abstain from any act, the whole sum mentioned in such instrument as the amount to be paid in case of a breach of the conditions thereof may, notwithstanding anything in section 74 of the Indian Contract Act, 1872, be recovered from him in case of such breach as if it were an arrear of land-revenue."

S. HARVEY JAMES,

Secretary to the Government of India.

THE



Bombay Government Gazette.

Published by Authority.

THURSDAY, 13TH MARCH 1890.

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 7th March 1890, and is hereby promulgated for general information :—

Act No. VI of 1890.

An Act to provide for the Vesting and Administration of Property held in trust for charitable purposes.

WHEREAS it is expedient to provide for the vesting and administration of property held in trust for charitable purposes; It is hereby enacted as follows :—

Title, extent and commencement.

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

(2) It shall come into force on the first day of October 1890.

2. In this Act "charitable purpose" includes relief of the poor, education, medical relief and the advancement of any other object of general public utility, but does not include a purpose which relates exclusively to religious teaching or worship.

(3) The Governor General in Council may appoint an officer of the Government by the name of his office to be Treasurer of Charitable Endowments.

er of Charitable Endowments for the territories subject to any Local Government.

(2) Such Treasurer shall, for the purposes of taking, holding and transferring moveable or immoveable property under the authority of this Act, be a corporation sole by the name of the Treasurer of Charitable Endowments for the territories subject to the Local Government, and, as such Treasurer, shall have perpetual succession and a corporate seal, and may sue and be sued in his corporate name.

4. (1) Where any property is held or is to be applied in trust for a charitable purpose, the Local Government, if it thinks fit, may, on application made as hereinafter mentioned, and subject to the other provisions of this section, order, by notification in the official Gazette, that the property be vested in the Treasurer of Charitable Endowments on such terms as to the application of the property or the income thereof as may be agreed on between the Local Government and the person or persons making the application, and the property shall thereupon so vest accordingly.

(2) When any property has vested under this section in a Treasurer of Charitable Endowments, he is entitled to all documents of title relating thereto.

(3) A Local Government shall not make an order under sub-section (1) for the vesting in a Treasurer of Charitable Endowments of any securities for money, except the following, namely :—

- (a) promissory notes, debentures, stock and other securities of the Government of India, or of the United Kingdom of Great Britain and Ireland;
- (b) bonds, debentures and annuities charged by the Imperial Parliament on the revenues of India;
- (c) stock or debentures of, or shares in, Railway or other Companies, the interest whereon has been guaranteed by the Secretary of State for India in Council;
- (d) debentures or other securities for money issued by or on behalf of any local authority in exercise of powers conferred by an Act of a legislature established in British India;
- (e) a security expressly authorised by any order which the Governor General in Council may make in this behalf.
- (4) An order under this section vesting property in a Treasurer of Charitable Endowments shall not require or be deemed to require him to administer the property, or impose or be deemed to impose upon him the duty of a trustee with respect to the administration thereof.

5. (1) On application made as hereinafter mentioned, and with the concurrence of the person or persons making the application, the Local

Schemes for administration of property vested in the Treasurer.

Government, if it thinks fit, may settle a scheme for the administration of any property which has been or is to be vested in the Treasurer of Charitable Endowments, and may in such scheme appoint, by name or office, a person or persons, not being or including such Treasurer, to administer the property.

(2) On application made as hereinafter mentioned, and with the concurrence of the person or persons making the application, the Local Government may, if it thinks fit, modify any scheme settled under this section or substitute another scheme in its stead.

(3) A scheme settled, modified or substituted under this section shall, subject to the other provisions of this section, come into operation on a day to be appointed by the Local Government in this behalf, and shall remain in force so long as the property to which it relates continues to be vested in the Treasurer of Charitable Endowments or until it has been modified or another such scheme has been substituted in its stead.

(4) Such a scheme, when it comes into operation, shall supersede any decree or direction relating to the subject-matter thereof in so far as such decree or direction is in any way repugnant thereto, and its validity shall not be questioned in any Court, nor shall any Court give, in contravention of the provisions of the scheme or in any way contrary or in addition thereto, a decree or direction regarding the administration of the property to which the scheme relates.

(5) In the settlement of such a scheme effect shall be given to the wishes of the author of the trust so far as they can be ascertained and, in the opinion of the Local Government, effect can reasonably be given to them.

(6) Where a scheme has been settled under this section for the administration of property not already vested in the Treasurer of Charitable Endowments, it shall not come into operation until the property has become so vested.

6. (1) The application referred to in the two Modes of applying for vesting orders and schemes. last foregoing sections must be made,—

(a) if the property is already held in trust for a charitable purpose, then by the person acting in the administration of the trust or, where there are more persons than one so acting, then by those persons or a majority of them, and

(b) if the property is to be applied in trust for such a purpose, then by the person or persons proposing so to apply it.

(2) For the purposes of this section the executor or administrator of a deceased trustee of property held in trust for a charitable purpose shall be deemed to be a person acting in the administration of the trust.

7. (1) The Governor General in Council may Exercise by Governor General in Council powers conferred on the powers of Local Government by sections 4 and 5.

(2) When the Governor General in Council has signified to the Local Government his intention of exercising any of those powers with respect to any property, that Government shall not, without his previous sanction, exercise them with respect thereto.

8. (1) Subject to the provisions of this Act, a Treasurer of Charitable Bare trusteeship of Treasurer. Endowments shall not, as such Treasurer, act in the

administration of any trust whereof any of the property is for the time being vested in him under this Act.

(2) Such Treasurer shall keep a separate account of each property for the time being so vested in so far as the property consists of securities for money, and shall apply the property or the income thereof in accordance with the provision made in that behalf in the vesting order under section 4 or in the scheme, if any, under section 5, or in both those documents.

(3) In the case of any property so vested other than securities for money, such Treasurer shall, subject to any special order which he may receive from the authority by whose order the property became vested in him, permit the persons acting in the administration of the trust to have the possession, management and control of the property, and the application of the income thereof, as if the property had been vested in them.

9. A Treasurer of Charitable Endowments shall cause to be published annually in the local official Gazette, at such time as the Local Government

may direct, a list of all properties for the time being vested in him under this Act and an abstract of all accounts kept by him under sub-section (2) of the last foregoing section.

10. (1) A Treasurer of Charitable Endowments shall always be a sole trustee, and shall not, as such Treasurer, take or hold any property otherwise than under the provisions of this Act or, subject to those provisions, transfer any property vested in him except in obedience to a decree divesting him of the property, or in compliance with a direction in that behalf issuing from the authority by whose order the property became vested in him.

(2) Such a direction may require the Treasurer to sell or otherwise dispose of any property vested in him and, with the sanction of the authority issuing the direction, to invest the proceeds of the sale or other disposal of the property in any such security for money as is mentioned in section 4, sub-section (3), clause (a), (b), (c), (d) or (e), or in the purchase of immoveable property.

(3) When a Treasurer of Charitable Endowments is divested, by a direction of the Local Government or the Governor General in Council under this section, of any property, it shall vest in the person or persons acting in the administration thereof and be held by him or them on the same trusts as those on which it was held by such Treasurer.

11. If the office held by an officer of the Government who has been appointed to be a Treasurer of Charitable Endowments is abolished or its name is changed, the Governor-General in Council may appoint the same or another officer of the Government by the name of his office to be such Treasurer, and thereupon the holder of the latter office shall be deemed for the purposes of this Act to be the successor in office of the holder of the former office.

12. If by reason of an alteration of the limits of the territories subject to a Local Government, or for any other reason, it appears to the Governor General in Council that any property vested in a Treasurer of Charitable Endowments should be vested in another such Treasurer, he may direct that the property shall be so vested, and thereupon it shall vest in that other Treasurer and his successors as fully and effectually for the purposes of this Act as if it had been originally vested in him under this Act.

13. The Governor General in Council may frame forms for any proceedings under this Act for which he considers that forms should be provided, and may make such rules consistent with this Act as he may deem expedient for—

- (a) prescribing the Local Government which is to exercise the powers conferred by this Act in the case of property which is, or is situated, in territories subject to two or more Local Governments,
- (b) prescribing the fees to be paid to the Government in respect of any property vested under this Act in a Treasurer of Charitable Endowments,
- (c) regulating the cases and mode in which schemes or any modifications thereof are to be published before they are settled or made under section 5,
- (d) prescribing the forms in which accounts are to be kept by Treasurers of Charitable Endowments, and the mode in which such accounts are to be audited, and,
- (e) generally, carrying into effect the purposes of this Act.

14. No suit shall be instituted against the Government in respect of anything done or purporting to be done under this Act, or in respect of any alleged neglect or omission to perform any duty devolving on the Government under this Act, or in respect of the exercise of, or the failure to exercise, any power conferred by this Act on the Government, nor shall any suit be instituted against a Treasurer of Charitable Endowments except for divesting him of property on the ground of its not being subject to a trust for a charitable purpose, or for making him chargeable with or accountable for the loss or misapplication of any property vested in him, or the income thereof, where the loss or misapplication has been occasioned by or through his wilful neglect or default.

15. Nothing in this Act shall be construed to impair the operation of section 111 of the Statute 53 George III, Chapter 155, or of any other enactment for the time being in force, respecting the authority of an Advocate General at a presidency to act with respect to any charity, or of sections 8, 9, 10 and 11 of Act No. XVII of 1864 (*an Act to constitute an Office of Official Trustee*) respecting the vesting of property in trust for a charitable purpose in an Official Trustee.

16. A Local Government shall, in the exercise of its powers under this Act, be subject to the control of the Governor General in Council.

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

THE



Bombay Government Gazette.

Published by Authority.

THURSDAY, 20TH MARCH 1890.

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 14th March 1890, and is hereby promulgated for general information:—

Act No. VII. of 1890.

An Act to enable the Comptoir National D'Escompte de Paris to sue and be sued in the name of the Chief Manager for the time being of the Indian Agencies of the said Comptoir.

WHEREAS certain persons have formed themselves into a Company at Paris for the transaction of banking business under the name of the Comptoir National D'Escompte de Paris:

And whereas the said Company was constituted and established under and by virtue of certain resolutions passed on the 3rd and 11th June 1889, by General Meetings of Shareholders;

And whereas by the Articles of Association of the said Company it is provided (among other things) that the said Company may continue to exist and carry on business for a term of fifty years from the first day of May 1889; that the shareholders of the Company shall be responsible only to the amount of their shares respectively; that the rights and liabilities attached to each share shall follow its transmission into whatever hands it may pass; and that the Company may establish Agencies or Branches as well in France as in the French Colonies and abroad, such Agencies to be organized and

conducted in the same manner as the Comptoir National D'Escompte itself;

And whereas Agencies of the said Company have been recently established in Calcutta and in Bombay;

And whereas on the thirtieth day of April 1862, a Convention was concluded and signed at Paris between Her Majesty the Queen of Great Britain and Ireland and His Majesty the Emperor of the French, comprising the following Articles, that is to say: "*First*—The High Contracting Parties declare that they mutually grant to all Companies and other Associations, commercial, industrial or financial, constituted and authorized in conformity with the laws in force in either of the two countries, the power of exercising all their rights, and of appearing before the tribunals, whether for the purpose of bringing an action or for defending the same, throughout the dominions and possessions of the other Power, subject to the sole condition of conforming to the laws of such dominions and possessions. *Second*—It is agreed that the stipulations of the preceding article shall apply as well to Companies and Associations constituted and authorized previously to the signature of the present Convention as to those which may subsequently be so constituted and authorized. *Third*—The present Convention is concluded without limit as to duration. Either of the High Powers shall, however, be at liberty to terminate it by giving to the other a year's previous notice. The two High Powers, moreover, reserve to themselves the power to introduce into the Convention, by common consent, any modifications which experience may show to be desirable";

And whereas it is desirable that effect should be given to the said Convention so far as the Comptoir National D'Escompte de Paris and its Agencies now or hereafter established in British India are concerned;

It is hereby enacted as follows:—

1. (1) This Act may be called the Comptoir Title, extent and commencement. National D'Escompte de Paris Act, 1890.

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

(3) It shall come into force at once.

2. In this Act, unless there is something repugnant in the subject or context, the expressions "Chief Manager of the Agencies in British India of the said Comptoir" and "Chief Manager" include any person for the time being acting as Chief Manager of the said Agencies in British India of the Comptoir National D'Escompte de Paris, or being or acting as Manager of such one of the same Agencies as may be situate within the jurisdiction of the Court in which the suit or proceeding mentioned in any of the sections of this Act may be instituted or carried on.

3. On and from the commencement of this Act, all suits and other proceedings whatever, for any injury or wrong done to any moveable or immovable property of the said Comptoir, in whomsoever the same may for the time being be vested, whether in the said Comptoir or in some person or persons in trust for the said Comptoir, or upon or in respect of any present liability to the said Comptoir, or upon any bonds, covenants, contracts or agreements which already have been or hereafter shall be given to or entered into with the said Comptoir, or to or with any person whomsoever in trust for the said Comptoir, or wherein the said Comptoir is or shall be interested, and also all instruments and petitions to found any adjudication of insolvency in any Court against any person indebted to the said Comptoir, and liable to have been made insolvent by the laws now or at any time hereafter in force relating to insolvents in British India, and generally all other proceedings whatsoever to be commenced or carried on by or on behalf of the said Comptoir, or wherein the said Comptoir is or shall be interested against any person, whether such person is or shall then be a shareholder or partner of or in the said Comptoir or not, shall and lawfully may be commenced and prosecuted in the name of the person who shall be the Chief Manager of the Agencies in British India of the said Comptoir at the time such suit or proceeding shall be commenced, as the nominal plaintiff or petitioner for or on behalf of the said Comptoir, and all suits and proceedings, as well for subsisting as future accruing claims, debts or demands to be commenced against the said Comptoir by any person, whether such person is or shall then be a shareholder or partner of or in the said Comptoir or not, shall be commenced and prosecuted against the Chief Manager as the nominal defendant or respondent for and on behalf of the said Comptoir, and the death, removal, resignation or

any other act of such Chief Manager, or his bankruptcy or insolvency, shall not abate or prejudice any suit or other proceeding commenced under this Act, but the same may be continued, prosecuted and carried on or defended in the name of any other the Chief Manager.

4. On and from the commencement of this Act, in all criminal proceedings instituted or carried on by or on behalf of the said Comptoir, for fraud or injury upon or against the said Comptoir, or for any offence whatever relating to any money, notes, bills, effects, securities or any moveable or immovable property of the said Comptoir, or for any other offence against the said Comptoir, it shall be lawful to state such money, notes, bills, effects and securities, and other moveable and immovable property, in whomsoever the same may be vested, whether in the said Comptoir, or in some person or persons in trust for the said Comptoir, to be the money, notes, bills, effects and securities or property of the said Comptoir, or of the Chief Manager of the Agencies in British India of the said Comptoir; and any offences committed with intent to injure or defraud the said Comptoir shall and lawfully may in such proceedings be said to have been committed with intent to injure or defraud the said Comptoir, or such Chief Manager, and any offender may thereupon be lawfully convicted of any such offence, and in all other proceedings, in which, before the commencement of this Act, it would have been necessary to state the names of the persons composing the said Comptoir, it shall be lawful and sufficient to state the name of such Chief Manager; and the death, resignation or removal of such Chief Manager shall not abate or render defective, or in any wise affect or prejudice, such criminal proceedings.

5. No suit which may be commenced in any Court in British India against the said Comptoir, or the Chief Manager of the Agencies in British India of the said Comptoir, upon or arising out of any contract entered into by or on behalf of the said Comptoir, shall be in any wise affected or defeated by reason of the plaintiff therein, or of any other person who may be in any wise interested in such suit, being a shareholder or partner of or in the said Comptoir; but any shareholder or partner of or in the said Comptoir shall have the same right of suit and remedy to be proceeded in and enforced in the same manner against the said Comptoir or such Chief Manager upon any contract, and upon and for any debt, damage or demand whatsoever, which he might have had if he had been a stranger, and not a shareholder or partner of or in the said Comptoir.

6. No suit commenced by virtue of this Act by or on behalf of the said Comptoir in the name of the Chief Manager, upon or arising out of any contract whatsoever, entered into by or on behalf of the said Comptoir, or for the recovery of any debt, damage

Suit against the Comptoir on contract not to be defeated because plaintiff is a partner.

Court in British India against the said Comptoir, or the Chief Manager of the Agencies in British India of the said Comptoir,

Suit by Comptoir on contract not to be defeated because defendant is a partner.

by or on behalf of the said Comptoir in the name of the Chief Manager, upon or arising out of any contract whatsoever, entered into by or on behalf of the said Comptoir, or for the recovery of any debt, damage

or demand whatsoever due or owing to the said Comptoir, or for any other cause or any other account, shall be in any wise affected or defeated by or by reason of the defendant therein, or any person or persons who may be in any wise interested in such suit, being a shareholder or partner of or in the said Comptoir, but the said Comptoir shall and may have the same right of suit and remedy to be proceeded in and enforced in the same manner against any shareholder or partner of or in the said Comptoir, either alone or jointly with any other person, upon any contract, and upon and for any debt, damage or demand whatsoever, which the said Comptoir might have had if such cause of suit had arisen with a stranger and not with a shareholder or partner of or in the said Comptoir.

7. The Chief Manager of the Agencies in British India of the said Comptoir shall have an office for the transaction of the business of the Comptoir. He shall cause a memorial, in the form and to the effect set forth in Schedule A, or as near thereto as the circumstances of the case will admit of, verified by a declaration in writing made by him before a Judge of the High Court of Judicature within the jurisdiction of which his office is situated, to be enrolled amongst the records of the said High Court. Such memorial shall, prior to being enrolled, be signed by the Chief Manager, and shall be accompanied by, or have annexed thereto, or endorsed thereon, copies of the resolutions, notarial acts, articles and other instruments under which the said Comptoir is established, and copies of the various rules under which the business of the said Comptoir is conducted. The memorial shall set forth the situation of the office of the Chief Manager and of every other office and place in British India, in or at which the business of the said Comptoir is carried on: and it shall contain a statement of the amount both of the nominal and of the paid-up capital, the number of shares into which the capital is divided, the amount of each share, and the amount of capital (if any) which the said Comptoir shall have set aside for its working capital in British India, and if the last-mentioned capital is other than money, then a statement of how it stands invested, and in whose name.

8. No memorial shall be enrolled unless the authority of the Chief Manager by whom it is signed, and the copies of the resolutions, notarial acts, articles and other instruments accompanying the memorial, shall be authenticated by the signature and seal of a notary public in France, and countersigned by Her Britannic Majesty's Consul General in Paris for the time being.

9. Whenever any new Chief Manager of the Agencies in British India of the said Comptoir shall be appointed, or any change in, or addition to, any of the facts stated in any memorial which may have been enrolled shall take place, a like memorial in the form and to the effect set forth in Schedule B, verified as aforesaid, shall, within

twelve months after such appointment, change or addition shall have been made, be enrolled as aforesaid, specifying the name and description of such new Chief Manager and containing a statement of the change or addition which may have taken place in the facts aforesaid.

10. If any declaration made for the purpose of verifying a memorial under this Act shall be false or untrue in any material particular, the person wilfully making such declaration shall be guilty of an offence within the meaning of section 199 of the Indian Penal Code.

11. Until such memorial as first hereinbefore mentioned shall have been duly verified and enrolled, no suit shall be brought by the said Comptoir under the authority of this Act, and, until the memorial by this Act required to be verified and enrolled in the event of the appointment of a new Chief Manager of the Agencies in British India of the said Comptoir shall have been duly verified and enrolled, the person whose name shall appear in the last memorial which shall have been duly verified and enrolled shall be liable to all such suits and executions upon judgment or decree and other proceedings under this Act, and in the same manner, as if he had not ceased to be such Chief Manager, and as if no new Chief Manager had been appointed.

12. An examined copy of every memorial enrolled pursuant to this Act, certified to be a true copy by and under the hand and signature of a Registrar for the time being of the High Court of Judicature in which the same shall have been enrolled, shall be received in evidence as proof of the contents of such memorial; and proof shall not be required that the person by whom the memorial purports to be verified was the Chief Manager at the time of such verification.

13. Execution on every judgment, decree and order made or pronounced in any suit or proceeding in any Court in British India against the Chief Manager shall and may be issued and enforced against any property in British India belonging to the said Comptoir. All the provisions of the Code of Civil Procedure as to the attachment of property before judgment and after judgment shall in all suits against the Chief Manager have full force and effect as regards property in British India belonging to the said Comptoir. So long as the full amount recoverable by any person under any judgment, decree or order shall not have been recovered, no execution issued from any Court in British India, nor anything in this Act, shall in any way prejudice or injure the right of such person to proceed in France, under the privileges and powers reserved to British subjects by and under the said Convention of the thirtieth day of April 1862, for the recovery of the amount unrecovered.

14. No person having or claiming to have any demand upon or against the said Comptoir shall, when the same has been so determined as to have been pleadable in bar against such person, bring more than one suit in respect of such demand; and the proceedings in any suit which may have been brought against the Chief Manager under the authority of this Act, if so determined, may be pleaded in bar of any suit in any Court in British India, for the same cause against the same or any other Chief Manager; and in case of any demand which the said Comptoir now has or hereafter may have upon or against any person, whether a shareholder of the said Comptoir or not, and which shall have been determined in any suit commenced or prosecuted by the Chief Manager, the proceedings in such suit may be pleaded in bar of any other suit, in any such Court as aforesaid, for the same demand which may be commenced or prosecuted by the same or any other Chief Manager.

SCHEDULE A.

(See section 7.)

Memorial made the day of by the Chief Manager of the Agencies in British India of the Comptoir National D'Escompte de Paris, pursuant to the Comptoir National D'Escompte de Paris Act, 1890, setting forth the particulars prescribed by section 7 of the said Act.

Situation of office of Chief Manager.

Situation of other offices and places in British India.

Entire nominal capital of the Comptoir.

Paid-up capital.

Number of shares.

Amount of each share.

Amount of capital set aside for operations in British India.

Mode in which the same is invested.

Name in which the same is invested.

I, A. B., Chief Manager of the Agencies in British India of the Comptoir National D'Escompte de Paris, do solemnly and sincerely declare, to the best of my knowledge and belief, that the above written memorial is true in all respects.

(Sd.) A. B.

Declared, before me, a Judge of the High Court of Judicature at

SCHEDULE B.

(See section 9.)

Memorial made the day of by the Chief Manager of the Agencies in British India of the Comptoir National D'Escompte de Paris, pursuant to the Comptoir National D'Escompte de Paris Act, 1890, setting forth particulars of change or changes as prescribed by section 9 of the said Act.

Name and description of new Chief Manager,

or

New situation of office of Chief Manager,

or

Other change or changes.

I, C. D., Chief Manager of the Agencies in British India of the Comptoir National D'Escompte de Paris, do solemnly and sincerely declare, to the best of my knowledge and belief, that the above written memorial is true in all respects.

(Sd.) C. D.

Declared before me, a Judge of the High Court of Judicature at

S. HARVEY JAMES,

Secretary to the Government of India.

THE



Bombay Government Gazette

Published by Authority.

THURSDAY, 27TH MARCH 1890.

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 March 1890, and is hereby promulgated for general information:—

Act No. VIII. of 1890.

THE GUARDIANS AND WARDS ACT, 1890.

CONTENTS.

CHAPTER I. PRELIMINARY.

SECTIONS.

1. Title, extent and commencement.
2. Repeal.
3. Saving of jurisdiction of Courts of Wards and Chartered High Courts.
4. Definitions.

CHAPTER II.

APPOINTMENT AND DECLARATION OF GUARDIANS.

5. Power of parents to appoint in case of European British subjects.
6. Saving of power to appoint in other cases.
7. Power of the Court to make order as to guardianship.
8. Persons entitled to apply for order.
9. Court having jurisdiction to entertain application.

IV. — 7

SECTIONS.

10. Form of application.
11. Procedure on admission of application.
12. Power to make interlocutory order for production of minor and interim protection of person and property.
13. Hearing of evidence before making of order.
14. Simultaneous proceedings in different Courts.
15. Appointment or declaration of several guardians.
16. Appointment or declaration of guardian for property beyond jurisdiction of the Court.
17. Matters to be considered by the Court in appointing guardian.
18. Appointment or declaration of Collector in virtue of office.
19. Guardian not to be appointed by the Court in certain cases.

CHAPTER III.

DUTIES, RIGHTS AND LIABILITIES OF GUARDIANS.

General.

20. Fiduciary relation of guardian to ward.
21. Capacity of minors to act, as guardians.
22. Remuneration of guardian.
23. Control of Collector as guardian.

Guardian of the Person.

24. Duties of guardian of the person.
25. Title of guardian to custody of ward.
26. Removal of ward from jurisdiction.

Guardian of Property.

27. Duties of guardian of property.
28. Powers of testamentary guardian.
29. Limitation of powers of guardian of property appointed or declared by the Court.

The Guardians and Wards Act, 1890. (Chapter I.—Preliminary.—Sections 1—4.)

SECTIONS.

- 30. Voidability of transfers made in contravention of section 28 or section 29.
 - 31. Practice with respect to permitting transfers under section 29.
 - 32. Variation of powers of guardian of property appointed or declared by the Court.
 - 33. Right of guardian so appointed or declared to apply to the Court for opinion in management of property of ward.
 - 34. Obligations on guardian of property appointed or declared by the Court.
 - 35. Suit against guardian where administration-bond was taken.
 - 36. Suit against guardian where administration-bond was not taken.
 - 37. General liability of guardian as trustee.
- Termination of Guardianship.*
- 38. Right of survivorship among joint guardians.
 - 39. Removal of guardian.
 - 40. Discharge of guardian.
 - 41. Cessation of authority of guardian.
 - 42. Appointment of successor to guardian dead, discharged or removed.

CHAPTER IV.

SUPPLEMENTAL PROVISIONS.

- 43. Orders for regulating conduct or proceedings of guardians, and enforcement of those orders.
- 44. Penalty for removal of ward from jurisdiction.
- 45. Penalty for contumacy.
- 46. Reports by Collectors and Subordinate Courts.
- 47. Orders appealable.
- 48. Finality of other orders.
- 49. Costs.
- 50. Power of High Court to make rules.
- 51. Applicability of Act to guardians already appointed by Court.
- 52. Amendment of Indian Majority Act.
- 53. Amendment of Chapter XXXI of the Code of Civil Procedure.

THE SCHEDULE.—ENACTMENTS REPEALED.

An Act to consolidate and amend the law relating to Guardian and Ward.

WHEREAS it is expedient to consolidate and amend the law relating to guardian and ward; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Guardians and Wards Act, 1890.

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

(3) It shall come into force on the first day of July 1890.

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

(2) But all proceedings had, certificates granted, allowances assigned, obligations imposed, and applications, appointments, orders and rules made under any of those enactments, shall, so far as may be, be deemed to have been respectively had, granted, assigned, imposed and made under this Act; and

(3) Any enactment or document referring to any of those enactments shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

3. This Act shall be read subject to every saving of jurisdiction enactment heretofore or of Courts of Wards and hereafter passed relating Chartered High Courts. to any Court of Wards by the Governor General in Council or by a Governor or Lieutenant-Governor in Council; and nothing in this Act shall be construed to affect, or in any way derogate from, the jurisdiction or authority of any Court of Wards, or to take away any power possessed by any High Court established under the Statute 24 and 25 Victoria, Chapter 104 (an Act for establishing High Courts of Judicature in India).

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

(1) "minor" means a person who, under the provisions of the Indian Majority Act, 1875, is IX of 1875, to be deemed not to have attained his majority;

(2) "guardian" means a person having the care of the person of a minor or of his property, or of both his person and property;

(3) "ward" means a minor for whose person or property, or both, there is a guardian;

(4) "District Court" has the meaning assigned to that expression in the Code of Civil Procedure, and includes a High Court in the exercise of its ordinary original civil jurisdiction;

(5) "the Court" means the District Court having jurisdiction to entertain an application under this Act for an order appointing or declaring a person to be a guardian; and, where a guardian has been appointed or declared in pursuance of any such application, it means the Court which appointed or declared the guardian, or, in any matter relating to the person of the ward, the District Court having jurisdiction in the place where the ward for the time being ordinarily resides;

(6) "Collector" means the chief officer in charge of the revenue-administration of a district, and includes any officer whom the Local Government, by notification in the official Gazette, may, by name or in virtue of his office, appoint to be a Collector in any local area, or with respect to any class of persons, for all or any of the purposes of this Act;

1 For whom a guardian has been appointed a person is a minor until he is 21 years of age. 2 In other cases he ceases to be a minor after 18 years. 1875

*The Guardians and Wards Act, 1890.**(Chapter II.—Appointment and Declaration of Guardians.—Sections 5—10.)*

1892. (7) "European British subject" means an European British subject as defined in the Code of Criminal Procedure, 1882, and includes any Christian of European descent: and

(8) "prescribed" means prescribed by rules made by the High Court under this Act.

CHAPTER II.

APPOINTMENT AND DECLARATION OF GUARDIANS.

5. (1) Where a minor is an European British subject, a guardian or guardians of his person or property, or both, may be appointed by will or other instrument to take effect on the death of the person appointing,—

(a) by the father of the minor, or,

(b) if the father is dead or incapable of acting, by the mother.

(2) Where guardians have been appointed under sub-section (1) by both parents, they shall act jointly.

6. In the case of a minor who is not an European British subject, nothing in this Act shall be construed to take away or derogate from any power to appoint a guardian of his person or property, or both, which is valid by the law to which the minor is subject.

7. (1) Where the Court is satisfied that it is for the welfare of a minor that an order should be made—

(a) appointing a guardian of his person or property, or both, or

(b) declaring a person to be such a guardian, the Court may make an order accordingly.

(2) An order under this section shall imply the removal of any guardian who has not been appointed by will or other instrument or appointed or declared by the Court.

(3) Where a guardian has been appointed by will or other instrument or appointed or declared by the Court, an order under this section appointing or declaring another person to be guardian in his stead shall not be made until the powers of the guardian appointed or declared as aforesaid have ceased under the provisions of this Act.

8. An order shall not be made under the last foregoing section except on the application of—

(a) the person desirous of being, or claiming to be, the guardian of the minor, or

(b) any relative or friend of the minor, or

(c) the Collector of the district or other local area within which the minor ordinarily resides or in which he has property, or

(d) the Collector having authority with respect to the class to which the minor belongs.

9. (1) If the application is with respect to the guardianship of the person of the minor, it shall be made to the District Court having jurisdiction in the place where the minor ordinarily resides.

(2) If the application is with respect to the guardianship of the property of the minor, it may be made either to the District Court having jurisdiction in the place where the minor ordinarily resides or to a District Court having jurisdiction in a place where he has property.

(3) If an application with respect to the guardianship of the property of a minor is made to a District Court other than that having jurisdiction in the place where the minor ordinarily resides, the Court may return the application if in its opinion the application would be disposed of more justly or conveniently by any other District Court having jurisdiction.

10. (1) If the application is not made by the Collector, it shall be by petition signed and verified in manner prescribed by the Code of Civil Procedure for the signing and verification of a plaint, and stating, so far as can be ascertained,—

(a) the name, sex, religion, date of birth and ordinary residence of the minor;

(b) where the minor is a female, whether she is married, and, if so, the name and age of her husband;

(c) the nature, situation and approximate value of the property, if any, of the minor;

(d) the name and residence of the person having the custody or possession of the person or property of the minor;

(e) what near relations the minor has, and where they reside;

(f) whether a guardian of the person or property or both, of the minor has been appointed by any person entitled or claiming to be entitled by the law to which the minor is subject to make such an appointment;

(g) whether an application has at any time been made to the Court or to any other Court with respect to the guardianship of the person or property, or both, of the minor, and, if so, when, to what Court and with what result;

(h) whether the application is for the appointment or declaration of a guardian of the person of the minor, or of his property, or of both;

(i) where the application is to appoint a guardian, the qualifications of the proposed guardian;

(j) where the application is to declare a person to be a guardian, the grounds on which that person claims;

(k) the causes which have led to the making of the application and;

The Guardians and Wards Act, 1890.

(Chapter II.—Appointment and Declaration of Guardians.—Sections 11-15.)

(1) such other particulars, if any, as may be prescribed or as the nature of the application renders it necessary to state.

(2) If the application is made by the Collector, it shall be by letter addressed to the Court and forwarded by post or in such other manner as may be found convenient, and shall state as far as possible the particulars mentioned in sub-section (1).

(3) The application must be accompanied by a declaration of the willingness of the proposed guardian to act, and the declaration must be signed by him and attested by at least two witnesses.

11. (1) If the Court is satisfied that there is ground for proceeding on the application, it shall fix a day for the hearing thereof, and cause notice of the application and of the date fixed for the hearing—

XIV of 1882.

(a) to be served in the manner directed in the Code of Civil Procedure on—

- (i) the parents of the minor if they are residing in British India,
- (ii) the person, if any, named in the petition or letter as having the custody or possession of the person or property of the minor,
- (iii) the person proposed in the application or letter to be appointed or declared guardian, unless that person is himself the applicant, and
- (iv) any other 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 of the residence of the minor, and otherwise published in such manner as the Court, subject to any rules made by the High Court under this Act, thinks fit.

(2) The local Government may, by general or special order, require that, when any part of the property described in a petition under section 10, sub-section (1), is land of which a Court of Wards could assume the superintendence, the Court shall also cause a notice as aforesaid to be served on the Collector in whose district the minor ordinarily resides, and on every Collector in whose district any portion of the land is situate, and the Collector may cause the notice to be published in any manner he deems fit.

(3) No charge shall be made by the Court or the Collector for the service or publication of any notice served or published under sub-section (2).

12. (1) The Court may direct that the person, if any, having the custody of the minor shall produce him or cause him to be produced at such place and time and before such

Power to make interlocutory order for production of minor and interim protection of person and property.

person as it appoints, and may make such order for the temporary custody and protection of the person or property of the minor as it thinks proper.

(2) If the minor is a female who ought not to be compelled to appear in public, the direction under sub-section (1) for her production shall require her to be produced in accordance with the customs and manners of the country.

(3) Nothing in this section shall authorise—

- (a) the Court to place a female minor in the temporary custody of a person claiming to be her guardian on the ground of his being her husband, unless she is already in his custody with the consent of her parents, if any, or
- (b) any person to whom the temporary custody and protection of the property of a minor is entrusted to dispossess otherwise than by due course of law any person in possession of any of the property.

13. On the day fixed for the hearing of the application, or as soon afterwards as may be, the Court shall hear such evidence as may be adduced in support of or in opposition to the application.

14. (1) If proceedings for the appointment or declaration of a guardian of a minor are taken in more Courts than one, each of those Courts shall, on being apprised of the proceedings in the other Court or Courts, stay the proceedings before itself.

(2) If the Courts are both or all subordinate to the same High Court, they shall report the case to the High Court, and the High Court shall determine in which of the Courts the proceedings with respect to the appointment or declaration of a guardian of the minor shall be had.

(3) In any other case in which proceedings are stayed under sub-section (1), the Courts shall report the case through the Local Government to the Governor General in Council, and the Governor General in Council shall determine in which of the Courts the proceedings with respect to the appointment or declaration of a guardian of the minor shall be had.

15. (1) If the law to which the minor is subject admits of his having two or more joint guardians of his person or property, or both, the Court may, if it thinks fit, appoint or declare them.

(2) On the death of a father, being an European British subject, who has, by will or other instrument to take effect on his death, appointed a guardian of his minor child, the Court may appoint the mother to be guardian of the child jointly with the guardian appointed by the father.

The Guardians and Wards Act, 1890.

(Chapter II.—Appointment and Declaration of Guardians.—Section 16-19.)

(Chapter III.—Duties, Rights and Liabilities of Guardians.—Sections 20-22.)

(3) On the death of a mother, being an European British subject, who during the incapacity of the father of her minor child has, by will or other instrument to take effect on her death, appointed a guardian of the child, the Court may, if the father becomes capable of acting, appoint him to be sole guardian of the child or guardian of the child jointly with the guardian appointed by the mother, as it thinks fit.

(4) Separate guardians may be appointed or declared of the person and of the property of a minor.

(5) If a minor has several properties, the Court may, if it thinks fit, appoint or declare a separate guardian for any one or more of the properties.

16. If the Court appoints or declares a guardian for any property situate beyond the local limits of its jurisdiction, the Court having jurisdiction in the place where the property is situate shall, on production of a certified copy of the order appointing or declaring the guardian, accept him as duly appointed or declared and give effect to the order.

17. (1) In appointing or declaring the guardian of a minor the Court shall, subject to the provisions of this section, be guided by what, consistently with the law to which the minor is subject, appears in the circumstances to be for the welfare of the minor.

(2) In considering what will be for the welfare of the minor, the Court shall have regard to the age, sex and religion of the minor, the character and capacity of the proposed guardian and his nearness of kin to the minor, the wishes, if any, of a deceased parent, and any existing or previous relations of the proposed guardian with the minor or his property.

(3) If the minor is old enough to form an intelligent preference, the Court may consider that preference.

(4) As between parents who are European British subjects adversely claiming the guardianship of the person, neither parent is entitled to it as of right, but, other things being equal, if the minor is a male of tender years or a female, the minor should be given to the mother, and if the minor is a male of an age to require education and preparation for labour and business, then to the father.

(5) The Court shall not appoint or declare any person to be a guardian against his will.

18. Where a Collector is appointed or declared by the Court in virtue of his office to be guardian of the person or property, or both, of a minor, the order appointing or declaring him shall be deemed to authorise and require the person for the time being holding the office to

act as guardian of the minor with respect to his person or property, or both, as the case may be.

19. Nothing in this Chapter shall authorise the Court to appoint or declare a guardian of the property of a minor whose property is under the superintendence of a Court of Wards, or to appoint or declare a guardian of the person—

(a) of a minor who is a married female and whose husband is not, in the opinion of the Court, unfit to be guardian of her person, or,

(b) subject to the provisions of this Act with respect to European British subjects, of a minor whose father is living and is not, in the opinion of the Court, unfit to be guardian of the person of the minor, or

(c) of a minor whose property is under the superintendence of a Court of Wards competent to appoint a guardian of the person of the minor.

CHAPTER III.

DUTIES, RIGHTS AND LIABILITIES OF GUARDIANS.

General.

20. (1) A guardian stands in a fiduciary relation to his ward, and, save as provided by the will or other instrument, if any, by which he was appointed, or by this Act, he must not make any profit out of his office.

(2) The fiduciary relation of a guardian to his ward extends to and affects purchases by the guardian of the property of the ward, and by the ward of the property of the guardian, immediately or soon after the ward has ceased to be a minor, and generally all transactions between them while the influence of the guardian still lasts or is recent.

21. A minor is incompetent to act as guardian of any minor except his own wife or child, or where he is the managing member of an undivided Hindu family, the wife or child of another minor member of that family.

22. (1) A guardian appointed or declared by the Court shall be entitled to such allowance, if any, as the Court thinks fit for his care and pains in the execution of his duties.

(2) When an officer of the Government, as such officer, is so appointed or declared to be guardian, such fees shall be paid to the Government out of the property of the ward as the Local Government, by general or special order, directs.

The Guardians and Wards Act, 1890.

(Chapter III.—Duties, Rights and Liabilities of Guardians.—Sections 23-31.)

23. A Collector appointed or declared by the Court to be guardian of the person or property, or both, of a minor shall, in all matters connected with the guardianship of his ward, be subject to the control of the Local Government or of such authority as that Government, by notification in the official Gazette, appoints in this behalf.

Guardian of the Person.

24. A guardian of the person of a ward is charged with the custody of the ward, and must look to his support, health and education, and such other matters as the law to which the ward is subject requires.

25. (1) If a ward leaves or is removed from the custody of a guardian of his person the Court, if it is of opinion that it will be for the welfare of the ward to return to the custody of his guardian, may make an order for his return, and for the purpose of enforcing the order may cause the ward to be arrested, and to be delivered into the custody of the guardian.

(2) For the purpose of arresting the ward, the Magistrate of the first class by section 100 of the Code of Criminal Procedure, 1882.

(3) The residence of a ward against the will of his guardian with a person who is not his guardian does not of itself terminate the guardianship.

26. (1) A guardian of the person appointed or declared by the Court, unless he is the Collector or is a guardian appointed by will or other instrument, shall not, without the leave of the Court by which he was appointed or declared, remove the ward from the limits of its jurisdiction except for such purposes as may be prescribed.

(2) The leave granted by the Court under subsection (1) may be special or general, and may be defined by the order granting it.

Guardian of Property.

27. A guardian of the property of a ward is bound to deal therewith as carefully as a man of ordinary prudence would deal with it if it were his own, and, subject to the provisions of this Chapter, he may do all acts which are reasonable and proper for the realisation, protection or benefit of the property.

28. Where a guardian will or other instrument, his power to mortgage or charge, or transfer by sale, gift, exchange or otherwise, immovable property belonging to his ward is subject to any restriction which may be imposed by the instrument, unless he has under this Act been declared

guardian and the Court which made the declaration permits him by an order in writing, notwithstanding the restriction, to dispose of any immovable property specified in the order in a manner permitted by the order.

29. Where a person other than a Collector, or than a guardian appointed by will or other instrument, has been appointed or declared by the Court to be guardian of the property of a ward, he shall not, without the previous permission of the Court,—

- (a) mortgage or charge, or transfer by sale, gift, exchange or otherwise, any part of the immovable property of his ward, or
- (b) lease any part of that property for a term exceeding five years or for any term extending more than one year beyond the date on which the ward will cease to be a minor.

30. A disposal of immovable property by a guardian in contravention of either of the two last foregoing sections is voidable at the instance of any other person affected thereby.

31. (1) Permission to the guardian to do any of the acts mentioned in section 29 shall not be granted by the Court except in case of necessity or for an evident advantage to the ward.

(2) The order granting the permission shall recite the necessity or advantage, as the case may be, describe the property with respect to which the act permitted is to be done, and specify such conditions, if any, as the Court may see fit to attach to the permission; and it shall be recorded, dated and signed by the Judge of the Court with his own hand, or, when from any cause he is prevented from recording the order with his own hand, shall be taken down in writing from his dictation and be dated and signed by him.

(3) The Court may in its discretion attach to the permission the following among other conditions, namely:—

- (a) that a sale shall not be completed without the sanction of the Court.
- (b) that a sale shall be made to the highest bidder by public auction, before the Court or some person specially appointed by the Court for that purpose, at a time and place to be specified by the Court, after such proclamation of the intended sale as the Court, subject to any rules made under this Act by the High Court, directs;
- (c) that a lease shall not be made in consideration of a premium or shall be made for such term of years and subject to such rents and covenants as the Court directs;

The Guardians and Wards Act, 1890.

(Chapter III.—Duties, Rights and Liabilities of Guardians.—Sections 33-37.)

(d) that the whole or any part of the proceeds of the act permitted shall be paid into the Court by the guardian, to be disbursed therefrom or to be invested by the Court or prescribed securities or to be otherwise disposed of as the Court directs.

(f) Before granting permission to a guardian to do an act mentioned in section 29, the Court may cause notice of the application for the permission to be given to any relative or friend of the ward who should, in its opinion, receive notice thereof, and shall hear, and record the statement of any person who appears in opposition to the application.

32. Where a guardian of the property of a ward has been appointed or declared by the Court and such guardian is not the Collector, the Court may, from time to time, by order, define, restrict or extend his powers with respect to the property of the ward in such manner and to such extent as it may consider to be for the advantage of the ward and consistent with the law to which the ward is subject.

33. (1) A guardian appointed or declared by the Court may apply by petition to the Court which appointed or declared him for its opinion, advice or direction on any present question respecting the management or administration of the property of his ward.

(2) If the Court considers the question to be proper for summary disposal, it shall cause a copy of the petition to be served on, and the hearing thereof may be attended by, such of the persons interested in the application as the Court thinks fit.

(3) The guardian stating in good faith the facts in the petition and acting upon the opinion, advice or direction given by the Court shall be deemed, so far as regards his own responsibility, to have performed his duty as guardian in the subject-matter of the application.

34. Where a guardian of the property of a ward has been appointed or declared by the Court and such guardian is not the Collector, he shall,—

(a) if so required by the Court, give a bond, as nearly as may be in the prescribed form, to the Judge of the Court to ensure for the benefit of the Judge for the time being, with or without sureties, as may be prescribed, engaging duly to account for what he may receive in respect of the property of the ward;

(b) if so required by the Court, deliver to the Court, within six months from the date of his appointment or declaration by the Court, or within such other time as the Court directs, a statement of the immoveable property belonging to the

ward, of the money and other moveable property which he has received on behalf of the ward up to the date of delivering the statement, and of the debts due on that date to or from the ward;

(c) if so required by the Court, exhibit his accounts in the Court at such times and in such form as the Court from time to time directs;

(d) if so required by the Court, pay into the Court at such time as the Court directs the balance due from him on those accounts, or so much thereof as the Court directs; and

(e) apply for the maintenance, education and advancement of the ward and of such persons as are dependent on him, and for the celebration of ceremonies to which the ward or any of those persons may be a party, such portion of the income of the property of the ward as the Court from time to time directs, and, if the Court so directs, the whole or any part of that property.

35. Where a guardian appointed or declared by the Court has given a bond to account for what he may receive in respect of the property of his ward, the Court may, on application made by petition and on being satisfied that the engagement of the bond has not been kept, and upon such terms as to security, or providing that any money received be paid into the Court, or otherwise as the Court thinks fit, assign the bond to some proper person, who shall thereupon be entitled to sue on the bond in his own name as if the bond had been originally given to him instead of to the Judge of the Court, and shall be entitled to recover thereon, as trustee for the ward, in respect of any breach thereof.

36. (1) Where a guardian appointed or declared by the Court has not given a bond as aforesaid, any person, with the leave of the Court, may, as next friend, at any time during the continuance of the minority of the ward, and upon such terms as aforesaid, institute a suit against the guardian, or, in case of his death, against his representative, for an account of what the guardian has received in respect of the property of the ward, and may recover in the suit, as trustee for the ward, such amount as may be found to be payable by the guardian or his representative, as the case may be.

(2) The provisions of sub-section (1) shall, so far as they relate to a suit against a guardian, be subject to the provisions of section 410 of the Code of Civil Procedure as amended by this Act.

37. Nothing in either of the two last foregoing sections shall be construed to deprive a ward or his representative of any remedy against his guardian, or the representative of the guardian, which not being expressly provided in either of these sections, any

The Guardians and Wards Act, 1890.

(Chapter III.—Duties, Rights and Liabilities of Guardians.—Sections 38-42.)

(Chapter IV.—Supplemental Provisions.—Section 43.)

other beneficiary or his representative would have against his trustee or the representative of the trustee.

Termination of Guardianship.

38. On the death of one of two or more joint guardians, the guardianship continues to the survivor or survivors until a further appointment is made by the Court.

39. The Court may, on the application of any person interested, or of its own motion, remove a guardian appointed or declared by the Court, or a guardian appointed by will or other instrument, for any of the following causes, namely:—

- (a) for abuse of his trust;
- (b) for continued failure to perform the duties of his trust;
- (c) for incapacity to perform the duties of his trust;
- (d) for ill-treatment, or neglect to take proper care, of his ward;
- (e) for contumacious disregard of any provision of this Act or of any order of the Court;
- (f) for conviction of an offence implying, in the opinion of the Court, a defect of character which unfits him to be the guardian of his ward;
- (g) for having an interest adverse to the faithful performance of his duties;
- (h) for ceasing to reside within the local limits of the jurisdiction of the Court;
- (i) in the case of a guardian of the property, for bankruptcy or insolvency;
- (j) by reason of the guardianship of the guardian ceasing, or being liable to cease, under the law to which the minor is subject:

Provided that a guardian appointed by will or other instrument, whether he has been declared under this Act or not, shall not be removed—

- (a) for the cause mentioned in clause (g) unless the adverse interest accrued after the death of the person who appointed him, or it is shown that that person made and maintained the appointment in ignorance of the existence of the adverse interest, or
- (b) for the cause mentioned in clause (h) unless such guardian has taken up such a residence as, in the opinion of the Court, renders it impracticable for him to discharge the functions of guardian.

40. (1) If a guardian appointed or declared by the Court desires to resign his office, he may apply to the Court to be discharged.

(2) If the Court finds that there is sufficient reason for the application, it shall discharge him, and if the guardian making the application is the Collector and the Local Government approves of his applying to be discharged, the Court shall in any case discharge him.

41. (1) The powers of a guardian of the person cease—

- (a) by his death, removal or discharge;
- (b) by the Court of Wards assuming superintendence of the person of the ward;
- (c) by the ward ceasing to be a minor;
- (d) in the case of a female ward, by her marriage to a husband who is not unfit to be guardian of her person or, if the guardian was appointed or declared by the Court, by her marriage to a husband who is not, in the opinion of the Court, so unfit; or.
- (e) in the case of a ward whose father was unfit to be guardian of the person of the ward, by the father ceasing to be so or, if the father was deemed by the Court to be so unfit, by his ceasing to be so in the opinion of the Court.

(2) The powers of a guardian of the property cease—

- (a) by his death, removal or discharge;
- (b) by the Court of Wards assuming superintendence of the property of the ward; or
- (c) by the ward ceasing to be a minor.

(3) When for any cause the powers of a guardian cease, the Court may require him or, if he is dead, his representative to deliver as it directs any property in his possession or control belonging to the ward or any accounts in his possession or control relating to any past or present property of the ward.

(4) When he has delivered the property or accounts as required by the Court, the Court may declare him to be discharged from his liabilities save as regards any fraud which may subsequently be discovered.

42. When a guardian appointed or declared by the Court is discharged, or, under the law to which the ward is subject, ceases to be entitled to act, or when any such guardian or a guardian appointed by will or other instrument is removed or dies, the Court, of its own motion or on application under Chapter II, may, if the ward is still a minor, appoint or declare another guardian of his person or property, or both, as the case may be.

CHAPTER IV.

SUPPLEMENTAL PROVISIONS.

43. (1) The Court may, on the application of any person interested or of its own motion, make an order regulating the conduct or proceedings of any guardian appointed or declared by the Court, and enforcement of those orders.

*The Guardians and Wards Act, 1890.**(Chapter IV.—Supplemental Provisions.—Sections 44-47.)*

(2) Where there are more guardians than one of a ward and they are unable to agree upon a question affecting his welfare, any of them may apply to the Court for its direction, and the Court may make such order respecting the matter in difference as it thinks fit.

(3) Except where it appears that the object of making an order under sub-section (1) or sub-section (2) would be defeated by the delay, the Court shall, before making the order direct notice of the application therefor or of the intention of the Court to make it, as the case may be, to be given, in a case under sub-section (1), to the guardian or, in a case under sub-section (2), to the guardian who has not made the application.

(4) In case of disobedience to an order made under sub-section (1) or sub-section (2), the order may be enforced in the same manner as an injunction granted under section 492 or section 493 of the Code of Civil Procedure, in a case under sub-section (1), as if the ward were the plaintiff and the guardian were the defendant or, in a case under sub-section (2), as if the guardian who made the application were the plaintiff and the other guardian were the defendant.

(5) Except in a case under sub-section (2), nothing in this section shall apply to a Collector who is, as such, a guardian.

44. If, for the purpose or with the effect of preventing the Court from exercising its authority with respect to a ward, a guardian appointed or declared by the Court removes the ward from the limits of the jurisdiction of the Court in contravention of the provisions of section 26, he shall be liable, by order of the Court, to fine not exceeding one thousand rupees, or to imprisonment in the civil jail for a term which may extend to six months.

Penalty for removal of ward from jurisdiction.

45. (1) In the following cases, namely:—

Penalty for contumacy.

- (a) if a person having the custody of a minor fails to produce him or cause him to be produced in compliance with a direction under section 12, sub-section (1), or to do his utmost to compel the minor to return to the custody of his guardian in obedience to an order under section 25, sub-section (1), or
- (b) if a guardian appointed or declared by the Court fails to deliver to the Court, within the time allowed by or under clause (b) of section 34, a statement required under that clause, or to exhibit accounts in compliance with a requisition under clause (c) of that section, or to pay into the Court the balance due from him on those accounts in compliance with a requisition under clause (d) of that section, or
- (c) if a person who has ceased to be a guardian, or the representative of such a person, fails to deliver any property or

accounts in compliance with a requisition under section 41, sub-section (3),

the person, guardian, or representative, as the case may be, shall be liable, by order of the Court, to fine not exceeding one hundred rupees, and in case of recusancy to further fine not exceeding ten rupees for each day after the first during which the default continues, and not exceeding five hundred rupees in the aggregate, and to detention in the civil jail until he undertakes to produce the minor or cause him to be produced, or to compel his return, or to deliver the statement, or to exhibit the accounts, or to pay the balance, or to deliver the property or accounts as the case may be.

(2) If a person who has been released from detention on giving an undertaking under sub-section (1) fails to carry out the undertaking within the time allowed by the Court, the Court may cause him to be arrested and re-committed to the civil jail.

46. (1) The Court may call upon the Collector or, upon any Court subordinate to the Court, for a report on any matter arising in any proceeding under this Act and treat the report as evidence.

(2) For the purpose of preparing the report the Collector or the Judge of the subordinate Court, as the case may be, shall make such inquiry as he deems necessary, and may for the purposes of the inquiry exercise any power of compelling the attendance of a witness to give evidence or produce a document which is conferred on a Court by the Code of Civil Procedure.

47. An appeal shall lie to the High Court from an order made by a District Court,—

- (a) under section 7, appointing or declaring or refusing to appoint or declare a guardian; or
- (b) under section 9, sub-section (3), returning an application; or
- (c) under section 25, making or refusing to make an order for the return of a ward to the custody of his guardian; or
- (d) under section 26, refusing leave for the removal of a ward from the limits of the jurisdiction of the Court, or imposing conditions with respect thereto; or
- (e) under section 28 or section 29, refusing permission to a guardian to do an act referred to in the section; or
- (f) under section 32 defining, restricting or extending the powers of a guardian; or
- (g) under section 39, removing a guardian; or
- (h) under section 40, refusing to discharge a guardian; or
- (i) under section 43, regulating the conduct or proceedings of a guardian or settling a matter in difference between joint guardians, or enforcing the order; or

100 Rs

approx. 500 Rs

XIV of 1889

The Guardians and Wards Act, 1890.

(Chapter IV.—Supplemental Provisions.—Sections 48-53.)

(j) under section 44 or section 45, imposing a penalty.

XIV of 1882. **48.** Save as provided by the last foregoing section and by section 622 of the Code of Civil Procedure, an order made under this Act shall be final, and shall not be liable to be contested by, suit or otherwise.

49. The costs of any proceeding under this Act, including the costs of maintaining a guardian or other person in the civil jail, shall, subject to any rules made by the High Court under this Act, be in the discretion of the Court in which the proceeding is had.

50. (X) In addition to any other power to make rules conferred expressly or impliedly by this Act, the High Court may from time to time make rules consistent with this Act—

- (a) as to the matters respecting which, and the time at which, reports should be called for from Collectors and subordinate Courts;
- (b) as to the allowances to be granted to, and the security to be required from, guardians, and the cases in which such allowances should be granted;
- (c) as to the procedure to be followed with respect to applications of guardians for permission to do acts referred to in sections 28 and 29;
- (d) as to the circumstances in which such requisitions as are mentioned in clauses (a), (b), (c) and (d) of section 34 should be made;
- (e) as to the preservation of statements and accounts delivered and exhibited by guardians;
- (f) as to the inspection of those statements and accounts by persons interested;
- (g) as to the custody of money, and securities for money, belonging to wards;
- (h) as to the securities on which money belonging to wards may be invested;
- (i) as to the education of wards for whom guardians, not being Collectors, have been appointed or declared by the Court; and,
- (j) generally, for the guidance of the Courts in carrying out the purposes of this Act.

(2) Rules under clauses (a) and (i) of subsection (1) shall not have effect until they have been approved by the Local Government, nor shall any rule under this section have effect until it has been published in the official Gazette.

51. A guardian appointed by, or holding a certificate of administration from, a Civil Court under any enactment repealed by this Act shall, save as may be prescribed, be subject to the provisions of this Act, and of the rules made under it, as if he had been appointed or declared by the Court under Chapter II.

52. In section 3 of the Indian Majority Act, 1875, for the words "every minor of whose person or property a guardian has been or shall be appointed by any Court of Justice, and every minor under the jurisdiction of any Court of Wards," the following shall be substituted, namely,—

"every minor of whose person or property, or both, a guardian, other than a guardian for a suit within the meaning of Chapter XXXI of the Code of Civil Procedure, has been or shall be appointed or declared by any Court of Justice before the minor has attained the age of eighteen years, and every minor of whose property the superintendence has been or shall be assumed by any Court of Wards before the minor has attained that age."

53. Chapter XXXI of the Code of Civil Procedure shall be amended as follows, namely:—

A.—To section 440 of the said Code the following shall be added, namely:—

"If a minor has a guardian appointed or declared by an authority competent in this behalf, a suit shall not be instituted on behalf of the minor by any person other than such guardian except with the leave of the Court granted after notice to such guardian and after hearing any objections which he may desire to make with respect to the institution of the suit, and the Court shall not grant such leave unless it is of opinion that it is for the welfare of the minor that the person proposing to institute the suit in the name of the minor should be permitted to do so."

B.—To section 443 of the said Code the following shall be added, namely:—

"Where an authority competent in this behalf has appointed or declared a guardian or guardians of the person or property, or both, of the minor, the Court shall appoint him or one of them, as the case may be, to be the guardian for the suit under this section unless it considers, for reasons to be recorded by it, that some other person ought to be so appointed."

C.—After section 446 of the said Code the following shall be added, namely:—

"If the next friend is not a guardian appointed or declared by an authority competent in this behalf, and an application is made by a guardian so appointed or declared who desires to be himself appointed in the place of the next friend, the Court shall remove the next friend unless it considers, for reasons to be recorded by it, that the guardian ought not to be appointed the next friend of the minor."

D.—For section 461 of the said Code the following shall be substituted, namely:—

*The Guardians and Wards Act, 1890.**(The Schedule.—Enactments repealed.)*

"461. (1) A next friend or guardian for the suit shall not, without the leave of the Court, receive any money or other moveable property on behalf of a minor, either—

(a) by way of compromise before decree or order, or

(b) under a decree or order in favour of the minor.

"(2) Where the next friend or guardian for the suit has not been appointed or declared by competent authority to be guardian of the property of the minor, or, having been so appointed or declared, is under any disability known to the Court to receive the money or other moveable property, the Court shall, if it grants him leave to receive the property, require such security and give such directions as will, in its opinion, sufficiently protect the property from waste and ensure its proper application."

1888. *R.*—For section 464 of the said Code as amended by the Civil Procedure Code Amendment Act, 1888, the following shall be substituted, namely:—

"464. Nothing in this Chapter applies to a Sovereign Prince or ruling Chief suing or being sued in the name of his State or being sued, by direction of the Governor General in Council or a Local Government, in the name of an agent or in any other name, or shall be construed to affect, or in any way derogate from, the provisions of any local law for the time being in force relating to suits by or against minors or by or against lunatics or other persons of unsound mind."

THE SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

Number and year	Title or subject	Extent of repeal.
<i>Acts of the Governor General in Council.</i>		
XIV of 1858	Minors (Madras)	The whole.*
XL of 1858	Minors (Bengal)	So much as has not been repealed.
IX of 1861	Minors	The whole.
XX of 1864	Minors (Bombay)	The whole. }

Number and year	Title or subject	Extent of repeal
<i>Acts of the Governor General in Council—continued.</i>		
XIV of 1869	Bombay Civil Courts Act, 1869.	So much of the last paragraph of section 16 as has not been repealed.
VII of 1870	Court-fees Act, 1870.	Section 19H, and Article 10 of Schedule I.
IV of 1872	Punjab Laws Act, 1872.	So far as it relates to Act XL of 1858
XIX of 1873	North Western Provinces Land-revenue Act, 1873.	Section 258
XIII of 1874	European British Minors Act, 1874	The whole.
XV of 1874	Laws Local Extent Act, 1874	So far as it relates to any enactment repealed by this Act.
XX of 1875	Central Provinces Laws Act, 1875	So far as it relates to Act XL of 1858.
XVIII of 1876	Oudh Laws Act, 1876.	So far as it relates to Act XL of 1858.
XIII of 1879	Oudh Civil Courts Act, 1869.	Clause (1) of section 25 relating to proceedings under Acts XL of 1858 and IX of 1861.
XIV of 1882	Code of Civil Procedure.	The second paragraph of section 443.
XVIII of 1884	Punjab Courts Act, 1884.	So much of section 20 as has not been repealed.
XVII of 1885	Central Provinces Government Wards Act, 1885.	Section 5.
XII of 1887	Bengal, North-Western Provinces and Assam Civil Courts Act, 1887.	Clause (b) of section 23, sub section (2).
XI of 1889	Lower Burma Courts Act, 1889.	The words "to be and" in section 99, sub-section (1), and section 102, so far as it relates to Act XIII of 1874.

Madras Regulations.

V of 1804	Court of Wards	Section 20 and so much of sections 21 and 22 as relates to persons and property of minors not subject to the superintendence of the Court of Wards.
X of 1831	Minors' Estates	Section 3

Regulations under the Statute 33 Victoria, Chapter 5.

IX of 1874	Arakan Hill District Laws.	So far as it relates to Acts XL of 1858 and IX of 1861.
------------	----------------------------	---

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

No. II.
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 March, 1890, and is hereby promulgated for general information:—

Act No. IX of 1890.

THE INDIAN RAILWAYS ACT, 1890.

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Title, extent and commencement.
2. Repeal.
3. Definitions.

CHAPTER II.

INSPECTION OF RAILWAYS.

4. Appointment and duties of Inspectors.
5. Powers of Inspectors.
6. Facilities to be afforded to Inspectors.

CHAPTER III.

CONSTRUCTION AND MAINTENANCE OF WORKS.

7. Authority of railway administrations to execute all necessary works.
8. Alteration of pipes, wires and drains.
9. Temporary entry upon land for repairing or preventing accident.
10. Payment of compensation for damage caused by lawful exercise of powers under section 7, 8 or 9.
11. Accommodation works.
12. Power for owner, occupier or local authority to cause additional accommodation works to be made.
13. Fences, screens, gates and bars.
14. Over and under bridges.
15. Removal of trees dangerous to or obstructing the working of a railway.

CHAPTER IV.

OPENING OF RAILWAYS.

16. Right to use locomotives.
17. Notice of intended opening of a railway.
18. Sanction of the Government a condition precedent to the opening of a railway.
19. Procedure in sanctioning the opening of a railway.
20. Application of the provisions of the three last foregoing sections to material alterations of a railway.
21. Exceptional provision.
22. Power to make rules with respect to the opening of railways.
23. Power to close an opened railway.
24. Re-opening of a closed railway.
25. Delegation of powers under this Chapter to Inspectors.

CHAPTER V.

RAILWAY COMMISSIONS AND TRAFFIC FACILITIES.

Railway Commissions.

SECTIONS.

26. Constitution of Railway Commission.
27. Restriction of jurisdiction of Railway Commission to cases specially referred.
28. Reference of cases to Railway Commission.
29. Constitution of Railway Commission in session.
30. Powers of Railway Commission.
31. Appeals from orders of Railway Commission.
32. Operation of orders of Railway Commission.
33. Assessors.
34. Power of the Governor General in Council to make rules for the purposes of this Chapter.
35. Costs of proceedings under this Chapter.
36. Execution of order of Railway Commission and High Court.
37. Evidence of documents.
38. Submission to the Governor General in Council of special reports by Railway Commission.
39. Dissolution of Railway Commission.
40. Finality of orders of Railway Commission subject to the foregoing provisions of this Chapter.
41. Bar of jurisdiction of ordinary Courts in certain matters cognizable by Railway Commission.

Traffic Facilities.

42. Duty of railway administrations to arrange for receiving and forwarding traffic without unreasonable delay and without partiality.
43. Undue preference in case of unequal rates for like traffic or services.
44. Provision for facilities and equal treatment where ships or boats are used which are not part of a railway.
45. Terminals.
46. Power of Railway Commission to fix terminals.

CHAPTER VI.

WORKING OF RAILWAYS.

General.

47. General rules.
48. Disposal of differences between railways regarding conduct of joint traffic.
49. Agreements with the Governor General in Council for construction or lease of rolling-stock.
50. Powers of railway companies to enter into working agreements.
51. Establishment of ferries and roadways for accommodation of traffic.
52. Returns.

Carriage of Property.

53. Maximum load for wagons.
54. Power for railway administrations to impose conditions for working traffic.
55. Lien for rates, terminals and other charges.
56. Disposal of unclaimed things on a railway.
57. Power for railway administrations to require indemnity on delivery of goods in certain cases.
58. Requisitions for written accounts of description of goods.

SECTIONS.

59. Dangerous or offensive goods.
 60. Exhibition to the public of authority for quoted rates.
 61. Requisitions on railway administrations for details of gross charges.
- Carriage of Passengers.*
62. Communication between passengers and railway servants in charge of trains.
 63. Maximum number of passengers for each compartment.
 64. Reservation of compartments for females.
 65. Exhibition of time-tables and tables of fares at stations.
 66. Supply of tickets on payment of fares.
 67. Provision for case in which tickets have been issued for trains not having room available for additional passengers.
 68. Prohibition against travelling without pass or ticket.
 69. Exhibition and surrender of passes and tickets.
 70. Return and reason tickets.
 71. Power to refuse to carry persons suffering from infectious or contagious disorder.

CHAPTER VII.

RESPONSIBILITY OF RAILWAY ADMINISTRATIONS AS CARRIERS.

72. Measure of the general responsibility of a railway administration as a carrier of animals and goods.
73. Further provision with respect to the liability of a railway administration as a carrier of animals.
74. Further provision with respect to the liability of a railway administration as a carrier of luggage.
75. Further provision with respect to the liability of a railway administration as a carrier of articles of special value.
76. Burden of proof in suits in respect of loss of animals or goods.
77. Notification of claims to refunds of overcharges and to compensation for losses.
78. Exoneration from responsibility in case of goods falsely described.
79. Settlement of compensation for injuries to officers, soldiers and followers on duty.
80. Suits for compensation for injury to through-booked traffic.
81. Limitation of liability of railway administration in respect of traffic on inland waters by vessel not being part of railway.
82. Limitation of liability of railway administration in respect of accidents at sea.

CHAPTER VIII.

ACCIDENTS.

83. Report of railway accidents.
84. Power to make rules regarding notices of and inquiries into accidents.
85. Submission of return of accidents.
86. Provision for compulsory medical examination of person injured in railway accident.

CHAPTER IX.

PENALTIES AND OFFENCES.

Forfeitures by Railway Companies.

87. Penalty for default in compliance with requisition under section 13.
88. Penalty for contravention of section 16, 18, 19, 20, 21 or 24.

SECTIONS.

89. Penalty for not having certain documents kept or exhibited at stations under section 47, 54 or 65.
 90. Penalty for not making rules as required by section 47.
 91. Penalty for failure to comply with decision under section 48.
 92. Penalty for delay in submitting returns under section 52 or 53.
 93. Penalty for neglect of provisions of section 53 or 63 with respect to carrying capacity of rolling-stock.
 94. Penalty for failure to comply with requisition under section 62 for maintenance of means of communication between passengers and railway servants.
 95. Penalty for failure to reserve compartments for females under section 64.
 96. Penalty for omitting to give the notices of accidents required by section 83 and under section 84.
 97. Recovery of penalties.
 98. Alternative or supplementary character of remedies afforded by the foregoing provisions of this Chapter.
- Offences by Railway Servants.*
99. Breach of duty imposed by section 60.
 100. Drunkenness.
 101. Endangering the safety of persons.
 102. Compelling passengers to enter carriages already full.
 103. Omission to give notice of accident.
 104. Obstructing level-crossings.
 105. False returns.
- Other Offences.*
106. Giving false account of goods.
 107. Unlawfully bringing dangerous or offensive goods upon a railway.
 108. Needlessly interfering with means of communication in a train.
 109. Entering compartment reserved or already full or resisting entry into a compartment not full.
 110. Smoking.
 111. Defacing public notices.
 112. Fraudulently travelling or attempting to travel without proper pass or ticket.
 113. Travelling without pass or ticket or with insufficient pass or ticket or beyond authorised distance.
 114. Transferring return half of return ticket.
 115. Disposal of fines under the two last foregoing sections.
 116. Altering or defacing pass or ticket.
 117. Being or suffering person to travel on railway with infectious or contagious disorder.
 118. Entering carriage in motion, or otherwise improperly travelling on a railway.
 119. Entering carriage or other place reserved for females.
 120. Drunkenness or nuisance on a railway.
 121. Obstructing railway servant in his duty.
 122. Trespass and refusal to desist from trespass.
 123. Disobedience of omnibus drivers to directions of railway servants.
 124. Opening or not properly shutting gates.
 125. Cattle-trespass.
 126. Maliciously wrecking or attempting to wreck a train.
 127. Maliciously hurting or attempting to hurt persons travelling by railway.
 128. Endangering safety of persons travelling by railway by wilful act or omission.
 129. Endangering safety of persons travelling by railway by rash or negligent act or omission.

*The Indian Railways Act, 1890.**(Chapter I.—Preliminary.—Sections 1-8.)*

SECTIONS.

130. Special provision with respect to the commission by children of acts endangering safety of persons travelling by railway.

Procedure.

131. Arrest for offences against certain sections.

132. Arrest of persons likely to abscond or unknown.

133. Magistrates having jurisdiction under Act.

134. Place of trial.

CHAPTER X.

SUPPLEMENTAL PROVISIONS.

135. Taxation of railways by local authorities.

136. Restriction on execution against railway property.

137. Railway servants to be public servants for the purposes of Chapter LX of the Indian Penal Code.

138. Procedure for summary delivery to railway administration of property detained by a railway servant.

139. Mode of signifying communications from the Governor General in Council.

140. Service of notices on railway administrations.

141. Service of notices by railway administrations.

142. Presumption where notice is served by post.

143. Provisions with respect to rules.

144. Delegation of powers of Governor General in Council.

145. Representation of Managers and Agents of Railways in Courts.

146. Power to extend Act to steam-tramways.

147. Power to exempt railways from Act.

148. Matters supplemental to the definitions of "railway" and "railway servant."

149. Amendment of the Indian Penal Code.

150. Amendment of the Sindh-Pishin Railway Act, 1887.

THE FIRST SCHEDULE.—ENACTMENTS REPEALED.

THE SECOND SCHEDULE.—ARTICLES TO BE DECLARED AND INSURED.

An Act to consolidate, amend and add to the law relating to Railways in India.

WHEREAS it is expedient to consolidate, amend and add to the law relating to railways in India; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY

1. (1) This Act may be called the Indian Title, extent and commencement. Railways Act, 1890.

(2) It extends to the whole of British India, inclusive of Upper Burma and (in so far as it has been or may be extended under the provisions of the Sindh-Pishin Railway Act, 1887) of British Baluchistan, and applies also to all subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty, and to all Native subjects of Her Majesty without and beyond British India and those dominions; and

(3) It shall come into force on the first day of May 1890.

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

Repeal.

(2) But all rules, declarations and appointments made, sanctions and directions given, forms approved, powers conferred and notifications published under any of those enactments, or under any enactment repealed by any of them, shall, so far as they are consistent with this Act, be deemed to have been respectively made, given, approved, conferred and published under this Act.

(3) Any enactment or document referring to any of those enactments or to any enactment repealed by any of them, 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,—

Definitions.

(1) "tramway" means a tramway constructed under the Indian Tramways Act, 1886, or any XI of 1886, special Act relating to tramways:

(2) "ferry" includes a bridge of boats, pontoons or rafts, a swing-bridge, a flying bridge and a temporary bridge, and the approaches to, and landing-places of, a ferry:

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

(4) "railway" means a railway, or any portion of a railway, for the public carriage of passengers, animals or goods, and includes—

(a) all land within the fences or other boundary-marks indicating the limits of the land appurtenant to a railway;

(b) all lines of rails, sidings or branches worked over for the purposes of, or in connection with, a railway;

(c) all stations, offices, warehouses, wharves, workshops, manufactories, fixed plant and machinery and other works constructed for the purposes of, or in connection with, a railway; and

(d) all ferries, ships, boats and rafts which are used on inland waters for the purposes of the traffic of a railway and belong to or are hired or worked by the authority administering the railway:

(5) "railway company" includes any persons, whether incorporated or not, who are owners or lessees of a railway or parties to an agreement for working a railway:

(6) "railway administration" or "administration" in the case of a railway administered by the Government or a Native State, means the Manager of the railway and includes the Government or the Native State, and, in the case of a railway administered by a railway company, means the railway company.

(7) "railway servant" means any person employed by a railway administration in connection with the service of a railway.

The Indian Railways Act, 1890.

(Chapter II.—*Inspection of Railways.*—Sections 4-6. Chapter III.—*Construction and Maintenance of Works.*—Section 7.)

(8) "Inspector" means an Inspector of Railways appointed under this Act:

(9) "goods" includes inanimate things of every kind:

(10) "rolling-stock" includes locomotive engines, tenders, carriages, wagons, trucks and trollies of all kinds:

(11) "traffic" includes rolling-stock of every description as well as passengers, animals and goods:

(12) "through traffic" means traffic which is carried over the railways of two or more railway administrations:

(13) "rate" includes any fare, charge or other payment for the carriage of any passenger, animal or goods:

(14) "terminals" includes charges in respect of stations, sidings, wharves, depôts, warehouses, cranes and other similar matters, and of any services rendered thereat:

(15) "pass" means an authority given by a railway administration, or by an officer appointed by a railway administration in this behalf, and authorising the person to whom it is given to travel as a passenger on a railway gratuitously:

(16) "ticket" includes a single ticket, a return ticket and a season ticket:

(17) "maund" means a weight of three thousand two hundred tolas, each tola being a weight of one hundred and eighty grains Troy: and

(18) "Collector" means the chief officer in charge of the land-revenue administration of a district, and includes any officer specially appointed by the Local Government to discharge the functions of a Collector under this Act.

CHAPTER II.

INSPECTION OF RAILWAYS.

4. (1) The Governor General in Council may appoint persons, by name or by virtue of their office, to be Inspectors of Railways.

Appointment and duties of Inspectors.

(2) The duties of an Inspector of Railways shall be—

(a) to inspect railways with a view to determine whether they are fit to be opened for the public carriage of passengers, and to report thereon to the Governor General in Council as required by this Act;

(b) to make such periodical or other inspections of any railway or of any rolling-stock used thereon as the Governor General in Council may direct;

(c) to make inquiry under this Act into the cause of any accident on a railway;

(d) to perform such other duties as are imposed on him by this Act or any other enactment for the time being in force relating to railways.

5. An Inspector shall, for the purpose of any of the duties which he is required or authorised to perform under this Act, be deemed to be a public servant within the meaning of the Indian Penal Code, and, subject to the control of the Governor General in Council, shall for that purpose have the following powers, namely:—

Powers of Inspectors.

(a) to enter upon and inspect any railway or any rolling-stock used thereon;

(b) by an order in writing under his hand addressed to the railway administration, to require the attendance before him of any railway servant, and to require answers or returns to such inquiries as he thinks fit to make from such railway servant or from the railway administration;

(c) to require the production of any book or document belonging to or in the possession or control of any railway administration (except a communication between a railway company and its legal advisers) which it appears to him to be necessary to inspect.

6. A railway administration shall afford to the Inspector all reasonable facilities for performing the duties and exercising the powers imposed and conferred upon him by this Act.

Facilities to be afforded to Inspectors.

CHAPTER III.

CONSTRUCTION AND MAINTENANCE OF WORKS.

7. (1) Subject to the provisions of this Act Authority of railway and, in the case of im- administrations to ex- moveable property not cute all necessary works. belonging to the railway administration, to the provisions of any enactment for the time being in force for the acquisition of land for public purposes and for companies, and, subject also, in the case of a railway company, to the provisions of any contract between the company and the Government, a railway administration may, for the purpose of constructing a railway or the accommodation of other works connected therewith, and notwithstanding anything in any other enactment for the time being in force,—

(a) make or construct in, upon, across, under or over any lands, or any streets, hills, valleys, roads, railways or tramways or any rivers, canals, brooks, streams or other waters, or any drains, water-pipes, gas-pipes or telegraph lines, such temporary or permanent inclined planes, arches, tunnels, culverts, embankments, aqueducts, bridges, roads, ways, passages, conduits, drains, piers, cuttings and fences as the railway administration thinks proper;

(b) alter the course of any rivers, brooks, streams or water-courses, for the purpose of constructing and maintaining tunnels;

*The Indian Railways Act, 1890.**(Chapter III.—Construction and Maintenance of Works.—Sections 8-11.)*

bridges, passages or other works over or under them, and divert or alter, as well temporarily as permanently, the course of any rivers, brooks, streams or water-courses or any roads, streets or ways, or raise or sink the level thereof, in order the more conveniently to carry them over or under or by the side of the railway, as the railway administration thinks proper ;

- (c) make drains or conduits into, through or under any lands adjoining the railway for the purpose of conveying water from or to the railway ;
- (d) erect and construct such houses, warehouses, offices and other buildings and such yards, stations, wharves, engines, machinery, apparatus and other works and conveniences as the railway administration thinks proper ;
- (e) alter, repair or discontinue such buildings, works and conveniences as aforesaid or any of them, and substitute others in their stead ; and
- (f) do all other acts necessary for making, maintaining, altering or repairing and using the railway.

(2) The exercise of the powers conferred on a railway administration by sub-section (1) shall be subject to the control of the Governor General in Council.

8. A railway administration may, for the purpose of exercising the powers conferred upon it by this Act, alter the position of any pipe for the supply of gas, water or compressed air or the position of any electric wire or of any drain not being a main drain :

Alteration of pipes, wires and drains.

Provided that—

- (a) when the railway administration desires to alter the position of any such pipe, wire or drain it shall give reasonable notice of its intention to do so, and of the time at which it will begin to do so, to the local authority or company having control over the pipe, wire or drain, or, when the pipe, wire or drain is not under the control of a local authority or company, to the person under whose control the pipe, wire or drain is ;
- (b) a local authority, company or person receiving notice under proviso (a) may send a person to superintend the work, and the railway administration shall execute the work to the reasonable satisfaction of the person so sent and shall make arrangements for continuing during the execution of the work the supply of gas, water, compressed air or electricity or the maintenance of the drainage, as the case may be.

9. (1) The Governor General in Council may authorise any railway administration, in case of any slip or other accident

Temporary entry upon land for repairing or preventing accident.

happening or being apprehended to any cutting, embankment or other work under the control of the railway administration, to enter upon any lands adjoining its railway for the purpose of repairing or preventing the accident, and to do all such works as may be necessary for the purpose.

(2) In case of necessity the railway administration may enter upon the lands and do the works aforesaid without having obtained the previous sanction of the Governor General in Council, but in such a case shall, within seventy-two hours after such entry, make a report to the Governor General in Council, specifying the nature of the accident or apprehended accident, and of the works necessary to be done, and the power conferred on the railway administration by this subsection shall cease and determine if the Governor General in Council, after considering the report, considers that the exercise of the power is not necessary for the public safety.

10. (1) A railway administration shall do as little damage as possible in the exercise of the powers conferred by any of the three last foregoing sections, and compensation shall be paid for any damage caused by the exercise thereof.

(2) A suit shall not lie to recover such compensation, but in case of dispute the amount thereof shall, on application to the Collector, be determined and paid in accordance, so far as may be, with the provisions of sections 11 to 15, both inclusive, and sections 18 to 42, both inclusive, of the Land-acquisition Act, 1870, X of 1870. and the provisions of sections 57 and 58 of that Act shall apply to the award of compensation.

11. (1) A railway administration shall make and maintain the following accommodation works for the accommodation of the owners and occupiers of lands adjoining the railway, namely:—

- (a) such and so many convenient crossings, bridges, arches, culverts and passages over, under or by the sides of, or leading to or from, the railway as may, in the opinion of the Governor General in Council, be necessary for the purpose of making good any interruptions caused by the railway to the use of the lands through which the railway is made, and
- (b) all necessary arches, tunnels, culverts, drains, water-courses or other passages, over or under or by the sides of the railway, of such dimensions as will, in the opinion of the Governor General in Council, be sufficient at all times to convey water as freely from or to the lands lying near or affected by the railway as before the making of the railway, or as nearly so as may be.

(2) Subject to the other provisions of this Act the works specified in clauses (a) and (b) of sub-

The Indian Railways Act, 1890.

(Chapter III.—Construction and Maintenance of Works.—Sections 14—15.)

section (1) shall be made during or immediately after the laying out or formation of the railway over the lands traversed thereby and in such manner as to cause as little damage or inconvenience as possible to persons interested in the lands or affected by the works.

(3) The foregoing provisions of this section are subject to the following provisos, namely:—

- (a) a railway administration shall not be required to make any accommodation works in such a manner as would prevent or obstruct the working or using of the railway, or to make any accommodation works with respect to which the owners and occupiers of the lands have agreed to receive and have been paid compensation in consideration of their not requiring the works to be made;
- (b) save as hereinafter in this Chapter provided, a railway administration shall not, except on the requisition of the Governor General in Council, be compelled to defray the cost of executing any further or additional accommodation works for the use of the owners or occupiers of the lands after the expiration of ten years from the date on which the railway passing through the lands was first opened for public traffic;
- (c) where a railway administration has provided suitable accommodation for the crossing of a road or stream, and the road or stream is afterwards diverted by the act or neglect of the person having the control thereof, the administration shall not be compelled to provide other accommodation for the crossing of the road or stream.

(4) The Governor General in Council may appoint a time for the commencement of any work to be executed under sub-section (1), and if for fourteen days next after that time the railway administration fails to commence the work or, having commenced it, fails to proceed diligently to execute it in a sufficient manner, the Governor General in Council may execute it and recover from the railway administration the cost incurred by him in the execution thereof.

12. If an owner or occupier of any land affected by a railway considers

the works made under the last foregoing section to be insufficient for the commodious use of the land, or if the Local Government or a local authority desires to construct a public road or other work across, under or over a railway, he or it, as the case may be, may at any time require the railway administration to make at his or its expense such further accommodation works as he or it thinks necessary and are agreed to by the railway administration or as, in case of difference of opinion, may be authorized by the Governor General in Council.

13. The Governor General in Council may require that within a time to be specified in the requisition or within such further time as he may appoint in this behalf,—

- (a) boundary-marks or fences be provided or renewed by a railway administration for a railway or any part thereof and for roads constructed in connection therewith;
- (b) any works in the nature of a screen near to or adjoining the side of any public road constructed before the making of a railway be provided or renewed by a railway administration for the purpose of preventing danger to passengers on the road by reason of horses or other animals being frightened by the sight or noise of the rolling-stock moving on the railway;
- (c) suitable gates, chains, bars, stiles or hand-rails be erected or renewed by a railway administration at places where a railway crosses a public road on the level;
- (d) persons be employed by a railway administration to open and shut such gates, chains or bars.

14. (1) Where a railway administration has constructed a railway over and under bridges across a public road on the level, the Governor General in Council may at any time, if it appears to him necessary for the public safety, require the railway administration, within such time as he thinks fit, to carry the road either under or over the railway by means of a bridge or arch, with convenient ascents and descents and other convenient approaches, instead of crossing the road on the level, or to execute such other works as, in the circumstances of the case, may appear to the Governor General in Council to be best adapted for removing, or diminishing the danger arising from the level-crossing.

(2) The Governor General in Council may require, as a condition of making a requisition under sub-section (1), that the local authority, if any, which maintains the road shall undertake to pay the whole of the cost to the railway administration of complying with the requisition or such portion of the cost as the Governor General in Council thinks just.

Removal of trees dangerous to or obstructing the working of a railway.

15. (1) In either of the following cases, namely:—

- (a) where there is danger that a tree standing near a railway may fall on the railway so as to obstruct traffic,
- (b) when a tree obstructs the view of any fixed signal,

the railway administration may, with the permission of any Magistrate, fell the tree or deal with it in such other manner as will in the opinion

*The Indian Railways Act, 1890.**(Chapter IV.—Opening of Railways.—Sections 16—20.)*

of the railway administration avert the danger or remove the obstruction, as the case may be.

(2) In case of emergency the power mentioned in sub-section (1) may be exercised by a railway administration without the permission of a Magistrate.

(3) Where a tree felled or otherwise dealt with under sub-section (1) or sub-section (2) was in existence before the railway was constructed or the signal was fixed, any Magistrate may, upon the application of the persons interested in the tree, award to those persons such compensation as he thinks reasonable.

(4) Such an award, subject, where made in a presidency-town by any Magistrate other than the Chief Presidency Magistrate or where made elsewhere by any Magistrate other than the District Magistrate, to revision by the Chief Presidency Magistrate or the District Magistrate, as the case may be, shall be final.

(5) A Civil Court shall not entertain a suit to recover compensation for any tree felled or otherwise dealt with under this section.

CHAPTER IV.

OPENING OF RAILWAYS.

16. (1) A railway administration may, with the previous sanction of the Governor General in Council, use upon a railway locomotive engines or other motive power, and rolling-stock to be drawn or propelled thereby.

(2) But rolling-stock shall not be moved upon a railway by steam or other motive power until such general rules for the railway as may be deemed to be necessary have been made, sanctioned and published under this Act.

17. (1) Subject to the provisions of sub-section (2), a railway administration shall, one month at least before it intends to open any railway for the public carriage of passengers, give to the Governor General in Council notice in writing of its intention.

(2) The Governor General in Council may, in any case, if he thinks fit, reduce the period of, or dispense with, the notice mentioned in sub-section (1).

18. A railway shall not be opened for the public carriage of passengers until the Governor General in Council, or an Inspector empowered by the Governor General in Council in this behalf, has by order sanctioned the opening thereof for that purpose.

19. (1) The sanction of the Governor General in Council under the last foregoing section shall not be given until an Inspector has, after inspection of the railway, reported in writing to the Governor General in Council—

(a) that he has made a careful inspection of the railway and rolling-stock;

(b) that the moving and fixed dimensions prescribed by the Governor General in Council have not been infringed;

(c) that the weight of rails, strength of bridges, general structural character of the works, and the size of and maximum gross load upon the axles of any rolling-stock are such as have been prescribed by the Governor General in Council;

(d) that the railway is sufficiently supplied with rolling-stock;

(e) that general rules for the working of the railway when opened for the public carriage of passengers have been made, sanctioned and published under this Act; and

(f) that, in his opinion, the railway can be opened for the public carriage of passengers without danger to the public using it.

(2) If in the opinion of the Inspector the railway cannot be so opened without danger to the public using it, he shall state that opinion together with the grounds therefor to the Governor General in Council, and the Governor General in Council may thereupon order the railway administration to postpone the opening of the railway.

(3) An order under the last foregoing sub-section must set forth the requirements to be complied with as a condition precedent to the opening of the railway being sanctioned, and shall direct the postponement of the opening of the railway until those requirements have been complied with or the Governor General in Council is otherwise satisfied that the railway can be opened without danger to the public using it.

(4) The sanction given under this section may be either absolute or subject to such conditions as the Governor General in Council thinks necessary for the safety of the public.

(5) When sanction for the opening of a railway is given subject to conditions and the railway administration fails to fulfil those conditions, the sanction shall be deemed to be void and the railway shall not be worked or used until the conditions are fulfilled to the satisfaction of the Governor General in Council.

20. (1) The provisions of sections 17, 18 and 19 with respect to the opening of a railway shall extend to the opening of the works mentioned in sub-section (2) when those works form part of, or are directly connected with, a railway used for the public carriage of passengers and have been constructed after the inspection which preceded the first opening of the railway.

(2) The works referred to in sub-section (1) are additional lines of railway, deviation lines, stations, junctions and crossings on the level, and

The Indian Railways Act, 1890.

(Chapter IV.—Opening of Railways.—Sections 21-25.)

(Chapter V.—Railway Commissions and Traffic Facilities—Section 26.)

any alteration or re-construction materially affecting the structural character of any work to which the provisions of sections 17, 18 and 19 apply or are extended by this section.

21. When an accident has occurred resulting

Exceptional provision. in a temporary suspension of traffic, and either the original line and works have been rapidly restored to their original standard, or a temporary diversion has been laid for the purpose of restoring communication, the original line and works so restored, or the temporary diversion, as the case may be, may, in the absence of the Inspector, be opened for the public carriage of passengers, subject to the following conditions, namely:—

(a) that the railway servant in charge of the works undertaken by reason of the accident has certified in writing that the opening of the restored line and works, or of the temporary diversion, will not in his opinion be attended with danger to the public using the line and works or the diversion; and

(b) that notice by telegraph of the opening of the line and works or the diversion shall be sent, as soon as may be, to the Inspector appointed for the railway.

22. The Governor General in Council may

Power to make rules with respect to the opening of railways. make rules defining the cases in which, and in those cases the extent to which, the procedure prescribed in sections 17 to 20 (both inclusive) may be dispensed with.

23. (1) When, after inspecting any open rail-

Power to close an opened railway. way used for the public carriage of passengers, or any rolling-stock used thereon, an Inspector is of opinion that the use of the railway or of any specified rolling-stock will be attended with danger to the public using it, he shall state that opinion, together with the grounds therefor, to the Governor General in Council; and the Governor General in Council may thereupon order that the railway be closed for the public carriage of passengers, or that the use of the rolling-stock so specified be discontinued, or that the railway or the rolling-stock so specified be used for the public carriage of passengers on such conditions only as the Governor General in Council may consider necessary for the safety of the public.

(2) An order under sub-section (1) must set forth the grounds on which it is founded.

24. (1) When a railway has been closed under

Re-opening of a closed railway. the last foregoing section, it shall not be reopened for the public carriage of passengers until it has been inspected, and its re-opening sanctioned, in accordance with the provisions of this Act.

(2) When the Governor General in Council has ordered under the last foregoing section that

the use of any specified rolling-stock be discontinued, that rolling-stock shall not be used until an Inspector has reported that it is fit for use and the Governor General in Council has sanctioned its use.

(3) When the Governor General in Council has imposed under the last foregoing section any conditions with respect to the use of any railway or rolling-stock, those conditions shall be observed until they are withdrawn by the Governor General in Council.

25. (1) The Governor General in Council may, by general or special order, authorise the

Delegation of powers under this Chapter to Inspectors. discharge of any of his functions under this Chapter by an Inspector, and may cancel any sanction or order given by an Inspector discharging any such function or attach thereto any condition which the Governor General in Council might have imposed if the sanction or order had been given by himself.

(2) A condition imposed under sub-section (1) shall for all the purposes of this Act have the same effect as if it were attached to a sanction or order given by the Governor General in Council.

CHAPTER V.

RAILWAY COMMISSIONS AND TRAFFIC FACILITIES.

Railway Commissions.

26. (1) For the purposes of this Chapter the Constitution of Railway Commission. Governor General in Council shall, as occasion may in his opinion require, appoint a commission, styled a Railway Commission (in this Act referred to as the Commissioners) and consisting of one Law Commissioner and two Lay Commissioners.

(2) The Commissioners shall sit at such times and in such places as the Governor General in Council appoints.

(3) The Law Commissioner shall be such Judge of the High Court having jurisdiction in reference to European British subjects under the Code of Criminal Procedure, 1882, in the place X of 188 where the Commissioners are to sit as, in the case of a High Court established under the Statute 24 and 25 Victoria, chapter 104, the Chief Justice or, in the case of the Chief Court of the Punjab, the Senior Judge or, in the case of the Court of the Recorder of Bangoon, the Chief Commissioner of Burma may, on the request of the Governor General in Council, assign by writing under his hand.

(4) The Lay Commissioners shall be appointed by the Governor General in Council, and one at least of them shall be of experience in railway business.

*The Indian Railways Act, 1890.**(Chapter V.—Railway Commissions and Traffic Facilities.—Sections 27-36).*

27. The Commissioners shall take cognizance of such cases only as are referred to them by the Governor General in Council.

Restriction of jurisdiction of Railway Commission to cases specially referred.

Reference of cases to Railway Commission.

28. In any of the following circumstances, namely:—

(a) where complaint is made to the Governor General in Council of anything done or any omission made by a railway administration in violation or contravention of any provision of this Chapter;

(b) where any difference which is under the provisions of any agreement required or authorised to be referred to arbitration arises between railway administrations, and the railway administrations apply to the Governor General in Council to have it referred to the Commissioners;

(c) where any other difference, being a difference between railway administrations or one to which a railway administration is a party, arises, and the parties thereto apply to the Governor General in Council to have it referred to the Commissioners;

the Governor General in Council may, if he thinks fit, refer the case to the Commissioners for decision.

29. The three Commissioners shall attend at the hearing of any case referred to them for decision under this Chapter, and the Law Commissioner shall preside at the hearing.

30 (1) In hearing any such case the Commissioners shall have all the powers which may be exercised in the hearing of an original civil suit by a High Court.

(2) The decision shall, if the Commissioners differ in opinion, be in accordance with the opinion of the majority, and the final order in the case shall be by way of injunction and not otherwise.

(3) At the hearing the Commissioners may permit any party to appear before them either by himself or by any legal practitioner entitled to practise in any High Court.

31. (1) An appeal shall not lie from any order of the Commissioners upon any question of fact on which two of the Commissioners are agreed.

(2) Subject to the provisions of sub-section (1), an appeal shall lie from an order of the Commissioners—

(a) where the Law Commissioner was the Recorder or Additional Recorder of Rangoon, to the High Court of Judicature at Fort William in Bengal, and

(b) in any other case, to the High Court of which the Law Commissioner was a member.

(3) Such an appeal must be presented within six months from the date of the order appealed from, and shall be heard by a bench of as many Judges, not being fewer than three, as the High Court may by rule prescribe.

(4) In the hearing of the appeal the High Court shall, subject to the other provisions of this Chapter, have all the powers which it has as an Appellate Court under the Code of Civil Procedure, and may make any order which the Commissioners could have made.

32. Notwithstanding any appeal to the High Court from an order of the Commissioners, the order shall, unless the Commissioners or the majority of them see fit to suspend it, continue in operation until it is reversed or varied by that Court.

33. (1) The Commissioners, in the exercise of their jurisdiction under this Chapter, may from time to time, with the general or special sanction of the Governor General in Council, call in one or more persons of engineering or other technical knowledge to act as assessors.

(2) There shall be paid to such persons such remuneration as the Governor General in Council upon the recommendation of the Commissioners may direct.

34. The Governor General in Council may make rules regulating proceedings before the Commissioners and enabling the Commissioners to carry into effect the provisions of this Chapter and prescribing fees to be taken in relation to proceedings before the Commissioners.

35. The costs of and incidental to any proceedings before the Commissioners or the High Court under this Chapter shall be in the discretion of the Commissioners or the High Court, as the case may be, and the payment of costs awarded by the Commissioners may be enforced by the Court of which the Law Commissioner was a Judge as if the payment had been ordered by a decree of a High Court.

36. (1) The Court of which the Law Commissioner was a Judge may, if it appears on the application of any person who was a party to the proceedings before the Commissioners or on

The Indian Railways Act, 1890.

(Chapter V.—Railway Commissions and Traffic Facilities.—Sections 37-42).

appeal before the High Court, or of the representative of any such person, that an injunction made under this Chapter by the Commissioners or by a High Court has not been obeyed by the party enjoined, order such party to pay a sum not exceeding one thousand rupees for every day during which the injunction is disobeyed after the date of the order directing such payment.

(2) The payment of such sum may be enforced by the Court which made the order as if that Court had given a decree for the same, and the Court may direct that the whole or any part of the sum shall be paid to the person making the application under sub-section (1) or to the Government.

37. A document purporting to be signed by the Commissioners, or any of them, shall be received in evidence without proof of the signature, and shall, until the contrary is proved, be deemed to have been so signed and to have been duly executed or issued by the Commissioners.

38. The Commissioners shall, as soon as may be after the disposal of each case referred to them, submit to the Governor General in Council a special report on the case, and the Governor General in Council shall cause the report to be published in such manner as he thinks fit, for the information of persons interested in the subject-matter thereof.

39. Except for the purpose of the last foregoing section, a Railway Commission shall be deemed to be dissolved at the close of the last of the sittings of the Commissioners for the decision of the cases referred to them:

Provided that, on the application of any person who was a party to the proceedings before the Commissioners, or of the representative of any such person, the Governor General in Council may, if he thinks fit, in any case in which the order passed by the Commissioners is not open to appeal, re-appoint the Commissioners for the purpose of hearing an application for a review of their decision and of granting the same and re-hearing the case if they think that the case should be re-heard.

40. Subject to the foregoing provisions of this Chapter and to any direction of Her Majesty in Council, an order of the Commissioners shall be final and shall not be questioned in or restrained by any Court.

41. Except as provided in this Act, no suit shall be instituted or proceeding taken for anything done or any omission made by a railway administration in violation or contravention of any provision of

this Chapter or of any order made thereunder by the Commissioners or by a High Court.

Traffic Facilities.

42. (1) Every railway administration shall, according to its powers, afford all reasonable facilities for the receiving, forwarding and delivering of traffic upon and from the several railways belonging to or worked by it and for the return of rolling-stock.

(2) A railway administration shall not make or give any undue or unreasonable preference or advantage to or in favour of any particular person or railway administration, or any particular description of traffic, in any respect whatsoever, or subject any particular person or railway administration or any particular description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

(3) A railway administration having or working railways which form part of a continuous line of railway communication, or having its terminus or station within one mile of the terminus or station of another railway administration, shall afford all due and reasonable facilities for receiving and forwarding by one of such railways all the traffic arriving by the other at such terminus or station, without any unreasonable delay, and without any such preference or advantage or prejudice or disadvantage as aforesaid, and so that no obstruction may be offered to the public desirous of using such railways as a continuous line of communication, and so that all reasonable accommodation may be means of such railways be at all times afforded to the public in that behalf.

(4) The facilities to be afforded under this section shall include the due and reasonable receiving, forwarding and delivering by every railway administration, at the request of any other railway administration, of through traffic to and from the railway of any other railway administration at through rates:

Provided as follows:—

- (a) the railway administration requiring the traffic to be forwarded shall give written notice of the proposed through rate to each forwarding railway administration, stating both its amount and its apportionment and the route by which the traffic is proposed to be forwarded. The proposed through rate for animals or goods may be per truck or per maund;
- (b) each forwarding railway administration shall, within the prescribed period after the receipt of such notice, by written notice inform the railway administration requiring the traffic to be forwarded whether it agrees to the rate, apportionment and route, and if it has any objection, what the grounds of the objection are;
- (c) if at the expiration of the prescribed period no such objection has been sent by any forwarding railway administration, the rate shall come into operation at the expiration of that period;

The Indian Railways Act, 1890.

(Chapter V.—*Railway Commissions and Traffic Facilities.*—Sections 43-46.)
(Chapter VI.—*Working of Railways.*—Section 47.)

- (d) if an objection to the rate, apportionment or route, has been sent within the prescribed period, the Governor General in Council may, if he thinks fit, on the request of any of the railway administrations, refer the case to the Commissioners for their decision;
- (e) if the objection is to the granting of the rate or to the route, the Commissioners shall consider whether the granting of the rate is a due and reasonable facility in the interests of the public, and whether, regard being had to the circumstances, the route proposed is a reasonable route, and shall allow or refuse the rate accordingly or fix such other rate as may seem to the Commissioners to be just and reasonable;
- (f) if the objection is only to the apportionment of the rate, and the case has been referred to the Commissioners, the rate shall come into operation at the expiration of the prescribed period, but the decision of the Commissioners as to its apportionment shall be retrospective: in the case of any other objection the operation of the rate shall be suspended until the Commissioners make their order in the case;
- (g) the Commissioners in apportioning the through rate shall take into consideration all the circumstances of the case, including any special expense incurred in respect of the construction, maintenance or working of the route or any part of the route, as well as any special charges which any railway administration is entitled to make in respect thereof;
- (h) the Commissioners shall not in any case compel any railway administration to accept lower mileage rates than the mileage rates which the administration may for the time being legally be charging for like traffic carried by a like mode of transit on any other line of communication between the same points, being the points of departure and arrival of the through route;
- (i) Subject to the foregoing provisions of this sub-section, the Commissioners shall have full power to decide that any proposed through rate is due and reasonable, notwithstanding that a less amount may be allotted to any forwarding railway administration out of the through rate than the maximum rate which the railway administration is entitled to charge, and to allow and apportion the through rate accordingly;
- (j) the prescribed period mentioned in this sub-section shall be one month, or such longer period as the Governor General in Council may by general or special order prescribe.

43. (1) Whenever it is shown that a railway administration charges one trader or class of traders or the traders in any local area lower rates for the same or similar animals or goods or lower rates for the same or similar services, than it charges to other traders or classes of traders, or to the traders in another local area, the burden of proving that such lower charge does not amount to an undue preference shall lie on the railway administration.

(2) In deciding whether a lower charge does or does not amount to an undue preference, the Commissioners may, so far as they think reasonable, in addition to any other considerations affecting the case, take into consideration whether such lower charge is necessary for the purpose of securing, in the interests of the public, the traffic in respect of which it is made.

44. Where a railway administration is a party to an agreement for procuring the traffic of the railway to be carried on any inland water by any ferry, ship, boat or raft which does not belong to or is not hired or worked by the railway administration, the provisions of the two last foregoing sections applicable to a railway shall extend to the ferry, ship, boat or raft in so far as it is used for the purposes of the traffic of the railway.

45. A railway administration may charge reasonable terminals.

46. (1) The Governor-General in Council may, if he thinks fit, refer to the Commissioners for decision any question or dispute which may arise with respect to the terminals charged by a railway administration, and the Commissioners may thereupon decide what is a reasonable sum to be paid to the railway administration in respect of terminals.

(2) In deciding the question or dispute the Commissioners shall have regard only to the expenditure reasonably necessary to provide the accommodation in respect of which the terminals are charged, irrespective of the outlay which may have been actually incurred by the railway administration in providing that accommodation.

CHAPTER VI.

WORKING OF RAILWAYS.

General.

47. (1) Every railway company and, in the case of a railway administered by the Government, an officer to be appointed by the Governor General in Council in this behalf, shall make general rules consistent with this Act for the following purposes, namely:—

The Indian Railways Act, 1890.

(Chapter VI.—Working of Railways.—Sections 43-50).

- (a) for regulating the mode in which, and the speed at which, rolling-stock used on the railway is to be moved or propelled;
- (b) for providing for the accommodation and convenience of passengers and regulating the carriage of their luggage;
- (c) for declaring what shall be deemed to be, for the purposes of this Act, dangerous or offensive goods, and for regulating the carriage of such goods;
- (d) for regulating the conditions on which the railway administration will carry passengers suffering from infectious or contagious disorders, and providing for the disinfection of carriages which have been used by such passengers;
- (e) for regulating the conduct of the railway servants;
- (f) for regulating the terms and conditions on which the railway administration will warehouse or retain goods at any station on behalf of the consignee or owner; and,
- (g) generally, for regulating the travelling upon, and the use, working and management of, the railway.

(8) The rules may provide that any person committing a breach of any of them shall be punished with fine which may extend to any sum not exceeding fifty rupees, and that, in the case of a rule made under clause (e) of sub-section (1), the railway servant shall forfeit a sum not exceeding one month's pay, which sum may be deducted by the railway administration from his pay.

(3) A rule made under this section shall not take effect until it has received the sanction of the Governor General in Council and been published in the Gazette of India:

Provided that, where the rule is in the terms of a rule which has already been published at length in the Gazette of India, a notification in that Gazette referring to the rule already published and announcing the adoption thereof shall be deemed a publication of a rule in the Gazette of India within the meaning of this sub-section.

(4) The Governor General in Council may cancel any rule made under this section, and the authority required by sub-section (1) to make rules thereunder may at any time, with the previous sanction of the Governor General in Council, rescind or vary any such rule.

(5) Every rule purporting to have been made for any railway under section 8 of the Indian Railway Act, 1879, and appearing from the Gazette of India to be intended to apply to the railway at the commencement of this Act, shall, notwithstanding any irregularity in the making or publication of the rule, be deemed to have been made and to have taken effect under this section.

(6) Every railway administration shall keep at each station on its railway a copy of the gene-

ral rules for the time being in force under this section on the railway, and shall allow any person to inspect it free of charge at all reasonable times.

43. Where two or more railway administrations whose railways have a common terminus or a portion of the same line of rails in common, or form separate portions of one continued line of railway communication, are not able to agree upon arrangements for conducting at such common terminus, or at the point of junction between them, their joint traffic with safety to the public, the Governor General in Council, upon the application of either or any of the administrations, may decide the matters in dispute between them, so far as those matters relate to the safety of the public, and may determine whether the whole or what proportion of the expenses attending on such arrangements shall be borne by either or any of the administrations respectively.

44. Any railway company, not being a company for which the Statute 42 and 43 Victoria chapter 41, provides, may from time to time make and carry into effect agreements with the Governor General in Council for the construction of rolling-stock, plant or machinery used on, or in connection with, railways, or for leasing or taking on lease any rolling-stock, plant, machinery or equipments required for use on a railway, or for the maintenance of rolling-stock.

45. Any railway company, not being a company for which the Statute 42 and 43 Victoria, chapter 41, provides, may from time to time make with the Governor General in Council, and carry into effect, or with the sanction of the Governor General in Council, make with any other railway administration, and carry into effect, any agreement with respect to any of the following purposes, namely:—

- (a) the working, use, management and maintenance of any railway;
- (b) the supply of rolling-stock and machinery necessary for any of the purposes mentioned in clause (a) and of officers and servants for the conduct of the traffic of the railway;
- (c) the payments to be made and the conditions to be performed with respect to such working, use, management and maintenance;
- (d) the interchange, accommodation and conveyance of traffic being on, coming from or intended for the respective, railways of the contracting parties, and the fixing, collecting, apportionment and appropriation of the revenues arising from that traffic;

The Indian Railways Act, 1890.

(Chapter VI.—Working of Railways.—Sections 51-55.)

(e) generally, the giving effect to any such provisions or stipulations with respect to any of the purposes hereinbefore in this section mentioned as the contracting parties may think fit and mutually agree on :

Provided that the agreement shall not affect any of the rates which the railway administrations parties thereto are from time to time respectively authorised to demand and receive from any person, and that every person shall, notwithstanding the agreement, be entitled to the use and benefit of the railways of any railway administrations, parties to the agreement, on the same terms and conditions, and on payment of the same rates as he would be if the agreement had not been entered into.

51. Any railway company, not being a company for which the Statute 42 and 43 Victoria, chapter 41, provides, may from time to time exercise with the sanction of the Governor General in Council all or any of the following powers, namely:—

- (a) it may establish, for the accommodation of the traffic of its railway, any ferry equipped with machinery and plant of good quality and adequate in quantity to work the ferry;
- (b) it may work for purposes other than the accommodation of the traffic of the railway any ferry established by it under this section;
- (c) it may provide and maintain on any of its bridges roadways for foot-passengers, cattle, carriages, carts or other traffic;
- (d) it may construct and maintain roads for the accommodation of traffic passing to or from its railway;
- (e) it may provide and maintain any means of transport which may be required for the reasonable convenience of passengers, animals or goods carried or to be carried on its railway;
- (f) it may charge tolls on the traffic using such ferries, roadways, roads or means of transport as it may provide under this section, according to tariffs to be arranged from time to time with the sanction of the Governor General in Council.

52. Every railway administration shall, in forms to be prescribed by the Governor General in Council, prepare, half-yearly or at such intervals as the Governor General in Council may prescribe, such returns of its capital and revenue transactions and of its traffic as the Governor General in Council may require, and shall forward a copy of such returns to the Governor General in Council at such times as he may direct.

Carriage of Property.

53. (1) Every railway administration shall determine the maximum load for every wagon or truck in its possession, and shall exhibit the words or figures representing the load so determined in a conspicuous manner on the outside of every such wagon or truck.

(2) Every person owning a wagon or truck which passes over a railway shall similarly determine and exhibit the maximum load for the wagon or truck.

(3) The gross weight of any such wagon or truck bearing on the axles when the wagon or truck is loaded to such maximum load shall not exceed such limit as may be fixed by the Governor General in Council for the class of axle under the wagon or truck.

54. (1) Subject to the control of the Governor General in Council, a railway administration may impose conditions, not inconsistent with this Act or with any general rule thereunder, with respect to the receiving, forwarding or delivering of any animals or goods.

(2) The railway administration shall keep at each station on its railway a copy of the conditions for the time being in force under subsection (1) at the station, and shall allow any person to inspect it free of charge at all reasonable times.

(3) A railway administration shall not be bound to carry any animal suffering from any infectious or contagious disorder.

55. (1) If a person fails to pay, on demand made by or on behalf of a railway administration any rate, terminal or other charge due from him in respect of any animals or goods, the railway administration may detain the whole or any of the animals or goods, or, if they have been removed from the railway, any other animals or goods of such person then being in or thereafter coming into its possession.

(2) When any animals or goods have been detained under subsection (1), the railway administration may sell by public auction, in the case of perishable goods at once, and in the case of other goods or of animals on the expiration of at least fifteen days' notice of the intended auction, published in one or more of the local newspapers or where there are no such newspapers, in such manner as the Governor General in Council may prescribe, sufficient of such animals or goods to produce a sum equal to the charge and all expenses of such detention, notice and sale, including, in the case of animals, the expenses of the feeding, watering and tending thereof.

(3) Out of the proceeds of the sale the railway administration may retain a sum equal to the

The Indian Railways Act, 1890.

(Chapter VI.—Working of Railways.—Sections 56-59.)

charge and the expenses aforesaid, rendering the surplus, if any, of the proceeds, and such of the animals or goods (if any) as remain unsold, to the person entitled thereto.

(4) If a person on whom a demand for any rate, terminal or other charge due from him has been made fails to remove from the railway within a reasonable time any animals or goods which have been detained under sub-section (1), or any animals or goods which have remained unsold after a sale under sub-section (2), the railway administration may sell the whole of them and dispose of the proceeds of the sale as nearly as may be under the provisions of sub-section (3).

(5) Notwithstanding anything in the foregoing sub-sections, the railway administration may recover by suit any such rate, terminal or other charge as aforesaid or balance thereof.

56. (1) When any animals or goods have come into the possession of a railway administration for carriage or otherwise and are not claimed by the owner or other person appearing to the railway administration to be entitled thereto, the railway administration shall, if such owner or person is known, cause a notice to be served upon him requiring him to remove the animals or goods.

(2) If such owner or person is not known, or the notice cannot be served upon him, or he does not comply with the requisition in the notice, the railway administration may within a reasonable time, subject to the provisions of any other enactment for the time being in force, sell the animals or goods as nearly as may be under the provisions of the last foregoing section, rendering the surplus, if any, of the proceeds of the sale to any person entitled thereto.

57. Where any animals, goods or sale-proceeds in the possession of a railway administration are claimed by two or more persons or the ticket or receipt given for the animals or goods is not forthcoming, the railway administration may withhold delivery of the animals, goods or sale-proceeds until the person entitled in its opinion to receive them has given an indemnity, to the satisfaction of the railway administration, against the claims of any other person with respect to the animals, goods or sale-proceeds.

58. (1) The owner or person having charge of any goods which are brought upon a railway for the purpose of being carried thereon, and the consignee of any goods which have been carried on a railway, shall, on the request of any railway servant appointed in this behalf by the railway administration, deliver to such servant an account in writing signed by such owner or person,

or by such consignee, as the case may be, and containing such a description of the goods as may be sufficient to determine the rate which the railway administration is entitled to charge in respect thereof.

(2) If such owner, person or consignee refuses or neglects to give such an account, and refuses to open the parcel or package containing the goods in order that their description may be ascertained, the railway administration may, (a) in respect of goods which have been brought for the purpose of being carried on the railway, refuse to carry the goods unless in respect thereof a rate is paid not exceeding the highest rate which may be in force at the time on the railway for any class of goods or, (b) in respect of goods which have been carried on the railway, charge a rate not exceeding such highest rate. ||

(3) If an account delivered under sub-section (1) is materially false with respect to the description of any goods to which it purports to relate, and which have been carried on the railway, the railway administration may charge in respect of the carriage of the goods a rate not exceeding double the highest rate which may be in force at the time on the railway for any class of goods.

(4) If any difference arises between a railway servant and the owner or person having charge, or the consignee, of any goods which have been brought to be carried or have been carried on a railway respecting the description of goods of which an account has been delivered under this section, the railway servant may detain and examine the goods.

(5) If it appears from the examination that the description of the goods is different from that stated in an account delivered under sub-section (1), the person who delivered the account, or, if that person is not the owner of the goods, then that person and the owner jointly and severally, shall be liable to pay to the railway administration the cost of the detention and examination of the goods, and the railway administration shall be exonerated from all responsibility for any loss which may have been caused by the detention or examination thereof.

(6) If it appears that the description of the goods is not different from that stated in an account delivered under sub-section (1), the railway administration shall pay the cost of the detention and examination and be responsible to the owner of the goods for any such loss as aforesaid.

59. (1) No person shall be entitled to take with him, or to require a railway administration to carry, any dangerous or offensive goods upon a railway.

(2) No person shall take any such goods with him upon a railway without giving notice of their nature to the station-master or other rail-

Requisitions for written accounts of description of goods.

15

*The Indian Railways Act, 1890.**(Chapter VI.—Working of Railways.—Sections 60-66.)*

way servant in charge of the place where he brings the goods upon the railway, or shall tender or deliver any such goods for carriage upon a railway without distinctly marking their nature on the outside of the package containing them or otherwise giving notice in writing of their nature to the railway servant to whom he tenders or delivers them.

(3) Any railway servant may refuse to receive such goods for carriage and, when such goods have been so received without such notice as is mentioned in sub-section (1) having to his knowledge been given, may refuse to carry them or may stop their transit.

(4) If any railway servant has reason to believe any such goods to be contained in a package with respect to the contents whereof such notice as is mentioned in sub-section (3) has not to his knowledge been given, he may cause the package to be opened for the purpose of ascertaining its contents.

IV of 1884.

(5) Nothing in this section shall be construed to derogate from the Indian Explosives Act, 1884, or any rule under that Act, and nothing in sub-sections (1), (3) and (4) shall be construed to apply to any goods tendered or delivered for carriage by order or on behalf of the Government or to any goods which an officer, soldier, sailor or police-officer or a person enrolled as a volunteer under the Indian Volunteers Act, 1869, may take with him upon a railway in the course of his employment or duty as such.

XX of 1869.

× 60. At every station at which a railway administration quotes a rate to any other station for the carriage of traffic other than passengers and their luggage, the railway servant appointed by the administration to quote the rate shall, at the request of any person, show to him at all reasonable times, and without payment of any fee, the rate-books or other documents in which the rate is authorised by the administration or administrations concerned.

× 61. (1) Where any charge is made by and paid to a railway administration in respect of the carriage of goods over its railway, the administration shall, on the application of the person by whom or on whose behalf the charge has been paid, render to the applicant an account showing how much of the charge comes under each of the following heads, namely:—

- (a) the carriage of the goods on the railway;
- (b) terminals;
- (c) demurrage; and
- (d) collection, delivery and other expenses;

but without particularising the several items of which the charges under each head consists.

(2) The application under sub-section (1) must be in writing and be made to the railway administration within one month after the date of the

payment of the charge by or on behalf of the applicant, and the account must be rendered by the administration within two months after the receipt of the application.

Carriage of Passengers.

× 62. The Governor General in Council may require any railway administration to provide and maintain in proper order, in any train worked by it which carries passengers, such efficient means of communication between the passengers and the railway servants in charge of the train as the Governor General in Council has approved.

× 63. Every railway administration shall fix, subject to the approval of the Governor General in Council, the maximum number of passengers which may be carried in each compartment of every description of carriage, and shall exhibit the number so fixed in a conspicuous manner inside or outside each compartment, in English or in one or more of the vernacular languages in common use in the territory traversed by the railway, or both in English and in one or more of such vernacular languages, as the Governor General in Council, after consultation with the railway administration, may determine.

× 64. (1) On and after the first day of January 1891 every railway administration shall in every train carrying passengers reserve for the exclusive use of females one compartment at least of the lowest class of carriage forming part of the train.

(2) One such compartment so reserved shall, if the train is to run for a distance exceeding fifty miles, be provided with a closet.

× 65. Every railway administration shall cause to be posted in a conspicuous and accessible place at every station on its railway, in English and in a vernacular language in common use in the territory where the station is situated, a copy of the time-tables for the time being in force on the railway, and lists of the fares chargeable for travelling from the station where the lists are posted to every place for which card-tickets are ordinarily issued to passengers at that station.

66. (1) Every person desirous of travelling on a railway shall, upon payment of his fare, be supplied with a ticket, specifying the class of carriage for which, and the place from and the place to which, the fare has been paid, and the amount of the fare.

(2) The matters required by sub-section (1) to be specified on a ticket shall be set forth—

- (a) if the class of carriage to be specified thereon is the lowest class, then in a verna-

The Indian Railways Act, 1890.

(Chapter VI.—Working of Railways.—Sections 67-71. Chapter VII.—Responsibility of Railway Administrations as Carriers.—Sections 72-73.)

cular language in common use in the territory traversed by the railway, and

- (b) if the class of carriage to be so specified is any other than the lowest class, then in English.

67. (1) Fares shall be deemed to be accepted, and tickets to be issued, subject to the condition of there being room available in the train for which the tickets are issued.

Provision for case in which tickets have been issued for trans not having room available for additional passengers.

(2) A person to whom a ticket has been issued shall on returning the ticket within three hours after the departure of the train be entitled to have his fare at once refunded.

(3) A person for whom there is not room available in the class of carriage for which he has purchased a ticket and who is obliged to travel in a carriage of a lower class shall be entitled on delivering up his ticket to a refund of the difference between the fare paid by him and the fare payable for the class of carriage in which he travelled.

68. No person shall, without the permission of a railway servant, enter any carriage or a railway way for the purpose of travelling therein as a passenger unless he has with him a proper pass or ticket.

69. Every passenger by railway shall, on the requisition of any railway servant appointed by the railway administration in this behalf, present his pass or ticket to the railway servant for examination, and at or near the end of the journey for which the pass or ticket was issued or, in the case of a season pass or ticket, at the expiration of the period for which it is current, deliver up the pass or ticket to the railway servant.

70. A return ticket or season ticket shall not be transferable and may be used only by the person for whose journey to and from the places specified thereon it was issued.

71. (1) A railway administration may refuse to carry, except in accordance with the conditions prescribed under section 47, sub-section (1), clause (d), a person suffering from any infectious or contagious disorder.

(2) A person suffering from such a disorder shall not enter or travel upon a railway without the special permission of the station-master or other railway servant in charge of the place where he enters upon the railway.

(3) A railway servant giving such permission as is mentioned in sub-section (2) must arrange

for the separation of the person suffering from the disorder from other persons being or travelling upon the railway.

CHAPTER VII.

RESPONSIBILITY OF RAILWAY ADMINISTRATIONS AS CARRIERS

72. (1) The responsibility of a railway administration for the loss, destruction or deterioration of animals or goods delivered to the administration to be carried by railway shall, subject to the other provisions of this Act, be that of a bailee under sections 151, 152 and 161 of the Indian Contract Act, 1872.

(2) An agreement purporting to limit that responsibility shall, in so far as it purports to effect such limitation, be void unless it—

(a) is in writing signed by or on behalf of the person sending or delivering to the railway administration the animals or goods, and

(b) is otherwise in a form approved by the Governor General in Council.

(3) Nothing in the common law of England or in the Carriers Act, 1865, regarding the responsibility of common carriers with respect to the carriage of animals or goods, shall affect the responsibility as in this section defined of a railway administration.

73. (1) The responsibility of a railway administration under the last foregoing section for the loss, destruction or deterioration of animals delivered to the administration to be carried on a railway shall not in any case exceed, in the case of elephants or horses, five hundred rupees a head or, in the case of camels or horned cattle, fifty rupees a head or, in the case of sheep, goats, dogs or other animals, ten rupees a head, unless the person sending or delivering them to the administration caused them to be declared, or declared them, at the time of their delivery for carriage by railway to be respectively of higher value than five hundred, fifty or ten rupees a head, as the case may be.

(2) Where such higher value has been declared, the railway administration may charge, in respect of the increased risk, a percentage upon the excess of the value so declared over the respective sums aforesaid.

(3) In every proceeding against a railway administration for the recovery of compensation for the loss, destruction or deterioration of any animal the burden of proving the value of the animal and, where the animal has been injured, the extent of the injury shall lie upon the person claiming the compensation.

IX of 1872.

III of 1865.

The Indian Railways Act, 1890.

(Chapter VII.—Responsibility of Railway Administrations as Carriers.—Sections 74—82.)

74. A railway administration shall not be responsible for the loss, destruction or deterioration of any luggage belonging to or in charge of a passenger unless a railway servant has booked and given a receipt therefor.

75. (1) When any articles mentioned in the second schedule are contained in any parcel or package delivered to a railway administration for carriage by railway, and the value of such articles in the parcel or package exceeds one hundred rupees, the railway administration shall not be responsible for the loss, destruction or deterioration of the parcel or package unless the person sending or delivering the parcel or package to the administration caused its value and contents to be declared or declared them at the time of the delivery of the parcel or package for carriage by railway, and, if so required by the administration, paid or engaged to pay a percentage on the value so declared by way of compensation for increased risk.

(2) When any parcel or package of which the value has been declared under sub-section (1) has been lost or destroyed or has deteriorated, the compensation recoverable in respect of such loss, destruction or deterioration shall not exceed the value so declared, and the burden of proving the value so declared to have been the true value shall, notwithstanding anything in the declaration, lie on the person claiming the compensation.

(3) A railway administration may make it a condition of carrying a parcel declared to contain any article mentioned in the second schedule that a railway servant authorised in this behalf has been satisfied by examination or otherwise that the parcel actually contains the article declared to be therein.

76. In any suit against a railway administration for compensation for loss, destruction or deterioration of animals or goods delivered to a railway administration for carriage by railway, it shall not be necessary for the plaintiff to prove how the loss, destruction or deterioration was caused.

77. A person shall not be entitled to a refund of an overcharge in respect of animals or goods carried by railway or to compensation for the loss, destruction or deterioration of animals or goods delivered to be so carried, unless his claim to the refund or compensation has been preferred in writing by him or on his behalf to the railway administration within six months from the date of the delivery of the animals or goods for carriage by railway.

78. Notwithstanding anything in the foregoing provisions of this Chapter, a railway administration shall not be responsible for the loss, destruction or deterioration of any goods with respect to the description of which an account materially false has been delivered under sub-section (1) of section 58 if the loss, destruction or deterioration is in any way brought about by the false account, nor in any case for an amount exceeding the value of the goods if such value were calculated in accordance with the description contained in the false account.

79. Where an officer, soldier or follower while being or travelling as such on duty upon a railway belonging to, and worked by, the Government, loses his life or receives any personal injury in such circumstances that if he were not an officer, soldier or follower being or travelling as such on duty upon the railway compensation would be payable under Act No. XIII of 1855 or to him, as the case may be, the form and amount of the compensation to be made in respect of the loss of his life or his injury shall, where there is any provision in this behalf in the military regulations to which he was immediately before his death, or is, subject, be determined in accordance with those regulations, and not otherwise.

80. Notwithstanding anything in any agreement purporting to limit the liability of a railway administration with respect to traffic while on the railway of another administration, a suit for compensation for loss of the life of, or personal injury to, a passenger, or for loss, destruction or deterioration of animals or goods, where the passenger was or the animals or goods were booked through over the railways of two or more railway administrations, may be brought either against the railway administration from which the passenger obtained his pass or purchased his ticket or to which the animals or goods were delivered by the consignor thereof, as the case may be, or against the railway administration on whose railway the loss, injury destruction or deterioration occurred.

81. Where a railway administration under contract to carry animals or goods by inland water procures the same to be carried in a vessel which is not a railway as defined in this Act, the responsibility of the railway administration for the loss, destruction or deterioration of the animals or goods during their carriage in the vessel shall be the same as if the vessel were such a railway.

82. (1) When a railway administration contracts to carry passengers, animals or goods partly by railway, and partly by sea, a condition exempting the

Exoneraton from responsibility in case of goods falsely described

Settlement of compensation for injuries to officers, soldiers and followers on duty.

Suits for compensation for injury to through-booked traffic.

Limitation of liability of railway administration in respect of traffic on inland waters by vessel not being part of railway.

Limitation of liability of railway administration in respect of accidents at sea.

The Indian Railways Act, 1890.

(Chapter VIII.—Accidents.—Sections 83—86. Chapter IX.—Penalties and Offences.—Sections 87—88.)

railway administration from responsibility for any loss of life, personal injury or loss of or damage to animals or goods which may happen during the carriage by sea from the act of God, the King's enemies, fire, accidents from machinery, boilers and steam and all and every other dangers and accidents of the seas, rivers and navigation of whatever nature and kind soever shall, without being expressed, be deemed to be part of the contract, and, subject to that condition, the railway administration shall, irrespective of the nationality or ownership of the ship used for the carriage by sea, be responsible for any loss of life, personal injury or loss of or damage to animals or goods which may happen during the carriage by sea, to the extent to which it would be responsible under the Merchant Shipping Act, 1854, and the Merchant Shipping Act Amendment Act, 1862, if the ship were registered under the former of those Acts and the railway administration were owner of the ship and not to any greater extent.

(2) The burden of proving that any such loss, injury or damage as is mentioned in sub-section (1) happened during the carriage by sea shall lie on the railway administration.

CHAPTER VIII.

ACCIDENTS.

83. When any of the following accidents occur in the course of working a railway, namely:—

- Report of railway accidents.
- (a) any accident attended with loss of human life or with grievous hurt as defined in the Indian Penal Code, or with serious injury to property;
 - (b) any collision between trains of which one is a train carrying passengers;
 - (c) the derailment of any train carrying passengers, or of any part of such a train;
 - (d) any accident of a description usually attended with loss of human life or with such grievous hurt as aforesaid or with serious injury to property;
 - (e) any accident of any other description which the Governor General in Council may notify in this behalf in the Gazette of India;

the railway administration working the railway and, if the accident happens to a train belonging to any other railway administration, the other railway administration also shall, without unnecessary delay, send notice of the accident to the Local Government and to the Inspector appointed for the railway; and the station-master nearest to the place at which the accident occurred or, where there is no station-master, the railway servant in charge of the section of the railway on which the accident occurred shall, without unnecessary delay, give notice of the accident to the Magistrate of the district in which the accident occurred, and to the officer in charge of the police-station within the local limits of which it occurred, or to such other Magistrate and police-officer as the Governor General in Council appoints in this behalf

84. The Governor General in Council may make rules, consistent with this Act and any other enactment for the time being in force, for all or any of the following purposes, namely:—

- (a) for prescribing the forms of the notices mentioned in the last foregoing section and the particulars of the accident which those notices are to contain;
- (b) for prescribing the class of accidents of which notice is to be sent by telegraph immediately after the accident has occurred;
- (c) for prescribing the duties of railway servants, police-officers, Inspectors and Magistrates on the occurrence of an accident.

85. Every railway administration shall send to the Governor General in Council a return of accidents occurring upon

its railway, whether injury or not, in such form and manner and at such intervals of time as the Governor General in Council directs.

86. Whenever any person injured by an accident on a railway claims compensation on account of the injury, any Court or person having by law or consent of parties authority to determine the claim may order that the person injured be examined by some duly qualified medical practitioner named in the order and not being a witness on either side, and may make such order with respect to the costs of the examination as it or he thinks fit.

CHAPTER IX.

PENALTIES AND OFFENCES.

Forfeitures by Railway Companies.

87. If a railway company fails to comply with any requisition made under section 13, it shall forfeit to the Government the sum of two hundred rupees for the default and a further sum of fifty rupees for every day after the first during which the default continues.

88. If a railway company moves any rolling-stock upon a railway by steam or other motive power in contravention of section 18, sub-section (2), or opens or uses any railway or work in contravention of section 18, section 19, section 20 or section 21, or re-opens any railway or uses any rolling-stock in contravention of section 24, it shall forfeit to the Government the sum of two hundred rupees for every day during which the motive power, railway, work or rolling-stock is used in contravention of any of those sections.

The Indian Railways Act, 1890.

(Chapter IX.—Penalties and Offences—Sections 89-101.)

89. If a railway company fails to comply with the provisions of section 47, sub-section (6), section 54, sub-section (2), or section 65, with respect to the books or other documents to be kept open to inspection or conspicuously posted at stations on its railway, it shall forfeit to the Government the sum of fifty rupees for every day during which the default continues.

× 90. If a railway company fails to comply with the provisions of section 47 with respect to the making of general rules, it shall forfeit to the Government the sum of fifty rupees for every day during which the default continues.

× 91. If a railway company refuses or neglects to comply with any decision of the Governor General in Council under section 48, it shall forfeit to the Government the sum of two hundred rupees for every day during which the refusal or neglect continues.

92. If a railway company fails to comply with the provisions of section 52 or section 85 with respect to the submission of any return, it shall forfeit to the Government the sum of fifty rupees for every day during which the default continues after the fourteenth day from the date prescribed for the submission of the return.

93. If a railway company contravenes the provisions of section 53 or section 63, with respect to the maximum load to be carried in any wagon or truck, or the maximum number of passengers to be carried in any compartment, or the exhibition of such load, or the wagon or truck or of such number in or on the compartment, or knowingly suffers any person owning a wagon or truck passing over its railway to contravene the provisions of the former of those sections, it shall forfeit to the Government the sum of twenty rupees for every day during which either section is contravened.

× 94. If a railway company fails to comply with any requisition of the Governor General in Council under section 62 for the provision and maintenance in proper order, in any train worked by it which carries passengers, of such efficient means of communication as the Governor General in Council has approved, it shall forfeit to the Government the sum of twenty rupees for each train run in disregard of the requisition.

95. If a railway company fails to comply with the requirements of section 64 with respect to the reservation of compartments for females under section 64.

the provision of closets therein, it shall forfeit to the Government the sum of twenty rupees for every train in respect of which the default occurs.

96. If a railway company omits to give such notice of an accident as is required by section 83 and the rules for the time being in force under section 84, it shall forfeit to the Government the sum of one hundred rupees for every day during which the omission continues.

× 97. (1) When a railway company has through any act or omission forfeited any sum to the Government under the foregoing provisions of this Chapter, the sum shall be recoverable by suit in the District Court having jurisdiction in the place where the act or omission or any part thereof occurred.

(2) The suit must be instituted with the previous sanction of the Governor General in Council, and the plaintiff therein shall be the Secretary of State for India in Council.

(3) The Governor General in Council may remit the whole or any part of any sum forfeited by a railway company to the Government under the foregoing provisions of this Chapter.

× 98. Nothing in those provisions shall be construed to preclude the Government from resorting to any other mode of proceeding instead of, or in addition to, such a suit as is mentioned in the last foregoing section, for the purpose of compelling a railway company to discharge any obligation imposed upon it by this Act.

Offences by Railway Servants.

× 99. If a railway servant whose duty it is to comply with the provisions of section 60 negligently or wilfully omits to comply therewith, he shall be punished with fine which may extend to twenty rupees.

100. If a railway servant is in a state of intoxication while on duty he shall be punished with fine which may extend to fifty rupees, or, where the improper performance of the duty would be likely to endanger the safety of any person travelling or being upon a railway, with imprisonment for a term which may extend to one year, or with fine, or with both.

101. If a railway servant, when on duty, endangers the safety of any person—

(a) by disobeying any general rule made, sanctioned, published, and notified under this Act, or

(b) by disobeying any rule or order which is not inconsistent with any such general rule, and which such servant was bound

22

23

23

25

26

The Indian Railways Act, 1890.

(Chapter IX.—Penalties and Offences.—Sections 102-112.)

by the terms of his employment to obey, and of which he had notice, or

(c) by any rash or negligent act or omission,

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

102. If a railway servant compels or attempts to compel, or causes, any passenger to enter a compartment which already contains the maximum number of passengers exhibited therein or thereon under section 63, he shall be punished with fine which may extend to twenty rupees.

103. If a station-master or a railway servant in charge of a section of a railway omits to give such notice of an accident as is required by section 83 and the rules for the time being in force under section 84, he shall be punished with fine which may extend to fifty rupees.

104. If a railway servant unnecessarily—

(a) allows any rolling-stock to stand across a place where the railway crosses a public road on the level, or

(b) keeps a level-crossing closed against the public,

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

105. If any return which is required by this Act is false in any particular to the knowledge of any person who signs it, that person shall be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to one year, or with both.

Other Offences.

106. If a person requested under section 58 to give an account with respect to any goods gives an account which is materially false, he and, if he is not the owner of the goods, the owner also shall be punished with fine which may extend to ten rupees for every maund or part of a maund of the goods, and the fine shall be in addition to any rate or other charge to which the goods may be liable.

107. If in contravention of section 59 a person takes with him any dangerous or offensive goods upon a railway, or tenders or delivers any such goods for carriage upon a railway, he shall be punished with fine which may extend to five hundred rupees, and shall also be responsible for any loss, injury or damage which

may be caused by reason of such goods having been so brought upon the railway.

108. If a passenger, without reasonable and sufficient cause, makes use of or interferes with any means provided by a railway administration for communication between passengers and the railway servants in charge of a train, he shall be punished with fine which may extend to fifty rupees.

109. (1) If a passenger, having entered a compartment which is reserved by a railway administration for the use of another passenger or which already contains the maximum number of passengers exhibited therein or thereon under section 63, refuses to leave it when required to do so by any railway servant, he shall be punished with fine which may extend to twenty rupees.

(2) If a passenger resists the lawful entry of another passenger into a compartment not reserved by the railway administration for the use of the passenger resisting or not already containing the maximum number of passengers exhibited therein or thereon under section 63, he shall be punished with fine which may extend to twenty rupees.

110. (1) If a person, without the consent of his fellow-passengers, if any, in the same compartment, smokes in any compartment except a compartment specially provided for the purpose, he shall be punished with fine which may extend to twenty rupees.

(2) If any person persists in so smoking after being warned by any railway servant to desist, he may, in addition to incurring the liability mentioned in sub-section (1), be removed by any railway servant from the carriage in which he is travelling.

111. If a person, without authority in this behalf, pulls down or defaces public notices, wilfully injures any board or document set up or posted by order of a railway administration on a railway or any rolling-stock or obliterates or alters any of the letters or figures upon any such board or document, he shall be punished with fine which may extend to fifty rupees.

112. If a person, with intent to defraud a railway administration,—

(a) enters in contravention of section 68 any carriage on a railway, or

(b) uses or attempts to use a single pass or single ticket which has already been used on a previous journey or, in the case of a return-ticket, a half thereof which has already been so used,

he shall be punished with fine which may extend to one hundred rupees in addition to the amount

*The Indian Railways Act, 1890.**(Chapter IX.—Penalties and Offences.—Sections 113—117.)*

of the single fare for any distance which he may have travelled.

113. (1) If a passenger travels in a train without having a proper pass or a proper ticket with him, or being in or having alighted from a train, fails or refuses to present for examination or to deliver up his pass or ticket immediately on requisition being made therefor under section 69, he shall be liable to pay, on the demand of any railway servant appointed by the railway administration in this behalf, the excess charge hereinafter in this section mentioned, in addition to the ordinary single fare for the distance which he has travelled or, where there is any doubt as to the station from which he started, the ordinary single fare from the station from which the train originally started, or, if the tickets of passengers travelling in the train have been examined since the original starting of the train, the ordinary single fare from the place where the tickets were examined or, in case of their having been examined more than once, were last examined.

(2) If a passenger travels or attempts to travel in or on a carriage, or by a train, of a higher class than that for which he has obtained a pass or purchased a ticket, or travels in or on a carriage beyond the place authorised by his pass or ticket, he shall be liable to pay, on the demand of any railway servant appointed by the railway administration in this behalf, the excess charge hereinafter in this section mentioned, in addition to any difference between any fare paid by him and the fare payable in respect of such journey as he has made.

(3) The excess charge referred to in sub-section (1) and sub-section (2) shall,—

(a) where the passenger has immediately after incurring the charge and before being detected by a railway servant notified to the railway servant on duty with the train the fact of the charge having been incurred, be one rupee, two annas or eight annas, and

(b) in any other case, be six rupees, one rupee or three rupees,

according as the passenger is travelling or has travelled or has attempted to travel in a carriage of the highest class or in a carriage of the lowest class or in a carriage of any other class or kind :

Provided that such excess charge shall in no case exceed,—

(a) where the liability to pay it arises under sub-section (1), the amount of the ordinary single fare which the passenger incurring the charge is liable to pay under that sub-section, or,

(b) where such liability arises under sub-section (2), the amount of the difference between the fare paid by the passenger incurring the charge and the fare pay-

able in respect of such journey as he has made.

(4) If a passenger liable to pay the excess charge and fare mentioned in sub-section (1), or the excess charge and any difference of fare mentioned in sub-section (2), fails or refuses to pay the same on demand being made therefor under one or other of those sub-sections, as the case may be, the sum payable by him shall, on application made to any Magistrate by any railway servant appointed by the railway administration in this behalf, be recovered by the Magistrate from the passenger as if it were a fine imposed on the passenger by the Magistrate and shall, as it is recovered, be paid to the railway administration.

114. If a person sells or attempts to sell, or parts with the possession of, the return half of a return ticket in order to enable any other person to travel therewith, or purchases such half of a return ticket, he shall be punished with fine which may extend to fifty rupees, and, if the purchaser of such half of a return ticket travels or attempts to travel therewith, he shall be punished with an additional fine which may extend to the amount of the single fare for the return journey authorised by the ticket.

115. That portion of any fine imposed under section 112 or the last of the two last foregoing sections, which represents the single fare therein mentioned shall, as the fine is recovered, be paid to the railway administration before any portion of the fine is credited to the Government.

116. If a passenger wilfully alters or defaces his pass or ticket so as to render the date, number or any material portion thereof illegible, he shall be punished with fine which may extend to fifty rupees,

117. (1) If a person suffering from an infectious or contagious disorder enters or travels upon a railway in contravention of section 71, sub-section (2), he, and

any person having charge of him upon the railway when he so entered or travelled thereon, shall be punished with fine which may extend to twenty rupees, in addition to the forfeiture of any fare which either of them may have paid, and of any pass or ticket which either of them may have obtained or purchased, and may be removed from the railway by any railway servant

(2) If any such railway servant as is referred to in section 71, sub-section (2), knowing that a person is suffering from any infectious or contagious disorder, wilfully permits the person to travel upon a railway without arranging for his separation from other passengers, he shall be punished with fine which may extend to one hundred rupees.

The Indian Railways Act, 1890.

(Chapter IX.—Penalties and Offences.—Sections 118-126.)

33-34 118. (1) If a passenger enters or leaves, or attempts to enter or leave, motion, or otherwise improperly travelling on a railway. Entering carriage in motion, or otherwise improperly travelling on a railway. any carriage while the train is in motion, or elsewhere than at the side of the carriage adjoining the platform or other place appointed by the railway administration for passengers to enter or leave the carriage, or opens the side-door of any carriage while the train is in motion, he shall be punished with fine which may extend to twenty rupees.

(2) If a passenger, after being warned by a railway servant to desist, persists in travelling on the roof, steps or footboard of any carriage or on an engine, or in any other part of a train not intended for the use of passengers, he shall be punished with fine which may extend to fifty rupees and may be removed from the railway by any railway servant.

37 119. If a male person, knowing a carriage or compartment, room or other place reserved for females. Entering carriage or other place reserved for females. by a railway administration for the exclusive use of females, enters the place without lawful excuse, or, having entered it, remains therein after having been desired by any railway servant to leave it, he shall be punished with fine which may extend to one hundred rupees, in addition to the forfeiture of any fare which he may have paid and of any pass or ticket which he may have obtained or purchased, and may be removed from the railway by any railway servant.

36 120. If a person in any railway carriage or upon any part of a railway— Drunkenness or nuisance on a railway.

- (a) is in a state of intoxication, or
 (b) commits any nuisance or act of indecency, or uses obscene or abusive language, or
 (c) wilfully and without lawful excuse interferes with the comfort of any passenger or extinguishes any lamp,

he shall be punished with fine which may extend to fifty rupees, in addition to the forfeiture of any fare which he may have paid and of any pass or ticket which he may have obtained or purchased, and may be removed from the railway by any railway servant.

38 121. If a person wilfully obstructs or impedes any railway servant in the discharge of his duty. Obstructing railway servant in his duty. he shall be punished with fine which may extend to one hundred rupees.

122. (1) If a person unlawfully enters upon a railway, he shall be punished with fine which may extend to twenty rupees. Trespass and refusal to desist from trespass.

41 (2) If a person so entering refuses to leave the railway on being requested to do so by any railway servant, or by any other person, on behalf of the railway administration, he shall be punished with fine which may extend to fifty rupees, and may be removed from the railway by such servant or other person.

4 123. If a driver or conductor of a tramcar, omnibus, carriage or other vehicle while upon the premises of a railway disobeys the reasonable directions of any railway servant or police-officer, he shall be punished with fine which may extend to twenty rupees. Disobedience of omnibus drivers to directions of railway servants.

Opening or not properly shutting gates. 124. In either of the following cases, namely:—

- 43 (a) if a person, knowing or having reason to believe that an engine or train is approaching along a railway, opens any gate set up on either side of the railway, across a road, or passes or attempts to pass, or drives or takes, or attempts to drive or take, any animal, vehicle or other thing across the railway,
 (b) if, in the absence of a gate-keeper, a person omits to shut and fasten such a gate as aforesaid as soon as he and any animal, vehicle or other thing under his charge have passed through the gate, the person shall be punished with fine which may extend to fifty rupees.

42 125. (1) The owner or person in charge of any cattle straying on a railway provided with fences suitable for the exclusion of cattle shall be punished with fine which may extend to five rupees for each head of cattle, in addition to any amount which may have been recovered or may be recoverable under the Cattle-trespass Act, 1871. Cattle-trespass.

(2) If any cattle are wilfully driven, or knowingly permitted to be, on any railway otherwise than for the purpose of lawfully crossing the railway or for any other lawful purpose, the person in charge of the cattle or, at the option of the railway administration, the owner of the cattle shall be punished with fine which may extend to ten rupees for each head of cattle, in addition to any amount which may have been recovered or may be recoverable under the Cattle-trespass Act, 1871.

(3) Any fine imposed under this section may, if the Court so directs, be recovered in manner provided by section 25 of the Cattle-trespass Act, 1871.

(4) The expression "public road" in sections 11 and 26 of the Cattle-trespass Act, 1871, shall be deemed to include a railway, and any railway servant may exercise the powers conferred on officers of police by the former of those sections.

(5) The word "cattle" has the same meaning in this section as in the Cattle-trespass Act, 1871.

Maliciously wrecking or attempting to wreck a train. 126. If a person unlawfully—

- (a) puts or throws upon or across any railway any wood, stone or other matter or thing, or
 (b) takes up, removes, loosens or displaces any rail, sleeper or other matter or thing belonging to any railway, or
 (c) turns, moves, unlocks or diverts any points or other machinery belonging to any railway, or

The Indian Railways, Act 1890.

(Chapter IX.—Penalties and Offences.—Sections 127-134.)

- (d) makes or shows, or hides or removes, any signal or light upon or near to any railway, or
- (e) does or causes to be done or attempts to do any other act or thing in relation to any railway,

with intent, or with knowledge that he is likely, to endanger the safety of any person travelling or being upon the railway, he shall be punished with transportation for life or with imprisonment for a term which may extend to ten years.

127. If a person unlawfully throws or causes to fall or strike at, against, into or upon any rolling-stock forming part of a train any wood, stone or other matter or thing with intent, or with knowledge that he is likely, to endanger the safety of any person being in or upon such rolling-stock or in or upon any other rolling-stock forming part of the same train, he shall be punished with transportation for life or with imprisonment for a term which may extend to ten years.

128. If a person, by any unlawful act or by any wilful omission or neglect, endangers or causes to be endangered the safety of any person travelling or being upon any railway, or obstructs or causes to be obstructed or attempts to obstruct any rolling-stock upon any railway, he shall be punished with imprisonment for a term which may extend to two years.

129. If a person rashly or negligently does any act, or omits to do what he is legally bound to do, and the act or omission is likely to endanger the safety of any person travelling or being upon a railway, he shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

130. (1) If a minor under the age of twelve years is with respect to any railway guilty of any of the acts or omissions mentioned or referred to in any of the four last foregoing sections, he shall be deemed, notwithstanding anything in section 82 or section 83 of the Indian Penal Code, to have committed an offence, and the Court convicting him may, if it thinks fit, direct that the minor, if a male, shall be punished with whipping or may require the father or guardian of the minor to execute, within such time as the Court may fix, a bond binding himself, in such penalty as the Court directs, to prevent the minor from being again guilty of any of those acts or omissions.

(2) The amount of the bond, if forfeited, shall be recoverable by the Court as if it were a fine imposed by itself.

(3) If a father or guardian fails to execute a bond under sub-section (1) within the time fixed by the Court, he shall be punished with fine which may extend to fifty rupees.

Procedure.

131. (1) If a person commits any offence mentioned in section 100, 101, 119, 120, 121, 126, 127, 128 or 129 or in section 130, sub-section (1), he may be arrested without warrant or other written authority by any railway servant or police officer, or by any other person whom such servant or officer may call to his aid.

(2) A person so arrested shall, with the least possible delay, be taken before a Magistrate having authority to try him or commit him for trial.

132. (1) If a person commits any offence under this Act other than an offence mentioned in the last foregoing section, or fails or refuses to pay any excess charge or other sum demanded under section 118, and there is reason to believe that he will abscond, or his name and address are unknown and he refuses on demand to give his name and address, or there is reason to believe that the name or address given by him is incorrect, any railway servant or police-officer, or any other person whom such railway servant or police-officer may call to his aid, may, without warrant or other written authority, arrest him.

(2) The person arrested shall be released on his giving bail, or, if his true name and address are ascertained, on his executing a bond without sureties, for his appearance before a Magistrate when required.

(3) If the person cannot give bail and his true name and address are not ascertained, he shall with the least possible delay be taken before the nearest Magistrate having jurisdiction.

(4) The provisions of Chapters XXXIX and XLII of the Code of Criminal Procedure, 1882, shall, so far as may be, apply to bail given and bonds executed under this section.

133. No Magistrate other than a Magistrate or than a Magistrate whose powers are not less than those of a Magistrate of the second class shall try any offence under this Act.

134. (1) Any person committing any offence against this Act or any rule thereunder shall be triable for such offence in any place in which he may be or which the Local Government may notify in this behalf, as well as in any other place in which he might be tried under any law for the time being in force.

(2) Every notification under sub-section (1) shall be published in the local official Gazette, and a copy thereof shall be exhibited for the information of the public in some conspicuous place at each of such railway stations as the Local Government may direct.

44

49

48

45

46

57

50

of 1860

The Indian Railways Act, 1890.

(Chapter X.—Supplemental Provisions.—Sections 135-140.)

CHAPTER X.

SUPPLEMENTAL PROVISIONS.

135. Notwithstanding anything to the contrary in any enactment, Taxation of railways by local authorities. or in any agreement or award based on any enactment, the following rules shall regulate the levy of taxes in respect of railways and from railway administrations in aid of the funds of local authorities, namely:—

(1) A railway administration shall not be liable to pay any tax in aid of the funds of any local authority unless the Governor General in Council has, by notification in the official Gazette, declared the railway administration to be liable to pay the tax.

(2) While a notification of the Governor General in Council under clause (1) of this section is in force, the railway administration shall be liable to pay to the local authority either the tax mentioned in the notification or, in lieu thereof, such sum, if any, as an officer appointed in this behalf by the Governor General in Council may, having regard to all the circumstances of the case, from time to time determine to be fair and reasonable.

(3) The Governor General in Council may at any time revoke or vary a notification under clause (1) of this section.

(4) Nothing in this section is to be construed as debarring any railway administration from entering into a contract with any local authority for the supply of water or light, or for the scavenging of railway premises, or for any other service which the local authority may be rendering or be prepared to render within any part of the local area under its control.

(5) "Local authority" in this section means a local authority as defined in the General Clauses Act, 1887, and includes any authority legally entitled to or entrusted with the control or management of any fund for the maintenance of watchmen or for the conservancy of a river.

136. (1) None of the rolling-stock, machinery, plant, tools, fittings, materials or effects used or provided by a railway administration for the purpose of the traffic on its railway, or of its stations or workshops, shall be liable to be taken in execution of any decree or order of any Court without the previous sanction of the Governor General in Council.

(2) Nothing in sub-section (1) is to be construed as affecting the authority of any Court to attach the earnings of a railway in execution of a decree or order.

137. (1) Every railway servant shall be deemed to be a public servant for the purposes of Chapter IX of the Indian Penal Code.

(2) In the definition of "legal remuneration" in section 161 of that Code the word "Government" shall, for the purposes of sub-section (1), be

deemed to include any employer of a railway servant as such.

(3) A railway servant shall not—

(a) purchase or bid for, either in person or by agent, in his own name or in that of another, or jointly or in shares with others, any property put up to auction under section 55 or section 56, or,

(b) in contravention of any direction of the railway administration in this behalf, engage in trade.

(4) Notwithstanding anything in section 21 of the Indian Penal Code, a railway servant shall not be deemed to be a public servant for any of the purposes of that Code except those mentioned in sub-section (1).

138. If a railway servant is discharged or suspended from his office, or dies, absconds or absents himself, and he or his wife or widow, or any of his family or representa-

tives, refuses or neglects, after notice in writing for that purpose, to deliver up to the railway administration, or to a person appointed by the railway administration in this behalf, any station, dwelling-house, office or other building, with its appurtenances, or any books, papers or other matters, belonging to the railway administration and in the possession or custody of such railway servant at the occurrence of any such event as aforesaid, any Magistrate of the first class may, on application made by or on behalf of the railway administration, order any police-officer, with proper assistance, to enter upon the building and remove any person found therein and take possession thereof, or to take possession of the books, papers or other matters, and to deliver the same to the railway administration or a person appointed by the railway administration in that behalf.

139. Any notice, determination, direction, requisition, appointment, expression of opinion, approval or sanction to be given or signified on the part of the Governor General in Council, for any of the purposes of, or in relation to, this Act, or any of the powers or provisions therein contained, shall be sufficient and binding if in writing signed by a Secretary, Deputy Secretary, Under-Secretary or Assistant Secretary to the Government of India, or by any other officer or servant authorised to act on behalf of the Governor General in Council in respect of the matters to which the same may relate, and the Governor General in Council shall not in any case be bound in respect of any of the matters aforesaid unless by some writing signed in manner aforesaid.

140. Any notice or other document required or authorised by this Act to be served on a railway administration may be served, in the case of a railway administered by the Government or a Native State, on the Manager and, in the case of a railway administered

Service of notices on railway administrations.

*The Indian Railways Act, 1890.**(Chapter X.—Supplemental Provisions.—Sections 141-150.)*

by a railway company, on the Agent in India of the railway company—

- (a) by delivering the notice or other document to the Manager or Agent, or
- (b) by leaving it at his office, or
- (c) by forwarding it by post in a prepaid letter addressed to the Manager or Agent at his office and registered under Part III of the Indian Post Office Act, 1866.

XIV of 1866.

141. Any notice or other document required or authorized by this Act to be served on any person by a railway administration may be served—

Service of notices by railway administrations.

administration may be served—

- (a) by delivering it to the person, or
- (b) by leaving it at the usual or last known place of abode of the person, or
- (c) by forwarding it by post in a prepaid letter addressed to the person at his usual or last known place of abode and registered under Part III of the Indian Post Office Act, 1866.

XIV of 1866.

142. Where a notice or other document is served by post, it shall be deemed to have been served at the time when the letter containing it would be delivered in the ordinary course of post, and in proving such service it shall be sufficient to prove that the letter containing the notice or other document was properly addressed and registered.

Presumption where notice is served by post.

143. (1) A rule under section 22, section 34 or section 84, or the cancellation, rescission or variation of a rule under any of those sections or under section 47, subsection (4), shall not take effect until it has been published in the Gazette of India.

Provisions with respect to rules.

(2) Where any rule made under this Act or the cancellation, rescission or variation of any such rule, is required by this Act to be published in the Gazette of India, it shall, besides being so published, be further notified to persons affected thereby in such manner as the Governor General in Council, by general or special order, directs.

(3) The Governor General in Council may cancel or vary any rule made by him under this Act.

144. (1) The Governor General in Council may, by notification in the Gazette of India, invest, absolutely or subject to conditions, any Local Government with any of the powers or functions of the Governor General in Council under this Act with respect to any railway, and may by that or a like notification, declare what Local Government shall, for the purposes of the exercise of powers or functions so conferred, be deemed to be the Local Government in respect of the railway.

Delegation of powers of Governor-General in Council.

(2) The provisions of section 139 with respect to proceedings of the Governor General in Council shall, so far as they can be made applicable, apply to proceedings of a Local Government exercising the powers or discharging the functions of the Governor General in Council in pursuance of a notification under sub-section (1).

145. (1) The Manager of a railway administered by the Government or a Native State, and the Agent in India of a railway administered by a railway company, may, by instrument in writing, authorise any railway servant or other person to act for or represent him in any proceeding before any Civil, Criminal or other Court.

Representation of Managers and Agents of Railways in Courts.

(2) A person authorised by a Manager or Agent to conduct prosecutions on behalf of a railway administration shall, notwithstanding anything in section 495 of the Code of Criminal Procedure, 1882, be entitled to conduct such prosecutions without the permission of the Magistrate.

146. The Governor General in Council may, by notification in the Gazette of India, extend this Act or any portion thereof to any tramway worked by steam or other mechanical power.

Power to extend Act to steam-tramways.

147. The Governor General in Council may, by a like notification, exempt any railway from any of the provisions of this Act.

Power to exempt railways from Act.

148. (1) For the purposes of section 3, clauses (5), (6) and (7), and sections 4 to 19 (both inclusive), 47 to 52 (both inclusive), 59, 79, 83 to 92 (both inclusive), 96, 97, 98, 100, 101, 103, 104, 107, 111, 122, 124 to 132 (both inclusive), 134 to 138 (both inclusive), 140, 141, 144, 145 and 147, the word "railway", whether it occurs alone or as a prefix to another word, has reference to a railway or portion of a railway under construction and to a railway or portion of a railway not used for the public carriage of passengers, animals or goods as well as to a railway falling within the definition of that word in section 3, clause (4).

Matters supplemental to the definitions of "railway" and "railway servant".

(2) For the purposes of sections 5, 21, 83, 100, 101, 103, 104, 121, 122, 125 and 137, subsections (1), (2) and (4), and section 138, the expression "railway servant" includes a person employed upon a railway in connection with the service thereof by a person fulfilling a contract with the railway administration.

149. In sections 194 and 195 of the Indian Penal Code, for the words "by this Code or the law of England" the words "by the law of British India or England" shall be substituted.

Amendment of the Indian Penal Code.

150. For that portion of the preamble to the Sindh-Pishin Railway Act, 1887, which begins with the words "so far

Amendment of the Sindh-Pishin Railway Act, 1887.

The Indian Railways Act, 1890.

(The First Schedule.—Enactments repealed. The Second Schedule.—Articles to be declared and insured.)

as it applies" and ends with the words "in its entirety", the words "should apply in its entirety to that part of the Sindh-Pishm section of the North-Western Railway which lies beyond the Province of Sindh" shall be substituted.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

Number and year.	Title.	Extent of repeal.
<i>Acts of the Governor General in Council.</i>		
III of 1865	Carriers Act, 1865	Section 7 (so far as it relates to railways) and section 10.
IV of 1879	Indian Railway Act, 1879.	The whole. }
IV of 1883	Indian Railway Act, 1883.	The whole. }
XI of 1886	Indian Tramways Act, 1886.	Section 49.
XX of 1886.	Upper Burma Laws Act, 1886.	So much as relates to Acts IV of 1879 and IV of 1883.
<i>Act of the Lieutenant-Governor of Bengal in Council.</i>		
II of 1882	Bengal Embankment Act, 1882.	Section 16, and in section 17 the proviso to the first paragraph of that section, the words "or under the section last preceding" and the words "or railroad" wherever they occur.

THE SECOND SCHEDULE.

ARTICLES TO BE DECLARED AND INSURED

(See section 75.)

- (a) gold and silver, coined or uncoined, manufactured or unmanufactured;
- (b) plated articles;
- (c) cloths and tissue and lace of which gold or silver forms part, not being the uniform or part of the uniform of an officer, soldier, sailor, police-officer or person enrolled as a volunteer under the Indian Volunteers Act, 1869, or of any public officer, British or foreign, entitled to wear uniform; XX of 1861
- (d) pearls, precious stones, jewellery and trinkets;
- (e) watches, clocks and timepieces of any description;
- (f) Government securities;
- (g) Government stamps;
- (h) bills of exchange, hundis, promissory-notes, bank-notes and orders or other securities for payment of money;
- (i) maps, writings and title-deeds;
- (j) paintings, engravings, lithographs, photographs, carvings, sculpture and other works of art;
- (k) art pottery and all articles made of glass, china or marble;
- (l) silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials;
- (m) shawls;
- (n) lace and furs,
- (o) opium;
- (p) ivory, ebony, coral and sandalwood;
- (q) musk, sandalwood-oil and other essential oils used in the preparation of *str* or other perfume;
- (r) musical and scientific instruments;
- (s) any article of special value which the Governor General in Council may, by notification in the Gazette of India, add to this schedule.

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 21st March 1890, and is hereby promulgated for general information:—

Act No. X of 1890.

An Act to amend Act XXV of 1867.

WHEREAS it is expedient to amend Act XXV of 1867 (*an Act for the regulation of Printing-presses and Newspapers, for the preservation of copies of books printed in British India, and for the registration of such books*); It is hereby enacted as follows:—

1. In the preamble to the said Act the word "three" is hereby repealed.

2. In section 1 of the said Act, in the definition of the word "Magistrate" the words "and a Justice of the Peace" are hereby repealed.

3. In section 6 of the said Act, for the words "other Court within the local limits of whose ordinary original civil jurisdiction" the words "other principal Civil Court of original jurisdiction for the place where" shall be substituted.

4. For Part III (sections 9, 10 and 11) of the said Act the following shall be substituted, namely:—

"PART III.

"DELIVERY OF BOOKS.

"9. Printed or lithographed copies of the whole of every book which shall be printed or lithographed in British India after this Act shall come into force, together with all maps, prints or other engravings belonging thereto, finished and coloured in the same manner as the best copies of the same, shall, notwithstanding any agreement (if the book be published) between the printer and publisher thereof, be delivered by the printer at such place and to such officer as the Local Government shall, by notification in the official Gazette, from time to time direct, and free of expense to the Government, as follows, that is to say:—

- (a) in any case, within one calendar month after the day on which any such book shall first be delivered out of the press, one such copy, and,
- (b) if within one calendar year from such day the Local Government shall require the printer to deliver other such copies not exceeding two in number, then within one

calendar month after the day on which any such requisition shall be made by the Local Government on the printer, another such copy, or two other such copies as the Local Government may direct,

the copies so delivered being bound, sewed or stitched together and upon the best paper on which any copies of the book shall be printed or lithographed.

"The publisher or other person employing the printer shall, at a reasonable time before the expiration of the said month, supply him with all maps, prints and engravings finished and coloured as aforesaid, which may be necessary to enable him to comply with the requirements aforesaid.

"Nothing in the former part of this section shall apply to—

- (i) any second or subsequent edition of a book in which edition no additions or alterations either in the letter-press or in the maps, prints or other engravings belonging to the book have been made, and a copy of the first or some preceding edition of which book has been delivered under this Act, or
- (ii) any periodical work published in conformity with the rules laid down in section 5 of this Act.

"10. The officer to whom a copy of a book is delivered under the last foregoing section shall give to the printer a receipt in writing therefor.

"11. The copy delivered pursuant to clause (a) of the first paragraph of section 9 of this Act shall be disposed of as the Local Government shall from time to time determine.

"Any copy or copies delivered pursuant to clause (b) of the said paragraph shall be transmitted to the British Museum or the Secretary of State for India, or to the British Museum and the said Secretary of State, as the case may be."

5. For sections 16 and 17 of the said Act the following shall be substituted, namely:—

"16. If any printer of any such book as is referred to in section 9 of this Act shall neglect to deliver copies of the same pursuant to that section, he shall for every such default forfeit to the Government such sum not exceeding fifty rupees as a Magistrate having jurisdiction in the place where the book was printed may, on the application of the officer to whom the copies should have been delivered or of any person authorised by that officer in this behalf, determine to be in the circumstances a reasonable penalty for the default, and, in addition to such sum, such further sum as the Magistrate may determine to be the value of the copies which the printer ought to have delivered.

Receipt for copies delivered under last foregoing section.

Disposal of copies delivered under section 9.

Substitution of new sections for sections 16 and 17, Act XXV, 1867.

Penalty for not delivering books or not supplying printer with maps.

"If any publisher or other person employing any such printer shall neglect to supply him, in the manner prescribed in the second paragraph of section 9 of this Act, with the maps, prints or engravings which may be necessary to enable him to comply with the provisions of that section, such publisher or other person shall for every such default forfeit to the Government such sum not exceeding fifty rupees as such a Magistrate as aforesaid may, on such an application as aforesaid, determine to be in the circumstances a reasonable penalty for the default, and, in addition to such sum, such further sum as the Magistrate may determine to be the value of the maps, prints or engravings which such publisher or other person ought to have supplied."

"17. Any sum forfeited to the Government under the last foregoing section may be recovered, under the warrant of the Magistrate determining the sum or of his successor in office, in the manner

Recovery of forfeitures and disposal thereof and of fines.

authorised by the Code of Criminal Procedure for X of 185 the time being in force, and within the period prescribed by the Indian Penal Code, for the levy XLV of of a fine.

"All fines or forfeitures under this Part of this Act shall, when recovered, be disposed of as the Local Government shall from time to time direct."

6. In section 18 of the said Act, there shall be substituted for the words, letter and figure "pursuant to section 9" the words, letter and figure "pursuant to clause (a) of the first paragraph of section 9" and for the words "copies thereof in manner aforesaid" the words, letter and figure "copy thereof pursuant to clause (a) of the first paragraph of section 9".

Amendment of section 18, Act XXV, 1867.

Repeal of section 22, Act XXV, 1867.

7. Section 22 of the said Act 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 21st March 1890, and is hereby promulgated for general information:—

Act No. XI of 1890.

An Act for the Prevention of Cruelty to Animals.

WHEREAS it is expedient to make further provision for the prevention of cruelty to animals; It is hereby enacted as follows:—

Title, extent and commencement, and supersession of other enactments.

1. (1) This Act may be called the Prevention of Cruelty to Animals Act, 1890.

(2) This section extends to the whole of British India: and the Local Government may, by notification in the official Gazette, extend on and from a date to be specified in the notification, the whole or any part of the rest of this Act to any such local area as it thinks fit.

(3) When any part of this Act has been extended under sub-section (2) to a local area, the Local Government may, by notification in the official Gazette, direct that the whole or any part of any other enactment in force in the local area for the prevention of cruelty to animals shall, except as regards anything done or any offence committed or any fine or penalty incurred or any proceedings commenced, cease to have effect in the local area, and such whole or part shall cease to have effect accordingly until the Local Government, by a like notification, otherwise directs.

(4) The Local Government may cancel or vary a notification under sub-section (2) or sub-section (3).

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

(1) "animal" means any domestic or captured animal: and

(2) "street" includes any way, road, lane, square, court, alley, passage or open space, whether a thoroughfare or not, to which the public have access.

3. If any person in any street or in any other place, whether open or closed, to which the public have access, or within sight of any person in any street or in any such other place,—

(a) cruelly and unnecessarily beats, overdrives, overloads or otherwise ill-treats any animal, or

(b) binds or carries any animal in such a manner or position as to subject the animal to unnecessary pain or suffering, or

(c) offers, exposes, or has in his possession for sale any live animal which is suffering pain by reason of mutilation, starvation or other ill-treatment, or any dead animal which he has reason to believe to have been killed in an unnecessarily cruel manner,

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.

4. If any person performs upon any cow the operation called *phuká*, *phuká* for practising he shall be punished with fine which may extend to one hundred rupees, or with imprisonment which may extend to three months, or with both.

5. If any person kills any animal in an unnecessarily cruel manner, he shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

6. (1) If any person employs in any work or labour any animal which by reason of any disease, infirmity, wound, sore or other cause is unfit to be so employed, or permits any such unfit animal in his possession or under his control to be so employed, he shall be punished with fine which may extend to one hundred rupees.

(2) The Local Government may, by general or special order, appoint places to be infirmaries for the treatment and care of animals in respect of which offences against sub-section (1) have been committed.

(3) The Magistrate before whom a prosecution for such an offence has been instituted may direct that the animal in respect of which the offence is alleged or proved to have been committed shall be sent for treatment and care to an infirmary and be there detained until it is in his opinion, or in the opinion of some other Magistrate, again fit for the work or labour on which it has been ordinarily employed.

(4) The cost of the treatment, feeding and watering of the animal in the infirmary shall be payable by the owner of the animal according to such scale of rates as the District Magistrate or, in the case of an infirmary in a Presidency-town, the Commissioner of Police may from time to time prescribe.

(5) If the owner refuses or neglects to pay such cost and to remove the animal within such time as a Magistrate may prescribe, the Magistrate may direct that the animal be sold and that the proceeds of the sale be applied to the payment of such cost.

(6) The surplus, if any, of the proceeds of the sale shall, on application made by the owner within two months after the date of the sale,

be paid to him, but the owner shall not be liable to make any payment in excess of the proceeds of the sale.

7. If any person willfully permits any animal of which he is the owner to go at large in any street while the animal is affected with contagious or infectious disease, or without reasonable excuse permits any diseased or disabled animal of which he is the owner to die in any street, he shall be punished with fine which may extend to one hundred rupees.

8. (1) If a Magistrate of the first class, Sub-divisional Magistrate, Commissioner of Police or District Superintendent of Police, upon information in writing and after such inquiry as he thinks necessary, has reason to believe that an offence against section 4, section 5 or section 6 is being or is about to be or has been committed in any place, he may either himself enter and search or by his warrant authorise any police-officer above the rank of a constable to enter and search the place.

X of 1882. (2) The provisions of the Code of Criminal Procedure, 1882, relating to searches under that Code shall, so far as those provisions can be made applicable, apply to a search under sub-section (1).

9. A prosecution for an offence against this Act shall not be instituted after the expiration of three months from the date of the commission of the offence.

10. When any Magistrate, Commissioner of Police or District Superintendent of Police has reason to believe that an offence against this Act has been committed in respect of any animal, he may direct the immediate destruction of the animal if in his opinion its sufferings are such as to render such a direction proper.

11. Nothing in this Act shall render it an offence to kill any animal in a manner required by the religion or religious rites and usages of any race, sect, tribe or class.

12. Notwithstanding anything in section 1, sections 9, 10 and 11 shall extend to every local area in which any section of this Act constituting an offence is for the time being in force.

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 21st March 1890, and is hereby promulgated for general information:—

Act No. XII of 1890.

An Act to amend the Indian Tariff Act, 1882.

of 1882 WHEREAS it is expedient to amend the Indian Tariff Act, 1882; It is hereby enacted as follows:—

of 1882. 1. In No. 2 of the Second Schedule to the Indian Tariff Act, 1882, as amended by Act II of 1887 (an Act to amend the Sea Customs Act, 1878, the Excise Act, 1881, and the Indian Tariff Act, 1882)—

(a) "Rs. 6" shall be substituted for "Rs. 5" 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.	Imperial Gallon or six quart bottles of London proof.	...	Rs. 5, and the duty to be increased or reduced in proportion as the strength exceeds or is less than London proof.

No.	Names of Articles.	Per.	Tariff Valuation.	Rate of Duty.
*	Spirit, perfumed, in wood or in bottles.	Imperial Gallon or six quart bottles.	...	Rs. 7-8.
*	Spirit, other sorts.	Imperial 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.

there shall be substituted the following, namely:—

No.	Name of Articles.	Per.	Tariff Valuation.	Rate of Duty.
*	Spirit, when so used in a proportion of twenty per cent. and upwards.	Imperial Gallon or six quart bottles of the strength of London proof.	...	Rs. 6, 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.	Imperial Gallon or six quart bottles.	...	Rs. 5.
*	Spirit, other sorts.	Imperial Gallon or six quart bottles of the strength of London proof.	...	Rs. 6, 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,
Secretary to the Government of India.

STATEMENT OF OBJECTS AND REASONS.

THE present rate of duty on imported spirit is Rs. 5 a gallon of the strength of London proof. It is proposed in the present Bill to raise the rate of duty to Rs. 6 a gallon. In some Provinces the rates of duty on country spirit have been raised so high that, if any further increase is made, such spirit will be unfairly handicapped in comparison with imported spirit paying a duty of Rs. 5 a gallon. It is the policy of the Government of India to impose as high a duty on country spirit as it will bear; and it has therefore become necessary to raise the duty on imported spirit, in order to permit of the duty being raised on country spirit. It is also considered desirable to discourage the import of cheap and deleterious European spirit; while imported spirit of a better class can, it is, believed, bear a higher rate of duty without rendering the price of it prohibitive to the classes which use it.

It is necessary to raise the rate of duty on perfumed spirit from Rs. 7-8 a gallon to Rs. 8 when the duty on ordinary spirit is raised as above proposed.

It is estimated that the proposed increase of duty will add nine lakhs of rupees yearly to the public revenue.

The 21st March 1890.

(Signed) D. BARBOUR.

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



Bombay Government Gazette.

Published by Authority.

THURSDAY, 3RD APRIL 1890.

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 March 1890, and is hereby promulgated for general information:—

Act No. XIII of 1890.

An Act to amend the Excise Act, 1881, and the Bengal Excise Act, 1878, and to apply to Malt Liquor certain provisions of the Sea Customs Act, 1878, respecting Spirit.

WHEREAS it is expedient to amend the Excise Act, 1881, and the Bengal Excise Act, 1878, and to apply to malt liquor certain provisions of the Sea Customs Act, 1878, respecting spirit; It is hereby enacted as follows:—

Title and commencement.
1. (1) This Act may be called the Excise (Malt Liquors) Act, 1890, and
(2) It shall come into force at once.

Excise Act, 1881.

1881. Insertion of new section after section 7, Act XXII, 1881.
2. After section 7 of the Excise Act, 1881, the following shall be inserted, namely:—

“7A. No fermented liquor shall be removed from a brewery licensed under section 5 until—

882. (a) duty has been paid thereon at the rate for the time being leviable under the Indian Tariff Act, 1882, on like liquor imported by sea into any part of British India except Aden and Perim, or at such lower rate as the Local Government

having regard to the circumstances of the brewery or of the local area in which the brewery is situate, may from time to time prescribe, or

(b) a bond for such duty has been executed.”

Substitution of new section for section 8, Act XXII, 1881.
3. For section 8 of the said Act the following shall be substituted, namely:—

Power to make rules as to distilleries and breweries licensed under section 5.
“8. The Chief Revenue authority may, from time to time, make rules as to—

- (a) the granting of licenses for distilleries, stills and breweries under section 5;
- (b) the notices to be given by the proprietor of a licensed distillery or licensed brewery when he commences and discontinues work;
- (c) the size and description of the stills in such distillery;
- (d) the storing and passing out of the spirit made in such distillery, or of the fermented liquor made in such brewery and the contents of the passes;
- (e) the inspection and examination of such distillery or brewery and the warehouses connected therewith, and of the spirit or fermented liquor made and stored therein;
- (f) the furnishing of statements of the spirit and the stills, coppers, casks and other utensils in such distillery, or of the fermented liquor and the mashtuna,

underbacks, wort-receivers, coppers, heating tanks, coolers, and collecting, fermenting and other vessels in such brewery."

4. To sub-section (2) of section 23 of the said Act, as amended by Act II of 1887, the following shall be added, namely:—

"or such lower duty as the Local Government, having regard to the rate or rates of duty for the time being leviable under clause (a) of section 7A, may from time to time prescribe."

5. - In clause (b) of section 36 of the said Act Amendment of clause (b) of section 36, Act XXII, 1881. the words, figure and letter "or section 7A" shall be inserted after the word and figure "section 7", and the words "or any fermented liquor from a brewery" after the word "distillery."

Bengal Excise Act, 1878.

Ben. VII of 1878.

6. In section 18 of the Bengal Excise Act, 1878, as amended by Amendment of section 18, Bengal Act VII, 1878. the Act of the Governor General in Council No. LX of 1885, the words "or fermented" shall be inserted after the word "spirituous", wherever that word occurs, and the words "or brewery" after the word "distillery."

7. In section 19 of the said Act as amended by the Act of the Lieutenant-Governor of Bengal in Council No. IV of 1881, the words "or fermented" shall be inserted after the word "spirituous" in both the places where that word occurs.

8. Nothing in either of the two last foregoing sections shall affect any Act passed by the Lieutenant-Governor of Bengal in Council after the commencement of this Act.

Drawback of Excise-duty on Export of Malt Liquor.

9. The provisions of section 150 of the Sea Customs Act, 1878, with VIII of 1878. Application of provisions of section 150, Act VIII, 1878, to malt liquor. respect to the allowance of a drawback of excise-duty paid on spirit manufactured in British India and exported to a foreign port, and with respect to the regulation of the drawback by the quantity of such spirit, shall apply also, so far as they can be made applicable, to fermented liquor made in British India from malt and so exported and to the drawback of the excise-duty paid on such liquor.

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



Bombay Government Gazette.

Published by Authority.

THURSDAY, 7TH AUGUST 1890.

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 31st July 1890, and is hereby promulgated for general information:—

Act No. XIV of 1890.

An Act to amend the Schedule to the Petroleum Act, 1886.

WHEREAS it is expedient to amend parts of the fourth paragraph (*Application of the test*) of Part III of the schedule to the Petroleum Act, 1886; It is hereby enacted as follows:

1. For the third and fourth clauses of the said paragraph commencing respectively with the words "If the flash takes place at any temperature below 77° Fahrenheit" and "No flash which takes place within eight degrees of the temperature at which the testing is commenced" the following shall be substituted, namely:

"If the flash takes place at any temperature below 77° Fahrenheit, the temperature at which it occurs is to be recorded. Two 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, and if in no instance the flash has taken place within eight degrees of the temperature at which the testing is commenced, each result is to be corrected for atmospheric pressure as hereafter described, and the aver-

age 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, while in no instance has the flash taken place within eight degrees of the temperature at which the testing was commenced, 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.

If, however, a flash has occurred 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°, and until a flash has not occurred in any of the three tests within eight degrees of the temperature at which the testing is commenced: Provided always that if at the commencement of the series of tests a flash has occurred on the first application of the test-flame at 56°, and if a flash has also occurred on the first application of the flame in each of three successive tests in which, thereupon, the test-flame is first applied at 46° as above directed, the testing officer shall certify that the petroleum has a flashing point below 47° and the sample shall be reported dangerous."

S. HARVEY JAMES,
Secretary to the Government of India

THE



Bombay Government Gazette

Published by Authority.

THURSDAY, 4TH SEPTEMBER 1890.

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 August 1890, and is hereby promulgated for general information:—

Act No. XV of 1890.

An Act to amend the Indian Paper Currency Act, 1882.

WHEREAS it is expedient to authorise an increase of the amount which may be invested in

securities of the Government of India out of the coin and bullion received for currency notes under the law relating to the Government paper currency; It is hereby enacted as follows:—

1. Section 19 of the Indian Paper Currency Act, 1882, shall be read XX of 1882. Amendment of Section 19, Act XX, 1882. as if for the words "sixty millions" the words "eighty millions" were substituted.

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



Bombay Government Gazette.

Published by Authority.

THURSDAY, 18TH SEPTEMBER 1890.

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 11th September 1890, and is hereby promulgated for general information :—

Act No. XVI of 1890.

An Act to amend the Births, Deaths and Marriages Registration Act, 1886.

WHEREAS it is expedient to amend the Births, Deaths and Marriages Registration Act, 1886; It is hereby enacted as follows :—

1. In section 32 of the said Act, for the words "within one year from the date on which this Act comes into force", the words "at any time before the first day of April, 1891," shall be substituted.

Amendment of section 32, Act VI, 1886.

2. The following section shall be added to Chapter V of the said Act, namely :—

Addition of new section 35A, Act VI, 1886.

"35A. (1) The Governor General in Council, if he thinks fit, may, by notification in the Gazette of India, appoint more commissions than one for the purposes of this Chapter, each such commission consisting of so many and such members as he may, by a like notification, nominate thereto by name or by office, and having its functions restricted to the disposal, under this Act and the rules thereunder, of the registers or records sent under section 32 to such Registrar General or Registrars General as the Governor General in Council may, by a like notification, specify in this behalf.

"(2) If more commissions than one are appointed in exercise of the power conferred by sub-section (1), then references in this Act to the Commissioners shall be construed as references to the members constituting a commission so appointed."

S. HARVEY JAMES,
Secretary to the Government of India



Bombay Government Gazette.

Published by Authority.

THURSDAY, 23RD OCTOBER 1890.

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 October 1890, and is hereby promulgated for general information:

Act No. XVII of 1890.

An Act to provide for certain matters in connection with the taking of the Census.

WHEREAS it has been determined to take a census of British India during the year 1891, and it is expedient to provide for certain matters in connection with the taking of such census; it is hereby enacted as follows:—

1. (1) This Act may be called the Indian Census Act, 1890.

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

(3) It shall come into force at once.

2. (1) The Local Government may appoint any person, by name or by office, to take, or aid in or supervise the taking of the census within any specified local area.

(2) Persons so appointed shall be called census-officers.

(3) The Local Government may delegate to such authority as it thinks fit the power of ap-

pointing census-officers which is conferred by this section.

3. (1) A declaration in writing signed by any officer authorized by the Local Government in this behalf, that any person has been duly appointed a census-officer for any local area shall be conclusive proof of such appointment.

(2) All census-officers shall be deemed to be public servants within the meaning of the Indian Penal Code.

4. (1) (a) Every military or naval officer in command of any body of men belonging to Her Majesty's military or naval forces or of any vessel of war,

(b) every person (except a pilot or harbour-master) having charge or control of a vessel,

(c) every person in charge of a lunatic asylum, hospital, workhouse, prison, reformatory or lock-up, or of any public, charitable, religious or educational institution,

(d) every keeper, secretary or manager of any sarai, hotel, boarding-house, lodging-house or club, and

(e) every occupant of immoveable property having at the time of the taking of the census not less than fifty persons employed under him, or living, on or in such property,

XLV of 1889

shall, if so required by the District Magistrate, or by such officer as the Local Government may appoint in this behalf by name or by office, perform such of the duties of a census-officer in relation to the persons who at the time of the taking of the census are under his command or charge, or inmates of his house or present on or in such property, as such Magistrate or officer may, by written order, direct.

(2) All the provisions of this Act relating to census-officers shall apply, so far as they can be made applicable, to all such persons while performing such duties, and any person refusing or neglecting to perform any duty which he is directed under this section to perform shall be deemed to have committed an offence under XLV of 1860. section 187 of the Indian Penal Code.

5. (1) The District Magistrate, or such officer as the Local Government may appoint in this behalf by name or by office for any local area, may, by written order, call upon all owners and occupiers of land, tenure-holders, farmers, assignees of land-revenue and lessees of fisheries under the Burma Fisheries Act, 1875, VII of 1875. or the Upper Burma Land and Revenue Regulation, 1889, III of 1889. in his district or in such local area, as the case may be, or their agents, upon village-servants in permanently-settled estates in the Madras Presidency, and upon all members of panchayats appointed in his district or in such local area under the Village Chaukidari Act, VI (B.C.) of 1870. 1870. V (B. C.) of 1887. 1887. I of 1883. 1883. 1870. 1870. V (B. C.) of 1887. 1887. I of 1883. 1883. as he needs towards the taking of a census of the persons who are at the time of the taking of the census on the lands of such owners, occupiers, holders, farmers and assignees, or within the limits of such fisheries or in the villages for which such village-servants or panchayats are appointed, as the case may be.

(2) Such order shall specify the nature of the assistance required, and such owners, occupiers, holders, farmers, assignees, lessees or their agents, and such village-servants and the members of such panchayats, shall be bound to obey it.

6. Every census-officer may ask all such questions of all persons within the limits of the local area for which he is appointed as, by instructions issued in this behalf by the Local Government and published in the official Gazette, he may be directed to ask.

7. Every person of whom any question is asked under the last foregoing section shall be legally bound to answer such question to the best of his knowledge or belief:

Provided that no person shall be bound to state the name of any female member of his household, and that no woman shall be bound to state the name of her husband or deceased husband or of any other person whose name she is forbidden by custom to mention.

8. Every person occupying any house, enclosure, vessel or other place shall allow census-officers such access thereto as they may require for the purposes of the census, and as, having regard to the customs of the country, may be reasonable, and shall allow them to paint on or affix to the place such letters, marks or numbers as may be necessary for the purposes of the census.

9. (1) Subject to such orders as the Local Government may issue in this behalf, any census-officer may leave, or cause to be left, at any dwelling-house within the local area for which he is appointed, a schedule for the purpose of its being filled up by the occupier of such house or of any specified part thereof with such particulars as the Local Government may direct regarding the inmates of such house or part at the time of the taking of the census.

(2) When any such schedule has been so left, the occupier of the house or part to which it relates shall fill it up, or cause it to be filled up, to the best of his knowledge or belief, so far as regards the inmates of such house or part, as the case may be, at the time aforesaid, and shall sign his name thereto, and, when so required, shall deliver the schedule so filled up and signed to the census-officer or to such person as he may direct.

10. In any of the following cases, namely—

- (a) if a census-officer without sufficient cause refuses or neglects to act as such,
- (b) if a census-officer intentionally puts any offensive or improper question or knowingly makes any false return,
- (c) if any person refuses to answer to the best of his knowledge or belief any question asked of him by a census-officer which he is legally bound by section 7 so to answer,
- (d) if any person occupying any house, enclosure, vessel or other place refuses to allow a census-officer such reasonable access thereto as he is required by section 8 to allow,
- (e) if any person removes, obliterates, alters or injures before the thirty-first day of March 1891, any letters, marks or numbers which have been painted or affixed for the purposes of the census,
- (f) if any occupier of a dwelling-house or part thereof knowingly and without sufficient cause fails to comply with the provisions of section 9 or makes any false return under that section,

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

11. (1) The Local Government may, by notification in the official Gazette, declare before what classes of Magistrates prosecutions under this Act may be instituted.

(2) Unless and until a notification is published under sub-section (1), all prosecutions under this Act shall, in the towns of Calcutta, Madras and Bombay, be instituted before a Presidency Magistrate, and elsewhere before the District Magistrate.

(3) No prosecution under this Act shall be instituted except with the previous sanction of the Local Government, or with the previous sanction of some officer authorised by the Local Government in this behalf by name or by office.

12. Notwithstanding anything to the contrary

Records of census not in the Indian Evidence Act, 1872, no entry in any certain proceedings.

book, register or record made by a census-officer in the discharge of his duty as such officer, and no entry in a schedule

delivered under section 9, shall be admissible as evidence in any civil proceeding or any proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1882. X of 1882.

13. Notwithstanding anything in any enactment or rule with respect to the mode in which a census is to be taken in any municipality, the municipal authority may, at the time appointed for the taking of the census of British India during the year 1891, cause the census of the municipality to be taken wholly or in part by any method authorised by this Act.

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 16th October 1890, and is hereby promulgated for general information:

Act No. XVIII of 1890.

An Act to amend the Indian Emigration Act, 1883.

WHEREAS it is expedient to amend the Indian Emigration Act, 1883, in manner hereinafter appearing; It is hereby enacted as follows:—

1. In section 31 of the said Act, after the word "mistake" the word "and" shall be inserted.

2. (1) In section 35, sub-section (1), of the said Act, the words "in duplicate" shall be substituted for the words "in triplicate" in both places where the latter words occur.

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

"(4) Any number of intending emigrants appearing with the same recruiter before the Registering Officer or Protector at the same time, and desiring to emigrate on the same terms to the same country, may, with the permission of the Registering Officer or Protector (as the case may be), execute one instrument of agreement under this section, instead of each of such intending emigrants executing a separate instrument."

3. For section 37 of the said Act the following shall be substituted, namely:—

"37. When the agreement has been executed and attested—

- Record of registrations and agreements.
- (a) one of the copies thereof shall be delivered to the emigrant, and the other shall be retained by the Protector or sent by the Registering Officer to him, and
 - (b) a certified copy of the particulars registered under section 31 concerning the emigrant or emigrants by whom the agreement was executed, and concerning his or their dependents (if any), shall be delivered to the recruiter for transmission to the Emigration Agent."

4. There shall be substituted in sub-section (1) of section 49 of the said Act, for the word "agreement" the words and figures "particulars registered under section 31," and in sub-section (2) of the same section

for the word "agreement" the words "said copy".

Addition of proviso to section 56 (1), Act XXI, 1883.

5. To sub-section (1) of section 56 of the said Act the following proviso shall be added, namely:—

"Provided that, if the vessel is a steam-ship having a certificate of survey granted by the Board of Trade or any British Colonial Government or under the Indian Steam-ships Act, 1884, and in force and applicable to her intended voyage, the survey under this sub-section with a view to ascertain her seaworthiness shall not extend to her hull or machinery unless the Protector of Emigrants has reason to believe that, since the grant of the certificate, her hull or machinery has sustained injury or damage or has otherwise become inefficient."

Repeal of section 70, Act XXI, 1883.

6. Section 70 of the said Act is hereby repealed.

7. For section 102 of the said Act as amended by Act XXI of 1884 the following shall be substituted, namely:—

"102. (1) On and from such a date as the Governor General in Council may, by notification in the *Gazette of India*, fix in this behalf with respect to any protected Native State adjoining the Straits Settlements, or with respect to any British colony or possession for labour in which Natives of India are recruited exclusively through the agency of the Government of the Straits Settlements, a Native of India who departs by sea out of British India under an agreement to labour for hire in any such State, colony or possession shall not, so long as the notification continues to apply to the State, colony or possession, be deemed to emigrate within the meaning of this Act.

(2) The Governor General in Council may, by notification in the *Gazette of India*, declare that from a date to be specified a notification under sub-section (1) shall no longer apply to a Native State or British colony or possession therein mentioned."

8. Every notification made under section 102 of the said Act as amended by Act XXI of 1884 shall be deemed to have been made under sub-section (1) of section 102 of the said Act as amended by the last foregoing section of this Act.

9. In section 105 of the said Act, for the word and figures "section 102" the words, figures and letter "section 103, clause (a), and section 104" shall be substituted.

Amendment of section 105, Act XXI, 1883.

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

VII of 1884.

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 October 1890, and is hereby promulgated for general information :

Act No. XIX of 1890.

An Act to amend the Indian Salt Act, 1882.

WHEREAS it is expedient to amend the Indian Salt Act, 1882, for the purpose of regulating the traffic in Kohat salt in the Punjab; It is hereby enacted as follows :

1. To section 3 of the Indian Salt Act, 1882, Addition to section 3, the following shall be added, namely :

“Kohat salt” means salt produced in the district of Kohat in the Punjab.”

2. After Chapter III of the said Act the following shall be inserted, namely :—

Insertion of new Chapter IIIA after Chapter III, Act XII, 1882.

“CHAPTER IIIA.

INDUS PREVENTIVE LINE.

8A. (1) The Governor General in Council may, from time to time, and establish chains of posts, by rule,—

- (a) define a zone of country not exceeding fifteen miles in breadth—
- (c) along any portion of the river Indus and at such distance therefrom as he deems expedient, or
- (cc) in any tract extending from that river to the western frontier of the Punjab,
- (b) extend any such zone so as to include any ferry, or any portion of a railway, canal or navigable river entering the zone, or any place where goods are loaded or unloaded into wagons or boats for the purpose of entering or leaving the zone, and
- (c) within such a zone establish a chain of posts extending along the zone.

(2) The establishment of a chain of posts under clause (c) of sub-section (1) shall be deemed to be a public purpose within the meaning of the Land Acquisition Act, 1870.

X of 1870.

8B. When a zone has been defined and a chain of posts established under section 8A, the Governor General in Council may from time to time, by rule—

- (a) prohibit any person, except upon such conditions as may be prescribed in the rule, from having in his possession any Kohat salt within the limits of the zone, and,
- (b) so far as may be necessary for the prevention of the smuggling of Kohat salt across the chain of posts, control and regulate the passage of traffic across such chain, and provide for the searching of all persons and things crossing or being taken across such chain.”

3. The following shall be added to section 25, 25 of the said Act, namely :

“A Salt-revenue-officer shall not be deemed to search or detain any person, or to seize the movable property of any person, vexatiously and unnecessarily within the meaning of clause (b) or clause (c) of the first paragraph of this section if the search is authorized by any rule under clause (b) of section 8B, and the detention or seizure is such as is necessary for the purposes of such search.”

4. To section 27 of the said Act the following shall be added, namely :—

“Nothing in this section shall be deemed to affect Chapter IIIA of this Act or any rule under that Chapter.”

And whereas the Madras Salt Excise Act, 1871, Mad. VI of 1871, or has been repealed by the Madras Salt Act, 1889, Mad. IV of 1889, and section 31 of the Indian Salt Act, 1882, has become obsolete; It is hereby enacted as follows :—

5. Section 31 of the Indian Salt Act, 1882, is hereby repealed.

Repeal of section 31, Act XII, 1882.

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

Bombay Act
1890.



Bombay Government Gazette.

Published by Authority.

TUESDAY, 27TH MAY 1890.

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 31st March 1890, and the assent of His Excellency the Viceroy and Governor General on the 8th May 1890, and is published for general information:—

Bombay Act No. I of 1890.

An Act to amend the Prevention of Gambling Act (Bombay IV of 1887).

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 27th May 1890.)

WHEREAS it is expedient to amend the Bombay Prevention of Gambling Act, 1887; it is enacted as follows:—

1. In Section 3 of the said Act the following definitions shall be inserted before the definition of "common gaming house":

<p>"Gaming" to include wagering.</p> <p>In this Act the expression "Instruments of gaming" defined.</p>	<p>In this Act the word "gaming," whenever it occurs, shall include wagering.</p> <p>any article used as a subject or means of gaming.</p>
---	--

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

A. C. LOGAN,
Secretary to the Council of the Governor of Bombay
for making Laws and Regulations.

Bombay Castle, 21st May 1890.



Bombay Government Gazette.

Published by Authority.

WEDNESDAY, 9TH JULY 1890.

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 2nd April 1890, and the assent of His Excellency the Viceroy and Governor General on the 12th June 1890, and is published for general information:—

Bombay Act No. II of 1890.

An Act to consolidate and amend the Law relating to Salt and the Salt-revenue throughout 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 9th July 1890.)

TABLE OF CONTENTS.

CHAPTER I.	Section	Sub-section.	CHAPTER II.	Section	Sub-section.
PRELIMINARY.			ESTABLISHMENT AND CONTROL.		
Short title	1	(1)	Power for Governor in Council to appoint superior officers of the Salt Department	4	
Extent	ib.	(2)	Collectors charged with carrying out this Act	5	(1)
Commencement in Sind	ib.	ib.	Proviso	ib.	(2)
Repeal of enactments	2	(1)	Powers of Commissioners:	6	
Definitions	3		to appoint subordinate officers of the Salt Department, and	ib.	(a)
“Commissioner”	ib.	(a)	to punish them for misconduct... ..	ib.	(b)
“Collector”, “Deputy” and “Assistant Collector”;	ib.	(b)	Delegation of powers by Commissioners to Collectors, &c.	7	
“Salt-revenue officer”;	ib.	(c)	Provisions of Chapter III, Bombay Land Revenue Code, 1879, to apply to Salt officers and their sureties	8	
“natural salt”;	ib.	(d)	Continuance of existing officers in Sind	9	
“salt”;	ib.	(e)	Conferral of powers under this Act	10	(1)
“salt-earth”;	ib.	(f)			
“manufacture”;	ib.	(g)			
“salt-work”;	ib.	(h)			
“private salt-work”;	ib.	(i)			
“hausee of a salt-work”;	ib.	(j)			
“contraban salt”;	ib.	(m)			
“maund”	ib.	(n)			
“possession”; “removal”	ib.	(o)			

	Section.	Sub-section.		Section.	Sub-section.
CHAPTER III.			CHAPTER V.		
MANUFACTURE, EXCAVATION AND COLLECTION OF SALT AND SALT-EARTH.			REMOVAL OF SALT FROM SALT-WORKS OR GOVERNMENT WAREHOUSES.		
Manufacture, &c., of salt prohibited except under a license ...	11	...	Removal of salt from a salt-work or Government warehouse without a permit prohibited ...	28	...
Licenses to be granted by the Collector ...	12	...	Permit to be granted only after payment of duty and charges and on a written application ...	29	...
Licenses what to contain ...	13	(1)	Payment of duty and charges ...	30	(1)
Power for Government to make rules for permitting excavation, collection or removal of salt-earth without a license ...	14	...	Form and contents of receipt, written application and permit...	31	1)
Village officers bound to report illicit manufacture of salt, &c. ...	15	...	Order to subordinate salt-revenue officer may be attached to permit ...	32	(1)
CHAPTER IV.			Course to be followed by salt-revenue officer in subordinate charge of salt-work, &c., when permit is presented to him ...		
PRIVATE SALT-WORKS.			Salt how to be dealt with after leaving a salt-work ...		
<i>Proprietors entitled to manufacturing Licenses.</i>			Responsibilities of permit-holders..		
Special and permanent rights of manufacturing salt to be recognized ...	16	...	CHAPTER VI.		
Rights of ordinary proprietors of existing salt-works ...	17	(1)	WAREHOUSING OF SALT FOR SALE.		
<i>Control of Works.</i>			Salt not to be stored for the purpose of sale within certain limits without a license ...		
Chaukis and preventive stations may be established by the Collector in or near salt-works ...	18	(1)	The Governor in Council may make rules to regulate the storage, &c., of salt for purpose of sale in the said limits ...	36	...
Disposal of sifted or refuse salt at a private salt-work ...	19	(1)	Licenses to store, &c., and sell salt may be issued by the Collector...	37	(1)
Heaps of salt at a private salt-work when opened to be entirely removed or reheaped ...	20	(1)	Possession of salt exceeding one maund in weight prohibited within the said limits except under a permit, &c. ...	38	(2)
Power for certain salt-revenue officers to require licensees of private salt-works to repair or reconstruct places for storage of salt or to provide for protection of salt or to repair store-houses ...	21	(1)	CHAPTER VII.		
Provision for execution of emergent works ...	22	...	POWERS OF SALT-REVENUE OFFICERS		
Power of Collector to require licensees of private salt-works to construct, reconstruct, alter or extend store-houses or to construct places for the storage of salt ...	23	(1)	Power of salt-revenue officers: ...	39	...
<i>Suppression of Private Saltworks and determination of licenses.</i>			to enter any place where illicit manufacture of salt is suspected to be going on; and ...	ib.	(a)
Power for Governor in Council to suppress a private salt-work or to suspend or withdraw license, if the licensee offends against the Act; or to fine the licensee if an offence is committed by any person employed at a private salt-work ...	24	(1)	to take possession of or destroy salt illicitly manufactured, &c.; and ...	ib.	(b)
Acquisition of private salt-works under Act X of 1870 ...	25	...	to enter and inspect salt-works and stores or vessels laden with salt; and...	ib.	(c)
Power to destroy suppressed and unlicensed salt-works ...	26	...	to detain and search any person, animal, &c., for contraband salt; and ...	ib.	(d)
Removal of salt from suppressed and unlicensed private salt-works	27	(1)	to seize contraband salt, &c.; and...	ib.	(e)
			to detain, search and arrest any offender against this Act ...	ib.	(f)
			Searches and arrests how to be made ...	40	(g)
			Officers of certain departments bound ...	41	...
			to give information concerning offences punishable under this Act; and ...	ib.	(a)
			to prevent such offences; and...	ib.	(b)
			to assist salt-revenue officers ...	ib.	(c)

	Section.	Sub-section.		Section	Sub-section.
CHAPTER VII—continued.			CHAPTER IX—continued.		
POWERS OF SALT-REVENUE OFFICERS—continued.			PROCEDURE—continued.		
Issue of search warrants ...	42	(1)	Power to summon persons to give evidence and produce documents in enquiries under this Act ...	53	(1)
Person in possession of articles which are to be searched or examined, bound to unpack and weigh the same ...	43	(1)	Summons to be in writing, signed and sealed ...	54	...
Disposal of person arrested ...	44	...	How to be served ...	55	...
Procedure to be followed by officer in charge of a police-station in cases of offences punishable under this Act ...	45	...	Service of notices ...	55	(1)
Inquiry how to be made by salt-revenue officers against arrested persons forwarded to them under section 44 ...	46	(1)	Notice not void for error ...	55	(2)
			Recovery of costs ...	56	...
			Appeals ...	57	(1)
CHAPTER VIII.			CHAPTER X.		
PENALTIES.			MISCELLANEOUS.		
For illicit manufacture of salt, &c.	47	..	Further matters for which the Governor in Council may make rules ...	58	(1)
For offences against this Act committed by public servants ...	48	...	Penalties may be attached by the Governor in Council to breach of rules ...	59	...
For preparing or using incorrect application for a permit, or an incorrect certificate under section 32 ...	49	...	Publication of rules ...	60	...
What things are liable to confiscation ...	50	...	No person to be liable to penalty or damages for act done in good faith in pursuance of duty ...	61	(1)
			No suit or prosecution in respect of an act done under colour of duty as aforesaid shall be entertained, or shall be dismissed, if not instituted within six months ...	ib.	(2)
CHAPTER IX.			In suits as aforesaid one month's notice to be given and sufficient description of wrong complained of ...		
PROCEDURE.			Plaint to set forth service of notice and tender of amends ...		
Cognizance of offences ...	51	...		ib.	(3)
Order of confiscation by whom to be made ...	52	(1)		ib.	(4)
Power to regulate disposal of things seized ...	ib.	(3)			
Redemption of thing confiscated to be permitted on payment of fine ...	ib.	(4)			

Bombay Act No. II of 1890.

An Act to consolidate and amend the law relating to Salt and the Salt-revenue throughout the Presidency of Bombay.

WHEREAS it is expedient to amend the Bombay Salt Act, 1873, and to enact a consolidated salt law for the whole of the Bombay presidency; It is enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be cited as "The Bombay Salt Act, 1890."

(2) It extends to the whole of the presidency of Bombay; but it shall not come into force in Sind till such date as the Governor of Bombay in Council, by notification in the *Bombay Government Gazette*, fixes in this behalf.

Bo. VII of 1873.

2. (1) The Bombay Salt Act, 1873, and Bombay Act V of 1882 (*an Act to amend the Bombay Salt Act of 1873*) are repealed:

(2) Provided that:

(a) all rules and appointments made, licenses and permits granted, notifications published and powers conferred under either of the said enactments and now in force shall, so far as they are consistent with this Act, be deemed to have been respectively made, granted, published and conferred hereunder;

(b) the said repeal shall not affect any act done, or any offence committed, or any proceedings commenced, or any claim which has arisen, or any penalty which has been incurred, before this Act comes into force.

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

(a) "Commissioner;" means a Commissioner of Salt-revenue;

(b) "Collector," "Deputy" and "Assistant Collector" mean, respectively, a Collector or a Deputy or Assistant Collector of Salt-revenue;

(c) "salt-revenue officer" means an officer of the Salt Department and includes any other person, whether a Government officer or not, invested under section 10 with any power under this Act;

(d) "natural salt" means salt spontaneously produced, natural saline deposits and efflorescence;

(e) "salt" includes natural salt;

(f) "salt-earth" means earth naturally impregnated with salt, or with which salt is mixed;

(g) "manufacture" includes every process by which salt is separated from brine or earth or any other liquid or substance, and also every process for the purification or refinement of salt;

(h) "salt-work" includes:

(i) a place used or intended to be used for the manufacture of salt and all embankments, reservoirs, condensing and evaporating pans, buildings and waste places situated within the limits of the same;

(ii) all drying grounds and storage platforms and store-houses appertaining to any such place; and

(iii) land on which salt is spontaneously produced;

(k) a "private salt-work" is one not solely owned or not solely worked by Government;

(l) "licensee of a salt-work" means a person licensed to manufacture, excavate or collect salt at, or to remove salt from, a salt-work;

(m) "contraband salt" means salt or salt-earth manufactured, excavated, collected, packed, stored, landed, transported or removed from a salt-work or from a Government warehouse or store, or had in possession, in contravention:

(i) of this Act, or of any other enactment relating to the salt-revenue at the time being in force; or

(ii) of any rule or order made under this Act or under any other such enactment as aforesaid; or

(iii) of any license or permit issued under this Act, or under any other such enactment as aforesaid;

(r) "maund" means an Indian maund of 82½ pounds avoirdupois weight;

(o) "possession" or "removal" of salt or salt-earth by a servant or agent of any person, on that person's account, shall be deemed to be possession or removal thereof by such person.

CHAPTER II.

ESTABLISHMENT AND CONTROL.

4. (1) Subject to the general control of the Governor-General in Council, the Governor in Council may, from time to time, appoint, either by name or by virtue of their office, so many persons as he thinks fit to be officers of the Salt Department.

(2) The said officers shall be appointed under the designations of—

- (a) Commissioner of Salt-revenue;
- (b) Collector of Salt-revenue;
- (c) Deputy Collector of Salt-revenue;
- (d) Assistant Collector of Salt-revenue;

and such other designations, if any, as the Governor in Council thinks fit.

(3) Each such officer shall be appointed for such local area as the Governor in Council from time to time defines in this behalf.

(4) The Governor in Council may suspend, remove, dismiss, or accept the resignation of, any person appointed under this section.

(5) The Governor in Council may at any time withdraw from any officer any of the powers or duties which are or which may be conferred or imposed by or under this Act.

5. (1) Subject to the control and direction of the Commissioners to whom they are respectively subordinate and to the orders of Government, the Collectors are

Collectors charged with carrying out this Act.

charged with the collection of salt-revenue and with the carrying out of the provisions of this Act within the local areas for which they are respectively appointed:

(2) Provided that it shall be competent to the Governor in Council, by an order

published in the *Bombay Government Gazette* whenever and for so long as he shall deem fit, to keep the office of Commissioner of Salt-revenue in any part of the presidency in abeyance and to empower the Collectors in such part, during the time that the said office is so held in abeyance, to exercise the powers and perform the duties of Commissioner within the local areas for which they are respectively appointed and their proceedings and orders shall, in that case, be subject to the immediate control of Government.

6. Subject to such orders as may from time to time be passed

Power of Commissioners: by Government in this behalf, the Commissioners may:

(a) appoint such subordinate officers of the Salt Department, with such designations as they deem fit;

(b) at any time, after inquiry recorded in writing, fine, dismiss, suspend or reduce any officer so appointed, for any breach of departmental rules or discipline, or for carelessness, unfitness, neglect of duty or other misconduct.

7. The powers conferred on Commissioners by the last

preceding section may be delegated by any Commissioner, in whole or in part, to any Collector or Deputy or Assistant Collector, and any such delegation may be at any time cancelled by the Commissioner.

8. All officers of the Salt Department shall be deemed to be

Revenue officers within the meaning and for the purposes of Chapter III of the Bombay Land Revenue Code, 1879, and all the provisions of the said Chapter relating to Revenue officers and their sureties shall be applicable respectively to offi-

Provisions of Chapter III, Bombay Land Revenue Code, 1879, to apply to Salt officers and their sureties.

Chapter III of the Bombay Land Revenue Code, 1879, and Bo. V of 1879.

cers of the Salt Department and their sureties. Provided that, all the powers conferred and duties imposed by the said Chapter on the Collector or the Superintendent of Survey, shall, in respect of officers of the Salt Department and their sureties, be exercised and performed by the Collectors of Salt Revenue only.

9. Until appointments are made in

Continuance of exist-
ing officers in Sind.

Sind under sections 4 and 6, the officers who, on the day previous to the date on which this Act comes into force in that province, hold any office in virtue of which they exercise powers or perform duties in connection with the collection or protection of the salt-revenue in that province, shall be deemed to have been appointed and shall continue to hold the same offices, respectively, under this Act.

10. (1) The Governor in Council
Conferral of powers
under this Act.

may, from time to time, by notification in the *Bombay Government Gazette*, invest :

- (a) any officer of the Salt Department, either personally or in virtue of his office; or
- (b) any Government officer of any other department, either personally or in virtue of his office; or
- (c) any other person;

with all or any of the powers described or contemplated in sections 28, 33, 39, 42 and 44.

(2) The Governor in Council may delegate the power vested in him by this section, either wholly or partly, to a Commissioner, subject to such limitations or conditions as Government may by any order prescribe.

CHAPTER III.

MANUFACTURE, EXCAVATION AND COLLECTION OF SALT AND SALT-EARTH.

11. No salt shall be manufactured and no natural salt and, except under the provisions of section 14, no salt-earth shall be excavated or collected or removed, otherwise than by the authority and subject to the terms and conditions of a license to be granted by the Collector in this behalf.

12. The Collector shall, on application, grant a license for the manufacture, excavation, collection or removal of salt, to any person entitled to the same under section 16 or section 17, and may, in his discretion, grant

licenses for any of the said purposes or for the excavation, collection or removal of salt-earth to any other persons.

13. (1) Each such license shall specify :

- (a) the name of the person to whom it is granted;
- (b) the limits within which the manufacture, excavation or collection under it is to be carried on; and
- (c) the place where the salt or salt-earth so manufactured, excavated, collected or removed is to be stored;

and shall be in such form and contain such conditions as the Commissioner, subject to the directions of Government, from time to time prescribes.

(2) The Collector may, at any time, call for any such license and alter or amend it in accordance with the conditions so prescribed.

(3) A register of licenses granted under this section shall be kept in the office of the Collector.

14. The Governor in Council may, from time to time, make rules for permitting excavation, collection or removal of salt-earth without a license.

by any person or class of persons, in any local area or place defined in such notification, of salt-earth, without a license from the Collector, and may in such rules frame such provisions as he shall deem fit for limiting and regulating such excavation, collection or removal and prescribe the uses to which salt-earth so obtained may be put.

15. Every village officer shall communicate to a salt-revenue officer or to a Magistrate, or to an officer in charge of a police-station, within three days after the same shall come to his knowledge, any information which he may obtain of the manufacture, excavation, collection or removal of salt or salt-earth without a license or of any new formation of natural salt in or near his village.

CHAPTER IV.

PRIVATE SALT-WORKS.

Proprietors entitled to manufacturing licenses.

16. The proprietor of a private salt work who has by virtue of a sanad granted by the British or any former Gov-

Special and permanent rights of manufacturing salt to be recognized.

ernment, a special and permanent right to manufacture salt, or to excavate or collect natural salt, shall, unless his salt-work is suppressed under section 24 of this Act or has been suppressed under section 33 of the Bombay Salt Act, 1873, be entitled, on application, to a license for such purpose.

17. (1) Except as is hereinafter otherwise provided, every proprietor of a private salt-work, to which section 16 does not apply and which is being lawfully worked at the time when this Act comes into force, or which was lawfully worked at any time within three years next before the date on which this Act comes into force, shall, unless his salt-work is suppressed under section 24 of this Act or has been suppressed under section 33 of the Bombay Salt Act, 1873, be entitled, on application, to a license to manufacture salt or to excavate or collect natural salt at such work :

(2) Provided that the Collector may at any time withdraw or withhold a license from the proprietor of any salt-work to which section 16 does not apply, if no salt shall have been manufactured, excavated or collected in such salt-work for the three years ending on the thirtieth day of June last preceding the date of his order or, with the previous sanction of the Governor in Council, if such salt-work shall not have produced, on an average, during the said three years, at least five thousand maunds of salt per annum.

Control of Works.

18. (1) The Collector may, for the purposes of this Act, cause chaukis to be erected in such places as he thinks fit within a private salt-work, and the proprietor or licensee of the salt-work shall have no claim for compensation for the ground occupied by such chaukis.

(2) The Collector may also, for the purposes of this Act, station such salt-revenue officers and other persons as he deems fit within the limits of a private salt-work, and establish preventive stations wherever he thinks fit in the neighbourhood of any such salt-work.

19. (1) The Collector may, at any time, by written notice, require the licensee of a private salt-work to store in heaps any

sifted or refuse salt which may be lying on such work, or, at such licensee's option, to destroy the same.

(2) If the licensee shall fail, within ten days from the date of service of any such notice, either to store in heaps or effectually to destroy the same, the Collector may cause the salt to be effectually destroyed and the cost of so doing shall be recoverable by him from the licensee of the salt-work.

(3) The decision of the Collector as to whether any salt is sifted or refuse salt shall, for the purposes of this section, be conclusive.

20. (1) When any heap of salt in a private salt-work has been opened and a portion of it removed, the salt-revenue officer in charge of the salt-work may, by written notice, require the licensee of the salt-work either to remove the remaining portion of the salt in such heap or to reheap and secure the same in such manner as the said officer shall deem sufficient.

(2) If the licensee shall fail to comply with such notice within three days from the date of service thereof, the officer aforesaid may offer the salt remaining from the heap for sale, and, if the price offered be not less than the duty leviable thereon, may sell it. If the price offered be less than the amount of the duty, he may cause the salt to be destroyed, and the cost of so doing shall be recoverable by him from the licensee of the salt-work.

Power for certain salt-revenue officers to require licensees of private salt-works to repair or reconstruct places for storage of salt or to provide for protection of salt or to repair store-houses.

21. (1) Any salt-revenue officer not lower in rank than a sarkarkun may, by written notice, require the licensee of a private salt-work :

- (a) to repair or reconstruct any embankment, platform or place for the storage of salt within such salt-work ;
- (b) to protect, in any manner which shall appear to such officer sufficient, by thatch or in any other mode customary in the locality, any salt stored upon any such embankment, platform or place ;
- (c) to repair, to such officer's satisfaction, any store-house, building or premises used for the storage of salt manufactured, excavated or collected at such salt-work on which duty has not been paid.

(2) If the licensee shall fail to comply with such notice within twenty days from the date of service thereof, the officer aforesaid may cause the necessary work to be executed; and the cost of so doing shall be recoverable by him from the licensee of the salt-work.

22. If the salt-revenue officer aforesaid shall be of opinion that unless any such work as is mentioned in the last preceding section is executed without delay, the salt-revenue will be endangered, he may, by written notice, and after recording his reasons for so doing in writing, require the licensee of the salt-work to execute the said work within such period as may be reasonably sufficient for the execution thereof, and if the licensee fails to comply with the notice within such period, may cause the work to be executed; and the cost of so doing shall be recoverable by him as aforesaid.

23. (1) The Collector may, by written notice, require the licensee of a private salt-work, within a reasonable period to be prescribed in such notice, to his satisfaction:

(a) to construct within or adjacent to such salt-work a store-house or other building or premises for the storage of salt manufactured, excavated or collected at such salt-work, on which duty has not been paid; or

(b) to reconstruct, alter or extend any existing store-house or other building or premises used for the storage of such salt as aforesaid;

(c) to construct within such salt-work any embankment, platform or place for the storage of salt.

(2) If the licensee shall fail within the prescribed period to comply with such notice, the Collector may cause the necessary work to be executed; and the cost of so doing shall be recoverable by him from the licensee of the salt-work.

Suppression of private Salt-works and determination of licenses.

24. (1) If the licensee of any private salt-work, or his agent has been found by an authority com-

Power for Governor in Council to suppress a private salt-work or

to suspend or withdraw license, if the licensee offends against this Act; or to fine the licensee if an offence is committed by any person employed at a private salt-work.

petent in this respect to have committed any offence punishable under this Act, the Governor in Council may suppress such salt-work, or suspend or withdraw the license to manufacture, excavate or collect salt thereat or to remove salt therefrom.

(2) If any such offence is committed by any person employed at a private salt-work, the Governor in Council may impose a fine not exceeding one thousand rupees on the licensee of such work, unless the said licensee establishes, to the satisfaction of the Governor in Council, that all due and reasonable precautions were exercised by him to prevent the commission of such offence.

(3) For the purposes of this section the decision of the Governor in Council as to whether any such offence as aforesaid has been committed shall be conclusive.

(4) If any fine imposed under this section is not paid forthwith, the amount thereof may be recovered, upon application by the Collector, by any Magistrate, as if the same were a fine inflicted by such Magistrate.

25. Whenever it shall appear necessary to the Governor in Council to obtain the ownership of any private salt-work with a view to suppressing it, he may proceed to acquire such salt-work under the provisions of the Land Acquisition Act, 1870.

26. Whenever, under any of the provisions of this Act, a private salt-work is suppressed, or a license to manufacture, excavate or collect salt at or to remove salt from any salt-work is withheld, suspended, or withdrawn, the Collector may flood the said work with water or take such other measures as he may deem fit for preventing the manufacture or the spontaneous production of salt therein.

27. (1) Salt in store at any private salt-work on the date when it is suppressed or when a license for the manufacture, excavation or collection of salt thereat or the removal of salt therefrom is withheld, suspended or withdrawn, may be removed by

Removal of salt from suppressed and unlicensed private salt-works.

the licensee of the salt-work within the period of six months from the said date and for the purpose of such removal the license shall for the said period be deemed to continue in force.

(2) The Collector may cause any salt which remains at any such salt-work after the expiry of the said period of six months to be put up for sale, and if the price offered be not less than the duty leviable thereon may sell it. If the price offered be less than the amount of the duty, he may cause the salt to be destroyed.

CHAPTER V.

REMOVAL OF SALT FROM SALT-WORKS OR GOVERNMENT WAREHOUSES.

28. No salt shall be removed from any salt-work or from a salt-work or Government warehouse without a permit prohibited. Government warehouse or store, otherwise than on account of Government, except under the authority and subject to the terms and conditions of a permit to be granted by a salt-revenue officer empowered in this behalf.

29. No such permit shall be granted until after payment of the duty and other charges, if any, payable to Government in respect of the salt intended to be removed, nor except upon a written application for the same.

30. (1) The duty and other charges, if any, payable to Government shall be paid to such officer as the Commissioner from time to time directs; and he shall give a receipt for the payment in such form as the Commissioner may prescribe.

(2) If the officer authorized to receive the said payment is the same salt-revenue officer who is empowered to grant the permit, the amount of the duty and other charges, if any, payable to Government in respect of the salt intended to be removed shall be presented to the said officer, along with the written application for a permit, and the said officer's receipt therefor may be attached to the permit. Otherwise the receipt of the officer authorized to receive payment of the duty and other charges, if any, shall accompany the written application for a permit.

iv.—25

31. (1) The receipt and written application shall, respectively, be in such form and be signed by such persons and contain such particulars as the Commissioner from time to time directs.

(2) The permit shall specify:

- (a) the amount of duty and other charges, if any, paid;
- (b) the quantity of salt to be removed;
- (c) the salt-work, or Government warehouse or store from which and the person by whom the salt is to be removed;
- (d) in the case of salt removed from a salt-work, the preventive station at which the salt is to be examined;
- (e) the place to which and the route by which the salt is to be taken;
- (f) the period for which the permit shall be in force;

and shall be in such form and contain such other particulars, if any, as the Commissioner from time to time directs.

32. (1) If the Commissioner so directs, there shall be attached to the permit an order to the salt-revenue officer in subordinate charge of the salt-work or Government warehouse or store from which salt is to be removed, requiring him to allow the quantity of salt mentioned in the permit to be removed and to endorse upon the order a certificate signed, by himself and by the person who removes the salt and, if it is removed from a private salt-work, by the licensee of the salt-work, as to the correctness of the weight and of the scales and weights used in weighing the salt.

(2) The said order and certificate shall be in such form and contain such particulars as the Commissioner from time to time prescribes.

33. When a permit is presented to the salt-revenue officer in subordinate charge of a salt-work, or of a Government warehouse or store, he shall:

- (a) fill up the blanks therein, if any, intended to be filled up by him;
- (b) permit the authorized amount of salt to be weighed out for removal;
- (c) tear off and retain the order, if any, attached to the permit;

(d) fill in and take the signatures of the proper persons beneath, and himself attest the certificate to be endorsed on the said order, if any;

(e) return the permit to the person entitled to remove the salt and permit the salt to be removed.

34. (1) Salt removed from a salt-work under a permit as aforesaid shall be taken, together with the permit covering

Salt how to be dealt with after leaving a salt-work.

it, direct to the preventive station named in the permit, within the period prescribed in such permit.

(2) Subject to such orders as the Collector from time to time issues in this behalf, the salt-revenue officer in charge of the preventive station may examine and re-weigh the salt under removal.

(3) If the said officer shall be satisfied that the quantity of salt under removal is not in excess of the quantity specified in the permit he shall allow it to pass and after endorsing the permit to the effect that he has passed the same, shall return it to the person removing the salt.

(4) Thereafter the salt shall be conveyed to the place named in the permit within the period prescribed therein.

35. It shall be incumbent on every person who has obtained a permit for the removal of salt, either personally or through an agent lawfully appointed for this purpose:

Responsibilities of permit-holders.

(a) to test the scales and weights used in weighing out such salt;

(b) to prevent the removal of salt in excess of the quantity named in the permit;

(c) if so required by the salt-revenue officer in subordinate charge of the salt-work, or Government warehouse, or store, from which the salt is removed, to sign a certificate as to the correctness of the weight and of the scales and weights used in weighing out the salt;

(d) to superintend the removal of the salt.

CHAPTER VI.

WAREHOUSING OF SALT FOR SALE.

Salt not to be stored for the purpose of sale within certain limits without a license.

36. No salt shall be stored or had in possession for the purpose of sale:

(a) in Sind; or

(b) within one mile from the Mátunga salt-work in the island of Bombay; or

(c) within ten miles from any salt-work, or from any customs-station established under section 4 of Act No. XXIX of 1857 (*an Act to make better provision for the collection of land customs on certain foreign frontiers of the presidency of Bombay*), or from any port or place at which at the time being it is lawful to import salt by sea or to land the same; or

(d) within any other limits which shall from time to time be defined for this purpose by the Governor in Council by notification in the *Bombay Government Gazette*;

except under the authority and subject to the terms and conditions of a license to be granted by the Collector in this behalf.

37. (1) The Governor in Council may,

The Governor in Council may make rules to regulate the storage, &c., of salt for purpose of sale in the said limits.

from time to time, make rules for regulating and licensing the storage or possession of salt for the

purpose of sale within any of the limits aforesaid.

(2) Subject to the provisions of any

Licenses to store, &c. and salt may be issued by the Collector.

rules so made, the Collector may, from time to time, grant licenses to such persons as he deems fit, authorizing them to store or possess salt within any of the said limits, for the purpose of sale.

38. (1) No person shall, within any of

Possession of salt exceeding one maund in weight prohibited within the said limits except under a permit, &c.

the limits described in section 36, trans- port or possess salt exceeding one maund in weight, unless the same:

(a) is being removed under a permit obtained under section 23; or

(b) is stored or possessed for the purpose of sale under a license granted under the last preceding section; or

(c) has been legally imported, from a foreign port or place, at some port or place within the said limits and is covered by a certificate signed by a customs-officer of the payment of the import-duty leviable thereon; or

(d) is covered by a special permit granted under the power next herein-after conferred.

Possession of 1 maund of salt allowed -

(2) The Collector or Deputy or Assistant Collector or any salt-revenue officer empowered in this behalf may grant to such persons, as they shall think fit, special permits authorizing them to be possessed of salt, exceeding one maund in weight for their private consumption within or for conveyance out of any of the said limits.

CHAPTER VII.

POWERS OF SALT-REVENUE OFFICERS.

39. Any salt-revenue officer empowered in this behalf, may:

(a) enter, at any time by day or by night, any land, building, enclosed place or premises upon or in or from which he has reason to believe that:

(i) salt is being manufactured, excavated, collected or removed without a license granted under this Act; or

(ii) there is a natural formation of salt; or

(iii) contraband salt is stored or concealed;

(b) in case of resistance, break open any door and remove any other obstacle to his entry upon or into such land, building, enclosed place or premises;

(c) take possession of, or destroy any salt so manufactured, excavated, collected or formed and any work, apparatus, implement, utensil, or material constructed or employed for the purpose of such manufacture, excavation, collection or removal, or of utilizing the salt so formed contrary to any of the provisions of this Act or of any rule made hereunder;

(d) enter and inspect, at any time by day or night, any salt-work or any building, enclosed place, or premises used for storing salt, or any vessel laden with, or which is being laden with, or which it is intended to load with salt;

(e) detain and search any person, animal, vessel, conveyance, goods or package upon or in whom or which he shall have reason to believe that there is contraband salt;

(f) seize in any open place, or in transit, any article which he has reason to believe to be contraband salt and any package or covering in which such article is found and the other contents, if any, of such package or covering in which the same is found and any animal, vessel or conveyance used or intended to be used in carrying the same;

(g) detain and search and, if he think proper, arrest any person whom he has reason to believe to be guilty of any offence punishable under this or any other law for the time being in force relating to salt-revenue, or in whose possession contraband salt is found.

40. All searches and arrests under the last preceding section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1882, relating, respectively, to searches and arrests made under that Code. Act X of 1882.

41. It shall be incumbent on every village officer and on every officer of the departments of Police, Customs, Opium, Abkari, Forests and Revenue:

(a) to communicate to some salt-revenue officer not lower in rank than a sarkarkún or a daroga, any information which he receives of a design to commit or of the commission of any offence punishable under this Act;

(b) to interpose for the purpose of preventing and prevent, by the use of all reasonable means within his power, the commission of any such offence;

(c) on receipt of notice or of a request from any salt-revenue officer, to assist such officer in carrying out any of the provisions of this Act.

42. (1) Any Commissioner, or Collector, or other salt-revenue officer empowered in this behalf, and any Magistrate, may issue a warrant for the search, whether by day or by night, of any building, vessel or place in which he has reason to believe that contraband salt is kept or concealed.

1882 (2) Every warrant issued under this section shall be executed in accordance with the provisions of the Code of Criminal Procedure, 1882, relating to search-warrants, by a Police officer or by a salt-revenue officer empowered in this behalf, or, if the officer issuing the warrant deems fit, by any other person.

43 (1) Any officer who makes a search under this Act, or who examines any salt or salt-earth for any of the purposes of this Act, or of any rule made under this Act, may require the person who has the immediate possession or control of any animal, vessel, conveyance, goods, or package which he desires to search, or of any salt or salt-earth which he desires to examine, without delay and in such manner as he thinks fit to direct.

(a) to unload, unpack or open, any such animal, vessel, conveyance, goods or package; and

(b) to weigh any such salt or salt-earth, or

(c) before or after such search, examination or weighing is completed, to remove any such animal, conveyance, goods or packages beyond the limits of any wharf, landing-place, or preventive station, or to deposit any such goods or package until further orders at any spot indicated by such officer within such limits

(2) If the said person shall fail to comply with any such requirement, the officer aforesaid may cause the animal, vessel, conveyance, goods, or package to be unloaded, unpacked, opened, removed or deposited or the salt or salt-earth to be weighed in the manner which he requires, and the cost of so doing shall be recoverable by the said officer from the said person.

44. Every person arrested under section 39 shall be forwarded without delay to the nearest salt revenue officer empowered to send persons so arrested to a Magistrate, or if there be no

such salt-revenue officer within a reasonable distance, to the officer in charge of the nearest police-station.

45. The officer in charge of a police station to whom any person is forwarded under the last preceding section, or who receives, direct, any complaint or information of the commission of an offence punishable under this Act, shall inquire into and deal with the case under the provisions of the Code of Criminal Procedure, 1882, Act No of 1882.

46. (1) When any person is forwarded under section 44 to a salt-revenue officer empowered to send persons so arrested to a Magistrate, the said salt-revenue officer may detain such person and shall proceed to inquire into the charge against him.

(2) For this purpose the said salt-revenue officer may exercise the like powers and shall be subject to the same provisions as the officer in charge of a police-station may exercise and is subject to, under the Code of Criminal Procedure, 1882, when investigating a cognizable case;

(3) Provided that

(a) if the said salt-revenue officer shall be of opinion that there is sufficient evidence or reasonable ground of suspicion against the accused person, he shall forward him to a Magistrate having power to take cognizance of the offence;

(b) if it appears to the said salt-revenue officer that there is not sufficient evidence or reasonable ground as aforesaid, he shall release the accused on his executing a bond, with or without sureties, as such salt-revenue officer may direct, to appear, if and when so required, before a Magistrate having power as aforesaid, and make a full report of all the particulars of the case to his official superior and be guided by the order which he shall receive upon such report.

CHAPTER VIII.

PENALTIES.

47. Whoever, in contravention of this Act, or of any rule or order made under this Act, or of any license or permit obtained under this Act—

(a) manufactures, removes or transports salt; or

(b) excavates, collects or removes natural salt, or salt-earth;

and whoever :

(c) except in the exercise of some power or the discharge of some duty conferred or imposed upon him under this Act or any other enactment at the time in force, receives or, without lawful excuse, retains contraband salt knowing or having reason to believe the same to be contraband salt ;

shall for every such offence be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

48. Whoever, being a salt-revenue officer or a village officer or an officer of any of the departments of Police, Customs, Opium, Akkari, Forests or Revenue :

For offences against this Act committed by public servants,

(a) does any act, or is guilty of any omission, in contravention of this Act, or of any rule or order made under this Act ; or

(b) with intent to cause injury or annoyance to any person, vexatiously and unnecessarily makes use of any power conferred upon him under this Act ;

shall for every such offence be punished with fine which may extend to five hundred rupees.

49. Whoever prepares, or signs, or uses, or attempts to use

For preparing or using incorrect application for a permit, or an incorrect certificate under section 32

an incorrect application for a permit to remove salt, or an incorrect certificate purporting to be such as is required by section 32, knowing or having reason to believe such application or certificate to be incorrect, shall, for every such offence, be punished with fine which may extend to two hundred rupees, and in default of payment of the fine, with simple imprisonment for a term which may extend to one month.

50. All contraband salt, and every vessel, animal or conveyance used, or intended to be used, in carrying contraband salt, and

all goods, packages and coverings in or among which contraband salt is found, and

every apparatus, implement, utensil or material employed, or intended to be employed, for the manufacture, excavation, collection or removal of salt without a license or for the purpose of utilizing natural salt or salt-earth contrary to any of the provisions of this Act or of any rule made hereunder,

shall be liable to confiscation.

CHAPTER IX.

PROCEDURE

51. All offences punishable under this Act, shall be cognizable by any Magistrate.

52. (1) All confiscations under this Act shall be adjudged by the Collector or by any officer empowered by the Governor in Council in this behalf :

(2) Provided that no order of confiscation shall be made without hearing any person who within one month from the date of its seizure claims a right to any thing intended to be confiscated and the evidence, if any, which he produces in support of his claim

(3) Provided also that it shall be lawful for the Governor in Council to make from time to time rules consistent with this Act to regulate the disposal and destruction of things seized under this Act.

Such rules may among other matters provide :

(a) that any officer of a class which shall be designated in such rules may, at any time after a seizure under this Act has been made of any goods which appear to him to be subject to speedy and natural decay, direct such goods to be sold by public auction, destroyed or otherwise disposed of ;

(b) that the owner or person in charge of any animal seized under this Act shall provide from day to day for its keep, while detained, and that if he omits to do so, such animal may, if any officer such as is referred to in clause (a) so direct, be sold by public auction and the expenses, if any, incurred on account of it defrayed from the proceeds of such sale ;

(c) that the surplus proceeds of a sale under clause (a) or clause (b) of this section shall, unless the owner of the thing seized establishes his claim to such proceeds within a period not less than three months, to be fixed by such rules, be forfeited to Her Majesty.

(4) Whenever confiscation is ordered

under this Act, the owner of the thing confiscated shall be given an option of redeeming it, on payment of such fine as the Collector or other officer aforesaid thinks fit.

53. (1) Any salt-revenue officer not

lower in rank than a sarkarkún or a daroga shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing in any inquiry which such officer is making for any of the purposes of this Act. A summons to produce documents or other things may be for the production of certain specified documents or things or for the production of all documents or things of a certain description in the possession or under the control of the person summoned.

(2) All persons so summoned shall be bound to attend, either in person or by an authorized agent, as such officer may direct: provided that exemptions under sections 640 and 641 of the Code of Civil Procedure shall be applicable to requisitions for attendance under this section;

and all persons so summoned shall be bound to state the truth upon any subject respecting which they are examined or make statements;

and to produce such documents and other things as may be required.

(3) Every such inquiry as aforesaid shall be deemed to be a "judicial proceeding" within the meaning of section 193 and section 228 of the Indian Penal Code.

54. Every summons shall be in writing, in duplicate, and shall state the purpose

for which it is issued, and shall be signed by the officer issuing it, and shall also bear his

official seal, if he have any; and shall be served by tendering a copy of it to the

person summoned, or, if he cannot be found, by affixing a copy of it to some conspicuous part of his usual residence.

55. (1) Every notice under this Act shall be deemed to be served on the date on which a copy thereof is tendered or delivered to the person on whom it is to be served, or to his agent, if he have any;

or when the notice has not been so served, the date which shall appear to the officer holding the enquiry to be the date on which the person on whom the same is to be served has become aware of the issue and purport thereof.

(2) No such notice shall be deemed void on account of any error in the name or designation of any person

referred to therein, unless when such error has produced a material misconception of the intended intimation.

56. Whenever it is provided in this

Act that the costs of doing anything shall be recoverable from any person by a salt-revenue officer, the said officer may recover the same by detention of any property of the person liable therefor and by sale of such property; and the said costs shall also be recoverable, if necessary, by a revenue officer in any manner in which, under the law at the time in force, an arrear of land-revenue may be recovered.

57. (1) Every order passed by any salt-revenue officer other than a Commissioner or a Collector, shall be appealable to such officer's immediate superior at any time within sixty days from the date of such order.

(2) Every order passed by a Collector shall be appealable within ninety days from the date of such order to the Commissioner, if any, to whom the Collector is subordinate and, if there be no such Commissioner, to Government.

(3) Every order passed by a Commissioner shall be appealable within ninety days from the date of such order to Government: Provided that no such appeal shall lie from any order passed by a Commissioner on appeal.

(4) Subject to the foregoing provisions, the rules for the time being in force relating to appeals in the Revenue department shall apply to appeals under this Act.

Act XIV of 1882.

Act XLV of 1890.

CHAPTER X.

MISCELLANEOUS.

58. (1) In addition to the rules which the Governor in Council is hereinbefore empowered to make, he may from time to time make rules, consistent with this Act, to regulate the following matters, namely:

Further matters for which the Governor in Council may make rules.

the Governor in Council is hereinbefore empowered to make, he may from time to time

make rules, consistent with this Act, to regulate the following matters, namely:

(a) the manufacture, deposit and storage of salt at any salt-work;

(b) the deposit and storage of salt in any building, enclosed place or premises used for the deposit or storage of salt on which duty has not been paid;

(c) the removal of salt from any such building, enclosed place or premises as last aforesaid or from any salt-work;

(d) the routes by which salt shall be taken from any such building, enclosed place or premises as aforesaid or from any salt-work to any preventive station;

(e) the routes by which manufacturers of salt and other persons shall approach, enter or leave any salt-work and the hours during which any person may remain within the limits of any salt-work or in any such building, enclosed place or premises as aforesaid;

(f) the conservancy of any salt-work and of any such building, enclosed place or premises as aforesaid;

(g) the granting and the refusal of permission to construct within a salt-work or in the immediate vicinity thereof places of residence for manufacturers of salt and other work-people employed therein; and the terms as to the situation and construction of any such places as may be permitted;

(h) the attendance and the enforcement of the contract or agreement of any person who has contracted or agreed to manufacture, excavate or collect salt at any salt-work under the immediate management and control of Government;

(i) the licensing and control of hamals and labourers for hire by whomsoever employed at salt-works, and at preventive stations;

(j) the grant of amended or duplicate copies of documents relating to proceedings under this Act, and the fees to be charged for such copies.

59. In making a rule under this Act,

Penalties may be attached by the Governor in Council to breach of rules.

the Governor in Council may direct that a breach of it shall be punishable with fine which may

extend to two hundred rupees and, in default of payment of the fine, with simple imprisonment for a term which may extend to one month.

60. All rules made under this Act shall be published in the *Bombay Government Gazette* and, in Sind, in the *Sind Official Gazette*, and shall thereupon have the force of law.

61. (1) No person shall be liable to any penalty or to payment of damages on account of any act done or order made in good faith, in pursuance or intended pursuance of any duty imposed or any authority conferred on him by this Act, or by any rule, order or direction made or appearing to have been made under the provisions thereof by a person having or appearing to have authority in that behalf.

(2) In the case of an alleged offence or wrong on the part of any person by any act done under colour or in excess of any such duty or authority as aforesaid, or wherein it shall appear to the Court that the offence if committed or the wrong if done was of the character aforesaid, the prosecution or suit shall not be entertained, or shall be dismissed if instituted, more than six months after the act complained of.

(3) In the case of an intended suit on account of such a wrong as aforesaid, the person intending to sue shall be bound to give to the alleged wrong-doer one month's notice at least of the intended suit, with a sufficient description of the wrong complained of, failing which such suit shall be dismissed.

(4) The plaint shall set forth that a notice as aforesaid has been served on the defendant and the date of such service, and shall state whether any and if any what tender of amends has been made by the defendant. A copy of the said notice shall be annexed to the plaint endorsed or accompanied with a declaration by the plaintiff of the time and manner of service thereof.

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

A. C. LOGAN,

Secretary to the Council of the Governor of Bombay
for making Laws and Regulations.

Bombay Castle, 4th July 1890.

THE



Bombay Government Gazette.

Published by Authority.

THURSDAY, 21st AUGUST 1890.

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 April 1890, and the assent of His Excellency the Viceroy and Governor General on the 25th July 1890, and is published for general information:—

Act No. III of 1890.

An Act to amend the Matadars Act (B. VI of 1887).

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 21st August 1890.)

WHEREAS it is expedient to amend the Matadars Act, 1887; it is hereby enacted as follows:—

1. In the proviso to Section 6 of the said Act for all after the words "in such village appertains" there shall be substituted the following:—

"to one or more than one of such families to the exclusion of the remainder of such families and shall vest in such order as he may thereby determine, and every such declaration shall

be conclusive evidence of the rights thereby affirmed."

2. For Section 14 of the said Act the following shall be substituted:—

"In every village in which the Governor in Council makes a declaration under Section 6 the right to the office of patel shall vest to the exclusion of all other matadars in the representative of each of the families whose rights are thereby declared in such order as may therein be determined."

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

A. C. LOGAN,

Secretary to the Council of the Governor of Bombay
for making Laws and Regulations.

Bombay Castle, 21th August 1890.

IV.—23

THE



Bombay Government Gazette.

Published by Authority.

THURSDAY, 4TH SEPTEMBER 1890.

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 received the assent of His Excellency the Governor on the 11th April 1890, and the assent of His Excellency the Viceroy and Governor General on the 11th August 1890, and is published for general information:—

Bombay Act No. IV of 1890.

An Act to amend the Law for the regulation of the District Police 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 4th September 1890).

TABLE OF CONTENTS.

	Section.		Section.
CHAPTER I.—PRELIMINARY.		CHAPTER II.—ORGANIZATION OF THE POLICE—continued.	
		<i>General—continued.</i>	
Short title	1	Commissioners and Inspector General to have Magisterial powers	7
Extent	ib. (1)	To exercise them subject to such limitations as are imposed by Government	ib.
Extension to Sind, Aden and its dependencies and Perim	ib. (2)	Appointment of inspectors	8
Repeal of enactments... ..	2	Appointment of police officers below the grade of inspector	9
Definitions	3	Certificates of appointment to be given to inspectors	10
“Inspector General,” “Deputy Inspector General,” “District Superintendent,” “Assistant Superintendent”	ib. (a)	Certificates of office to be given to police officers below the grade of inspector	11 (1)
“Police officer”	ib. (b)	Powers, &c., of persons appointed as aforesaid	ib. (2)
“Constable”	ib. (c)	Such certificates when to become null and void	11 (3) (a)
“District”	ib. (d)	Temporary suspension of powers, &c., of police officers	ib. (3) (b)
“Street”	ib. (e)	General powers of District Superintendent	12
“Cattle”	ib. (f)	Control by Magistrate of the District. Subject to rules and orders of Government and lawful orders of the Commissioner	13 (1)
Words and expressions defined in the Criminal Procedure Code... ..	ib. (g)	Inspector General in issuing rules and orders to give furtherance to purposes of sub-section 1	ib. (3)
CHAPTER II.—ORGANIZATION OF THE POLICE.			
<i>General.</i>			
Police force to be entertained in each district	4		
Appointment and authority of Inspector General of Police	5 (1)		
And of Deputy Inspector General	ib. (2)		
Their suspension or removal... ..	ib. (3)		
Appointment of District and Assistant Superintendents	6		

CHAPTER II.—ORGANIZATION OF THE POLICE— <i>continued.</i>	Section.	CHAPTER III.—REGULATION, CONTROL AND DISCIPLINE OF THE POLICE FORCE— <i>continued.</i>	Section.
<i>General—continued.</i>			
Additional police force to be furnished to any district by the Inspector General on requisition of District Magistrate	14	Police officer not to engage in trade, &c.	33 (1)
District Superintendent may be required by District Magistrate to furnish reports	15	Police officers under the rank of Assistant Superintendent not to be employed on other than police duties	<i>ib.</i> (2)
District Magistrate's general powers of supervising the police force of his district	16	These prohibitions to apply also when a police officer is on leave or under suspension	<i>ib.</i> (3)
Power of Commissioner to issue directions in respect of police force... ..	17 (1)	Under what conditions police officer may resign	34 (1)
Such direction ordinarily to be to the District Magistrate and to be communicated to the Inspector General.	<i>ib.</i> (2)	Proviso	<i>ib.</i> (2) ...
Commissioner may call Inspector-General's attention to defects in the police of his division which shall be remedied	18	Arrear pay of a police officer contravening this section may be forfeited	<i>ib.</i> (3)
Commissioner may call on District Magistrate for reports on state of crime, &c., and issue orders thereon.	19	Certificate, arms, &c., to be delivered up by person ceasing to be a police officer, and	35 (1)
Commissioner may investigate and regulate all matters of police accounts	20	if not delivered up may be seized under a search warrant	<i>ib.</i> (2)
<i>Special.</i>		Saving of certain articles	<i>ib.</i> (3)
Appointment of special police officers.	21 (1)	Penalty for making false statements, &c., and	36 (1)
Powers and responsibilities of special police officers	<i>ib.</i> (2)	For misconduct of police officers	<i>ib.</i> (2)
<i>Additional.</i>		Consequence of failure to return to duty after leave	<i>ib.</i> (3)
Employment of additional police at request of persons showing the necessity thereof	22 (1)	Penalty for failure to deliver up certificate of appointment or of office or other article	37
Cost thereof	<i>ib.</i> (2)	Government may make order under Section 144, Criminal Procedure Code	38
Proviso regarding relief from cost	<i>ib.</i> (3)	CHAPTER IV.—POLICE REGULATIONS.	
Employment of additional police near large works... ..	23 (1)	Rules may be made by District Magistrate regarding use of streets, &c.	39 (1)
Cost thereof	<i>ib.</i> (2)	Manner of publication of such rules	<i>ib.</i> (2)
Disputes as to payment of cost	24	Rules under clause (1) (j) to be reported to Government	<i>ib.</i> (3)
Employment of additional police in cases of special danger to the public peace	25 (1)	District Magistrate may make rules for blasting and excavation	40
Cost thereof	<i>ib.</i> (2)	Discontinuance of brothels	41
Assessment of the cost	<i>ib.</i> (3)	Issue of orders by Magistrates for prevention of disorder	42 (1)
Recovery of rates and charges under section 25 by a Municipality	26 (1)	Any one of several Magistrates having jurisdiction may issue order	<i>ib.</i> (2)
By the Collector	<i>ib.</i> (2)	Orders by Subordinate Magistrate to be communicated to the District Magistrate	<i>ib.</i> (3)
CHAPTER III.—REGULATION, CONTROL AND DISCIPLINE OF THE POLICE FORCE.		Issue of orders by Magistrate of the District for prevention of riot or grave disturbance of the peace	43
Framing of rules for administration of the police	27	Issue of orders by Magistrate of the District for maintenance of order at religious ceremonies, &c.	44 (1)
Inspector General may call for returns, &c.	28	Orders to be subject to decrees, &c., of Courts	<i>ib.</i> (2)
Punishment of police officers departmentally for neglect of duty, &c.	29 (1)	District Magistrate may take special measures to prevent outbreak of epidemic disease at fairs, &c.	45 (1)
Punishment under this section to be in addition to penalty under section 36, 63 or 64	<i>ib.</i> (2)	Levy of fees in such cases	<i>ib.</i> (2)
Punitive powers of Inspector General and Superintendent	<i>ib.</i> (3)	Recovery of expenses from Municipalities	<i>ib.</i> (3)
Procedure to be observed in awarding punishment	30	Dispersal of gangs and bodies of persons	46
Departmental punishment for insubordination	31 (1)	Police to provide against disorder, &c., at public places of amusement and public meetings	47 (1)
Procedure to be observed in awarding such punishment	<i>ib.</i> (2)	Police to have free access thereto	<i>ib.</i> (2)
Police officers to be deemed to be always on duty and to be liable to employment in any part of the presidency	32 (1)	Police to regulate assemblies, &c., in public streets	48 (1)
Intimation of proposed transfers to be given by the Inspector General to the Commissioner and District Magistrate	<i>ib.</i> (2)	Manner of publication of such rules and orders	<i>ib.</i> (2)
		Provisions as to dogs	49 (1)
		When dogs may be destroyed or sold by the police	<i>ib.</i> (2)

CHAPTER IV.—POLICE REGULATIONS—continued.	Section.	CHAPTER VI.—OFFENCES AND PUNISHMENTS—continued.	Section.
How expenses may be recovered ...	ib. (3)	Penalty for vexatious search, arrest &c. by the police ...	63
Provision in case of dog wearing a collar with owner's address ...	ib. (4)	Penalty for vexatious delay in forwarding a person arrested ...	64
Powers under this chapter to be exercised by District Superintendent subject to control of District Magistrates and by District Magistrates subject to control of Government ...	50	Penalty for contravention of rules under section 39 or of directions under section 53 ...	65
CHAPTER V.—EXECUTIVE POWERS AND DUTIES OF THE POLICE.		Penalty for failure to comply with order under section 41 ...	67
Duties of police officer ...	51 (1)	Penalty for contravention of rules or directions under sections 42, 43, 44, 47 and 48 ...	68
Power to enter places of public resort	ib. (2)	Penalty for contravention of a regulation made under section 45 ...	69
Power to search suspected persons in the streets ...	ib. (3)	Penalty for contravention of direction given under section 46 ...	70
Duties of police officers toward the public ...	52	Penalty for opposing or not complying with direction given under section 54 ...	71
Police to regulate traffic, &c., in streets; and ...	53 (1) (a)	Jurisdiction when offender is a police officer above the rank of constable ...	72
to keep order in the streets and other public places; and ...	ib. (b)	Prosecution for certain offences against the Act to be in the discretion of the police ...	73
to regulate resort to public places.	ib. (c)	Prosecution for offences under other enactments, not affected by the Act.	74
Persons bound to conform to reasonable orders of police ...	ib. (2)		
Police officer may restrain or remove contumacious person ...	ib. (3)	CHAPTER VII.—MISCELLANEOUS.	
Enforcement of orders issued under section 42, 43 or 44 ...	54	Disposal of rewards, &c., payable to police officers ...	75
Duty of the police to see orders issued under section 45 or 46 carried out.	55	District Magistrate's authority over village police officers may be delegated to District Superintendent and may be withdrawn ...	76
Police officer may take charge of stray cattle ...	56	No Municipal or other rates to be payable by Government on police buildings ...	77 (1)
Duty of Police with regard to unclaimed property ...	57	Municipalities may be required to provide accommodation for the police.	ib. (2)
Procedure by Magistrate when property exceeds ten rupees in value.	58 (1)	Provision of such accommodation to be a purpose of the Bombay District Municipal Acts ...	ib. (3)
Procedure in other cases ...	ib. (2)	Method of proving orders and notifications issued under this Act ...	78
Power to sell perishable property at once ...	59	Rules and orders not to be deemed invalid on account of defect of form or irregularity in procedure.	79
A superior police officer may himself perform duties imposed on his inferior, &c. ...	60	No Commissioner, Magistrate or police officer to be liable to penalty or damages for act done in good faith in pursuance of duty ...	80 (1)
CHAPTER VI.—OFFENCES AND PUNISHMENTS.		No public servant liable as aforesaid for giving effect in good faith to any rule, order or direction issued with apparent authority ...	ib. (2)
Punishment of certain street offences and nuisances ...	61	Suits or prosecutions in respect of acts done under colour of duty as aforesaid not to be entertained, or to be dismissed if not instituted within six months ...	ib. (3)
Driving on dark nights without a light; ...	ib. (a)	In suits as aforesaid one month's notice of suit to be given with sufficient description of wrong complained of ...	ib. (4)
disregarding the rule of the road; leaving cattle, &c., insufficiently tended; ...	ib. (b)	Plaint to set forth service of notice and tender of amends ...	ib. (5)
causing obstruction or mischief by animals; ...	ib. (c)	Person interested may apply to Government to annul, reverse or alter any rule or order ...	81 (1)
exposing animal for hire or sale, &c.; causing any obstruction in a street; obstructing a footway; ...	ib. (d)	When a suit shall lie to the District Court to declare a rule or order unlawful ...	ib. (2)
exhibiting mimetic, musical or other performances, &c.; ...	ib. (e)	Saving of certain Acts ...	82
gambling in a street; ...	ib. (f)		
doing offensive acts on or near public streets; ...	ib. (g)		
letting loose horses, &c., loose and suffering ferocious dogs to be at large; ...	ib. (h)		
bathing or washing in places not set apart for those purposes; ...	ib. (i)		
defiling water in public wells, &c.; obstructing bathers; ...	ib. (j)		
behaving indecently in public; ...	ib. (k)		
being drunk and incapable; ...	ib. (l)		
obstructing or annoying passengers in the streets; ...	ib. (m)		
misbehaviour with intent to provoke a breach of the peace; ...	ib. (n)		
begging and exposing offensive ailments ...	ib. (o)		
Punishment for cruelty to animals...	62		
		SCHEDULE A.	
		SCHEDULE B.	

Bombay Act No. IV of 1890.

An Act to amend the law for the regulation of the District Police in the Presidency of Bombay.

WHEREAS it is expedient to amend the law for the regulation of the District Police of the Presidency of Bombay; It is enacted as follows:—

CHAPTER I.—PRELIMINARY.

1. This Act may be called "The Bombay District Police Act, 1890."

Short title.

(1) It extends to the whole of the presidency of Bombay, except Sind, the city of Bombay, Aden and its dependencies, and Perim.

Extent.

(2) It, including the schedules, may be introduced wholly or in part in Sind or in Aden and its dependencies and Perim, by an order of Government.

Extension to Sind, Aden and its dependencies and Perim.

2. Subject to the provision in section 1, sub-section (1), the enactments mentioned in schedule A are repealed to the extent specified in the third column thereof, but not so as to render invalid anything done in accordance with any of them.

Repeal of enactments.

All references made in any enactment of the Governor of Bombay in Council to any enactment hereby repealed shall be read as if made to the corresponding portion of this Act.

All rules prescribed, appointments made, powers conferred, and orders and certificates issued under any such enactment shall, so far as they are consistent with this Act, be deemed to have been respectively prescribed, made, conferred and issued hereunder.

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

Definitions.

(a) "Inspector General", "Deputy Inspector General", "District Superintendent" and "Assistant Superintendent" mean, respec-

"Inspector General," "Deputy Inspector General," "District Superintendent," "Assistant Superintendent";

tively, the Inspector General of Police, a Deputy Inspector General of Police, a District Superintendent of Police and an Assistant Superintendent of Police appointed under this Act;

(b) "police officer" means any member "Police Officer"; of a police force appointed under this Act;

(c) "constable" means a police officer "Constable"; of the lowest grade;

(d) "district" means a territorial division "District"; constituting a district for the purposes of the Code of Criminal Procedure, Act X of 1882;

1882;

(e) "street" includes any highway and "Street"; the way over any causeway, bridge, viaduct, arch, quay or wharf and any road, lane, footway, square, court, alley or passage accessible to the public, whether a thoroughfare or not;

(f) "cattle" includes elephants, camels, "Cattle"; horses, asses, mules, sheep, goats and swine;

(g) words and expressions which are defined in the Code of Criminal Procedure, Act X of 1882, have the same meaning as in that code.

CHAPTER II.—ORGANIZATION OF THE POLICE.

General.

4. In each district of the presidency of Bombay to which this Act extends, Government may, subject to the control of the Governor General in Council, establish and entertain a police force of such number in the several ranks and having such an organization and such duties, rights and authority as are hereinafter prescribed and provided for, and receiving such salaries and allowances as shall from time to time be directed and approved by the authorities aforesaid.

Police force to be entertained in each district.

5. (1) For the direction and supervision of the police force of every portion of the presidency to which this Act extends, Appointment and authority of Inspector General of Police,

Government shall appoint an Inspector General of Police, who shall have such functions, authority and responsibility as are hereinafter provided, subject to the provisions of this Act, and to such rules and orders as may be made by Government in this behalf.

(2) Subject to the previous approval and of Deputy Inspector General. of the Governor General in Council, Government may appoint one or more Deputy Inspectors General of Police, to whom Government may assign such duties being amongst the lawful duties of the Inspector General of Police, or in aid and furtherance thereof, as shall to Government seem expedient.

(3) The Inspector General and Deputy Inspector General. Their suspension or removal. may be suspended or removed from office by Government.

6. Government may appoint for each district a Superintendent and such Assistant Superintendents. Appointment of District and Assistant Superintendents. Police as it may think expedient and may dismiss, suspend, reduce, remove or transfer any of such officers as it may think fit.

7. Each Commissioner throughout the districts under his control, and the Inspector General of Police throughout the presidency, shall have the powers of a Magistrate of the first class, but shall exercise such powers subject to such limitations as may from time to time be imposed by Government. Commissioners and Inspector General to have magisterial powers; Inspector General of Police throughout the presidency, shall have the powers of a Magistrate of the first class, but shall exercise them subject to such limitations as are imposed by Government.

8. The Inspector General may, subject to the rules and orders of Government, appoint such inspectors as shall be necessary for the service of each district. Appointment of inspectors.

9. Police officers below the grade of inspector shall be appointed in each district by the District Superintendent, subject to such rules as to sanction, designation, mutual relations and conditions of service as, consistently with the law at the time in force, Government may from time to time prescribe. Appointment of police officers below the grade of inspector.

nations, mutual relations and conditions of service as, consistently with the law at the time in force, Government may from time to time prescribe.

10. An inspector shall, on appointment, receive from the Inspector General a certificate of appointment containing particulars of his race, name, age, caste or religion and of his previous service, if any. Certificates of appointment to be given to inspectors.

11. (1) Every police officer below the grade of inspector shall, on enrolment, receive a certificate in the form of schedule B under the seal of the Magistrate of the District in which he is enrolled. Certificates of office to be given to police officers below the grade of inspector.

(2) Every person appointed as aforesaid shall, in virtue of such appointment, be vested with the powers, functions, privileges and responsibilities of a police officer. Powers, &c., of persons appointed as aforesaid.

(3) a. Every certificate of appointment shall become null and void whenever the person named therein for any reason ceases to belong to the police. Such certificates when to become null and void.

b. The powers, functions and privileges vested in a police officer shall be temporarily suspended whilst such police officer is suspended from office. Temporary suspension of powers, &c., of police officers. Such police officer shall not by reason of such suspension cease to be a police officer, but shall continue subject to the same responsibilities and subject to the same authorities as if no such suspension had taken place.

12. The District Superintendent shall, subject to the orders of the Inspector General and of the Magistrate of the District, within their several spheres of authority, direct and regulate all matters of arms, drill, exercise, observation of persons and events, mutual relations, distribution of duties, study of laws, orders and modes of proceeding and all matters of executive detail in the fulfilment of their duties by the police force of his district. General powers of District Superintendent.

13. (1) The District Superintendent and the police force of a district shall be under the command and control of the Magistrate of the District. Control by Magistrate of the District.

(2) In exercising authority under the preceding sub-section, the Magistrate of the District shall be governed by such rules and orders as Government may from time to time make in this behalf and shall be subject to the lawful orders of the Commissioner.

(3) The Inspector General shall be bound, in the rules and orders issued by him under this Act, to give furtherance to the purposes of sub-section (1).

14. If the Magistrate of the District considers that there is, or on any particular occasion will be, pressing need for a police force that cannot be furnished by his own district, he shall communicate with the Inspector General, who shall, as far as possible, and subject to the orders of Government, comply with the requisitions of the Magistrate of the District.

15. The Magistrate of the District may require from the District Superintendent reports, either particular or general, on any matter connected with crimes, the condition of the criminal classes, the prevention of disorder, the regulation of assemblies and amusements, the distribution of the police force, the utilization of auxiliary means and all other matters in furtherance of his control of the police force and the maintenance of order.

16. If the Magistrate of the District observes marked incompetence or unfitnes for the locality or for his particular duties, in any officer subordinate to the District Superintendent, he may call on the Superintendent to substitute another officer for any officer whom he has power to remove, and the Superintendent shall be bound to comply with such requisition. In the case of an Inspector or officer of higher grade, the Magistrate of the District may communicate with the Inspector General, who shall thereon determine the measures to be taken with careful attention to the views of the Magistrate of the District and shall inform him of the orders he may issue.

17. (1) A Commissioner may make any order with respect to the police force in any district within the division subject to his authority, which the Magistrate of the District might make, and any order which he may be authorised to make by any rule lawfully made by Government under the provisions of this Act or other law in force, and may also in case of emergency direct any portion of such force appointed for one district to be employed in any other district in such division.

(2) An order under sub-section (1) shall ordinarily be directed to the Magistrate of the District concerned, but may when necessary be addressed directly to the District Superintendent, in which case it shall be communicated to the Magistrate of the District. The order shall in each case be communicated by the Commissioner to the Inspector General.

18. In such matters falling under his observation as lie within the sphere of authority of the Inspector General, a Commissioner may call the Inspector General's attention to defects of system or of personal competence in the police of any portion of the division subject to his authority. It shall be incumbent on the Inspector General in every such case to remedy defects, and to remove causes of complaint and to conform to the requests of the Commissioner where the same shall be lawful and consistent with the orders of Government and other lawful commands, requests and instructions. He shall communicate the steps taken by him to, the Commissioner.

19. A Commissioner may call on the Magistrate of a District for such reports and information connected with the state of crime in his district and with the distribution of the police therein and on the arrangements for repressing offences and disorder, as he may think necessary, as a means towards the good administration of the division subject to his authority, and may thereon issue such orders as shall be conformable to law. Every such order

shall be directed to the Magistrate of the District and shall be communicated to the Inspector General.

20. A Commissioner shall, subject to the orders of Government, have authority to investigate and regulate all matters of police connected with the police within the division subject to his authority, and all persons concerned shall be bound to give him reasonable aid and facilities in conducting such investigations, and to conform to his lawful orders consequent thereon.

Special.

21. (1) Whenever it shall appear to a Magistrate of the Second Class or of higher rank having jurisdiction at a town or place, that any unlawful assembly, riot or other disturbance of the peace has taken place or is reasonably apprehended and that the available police force is not sufficient for the preservation of the peace and for the protection of the inhabitants and the security of property in the local area in which such unlawful assembly, riot or other disturbance has taken place or is apprehended, such Magistrate may, on the application of any police officer not lower in rank than a chief constable, by a written order signed by himself and sealed with his official seal, appoint to be special police officers for such time and within such limits as he shall think necessary, so many persons fit and willing to act as such officers as he shall think proper.

(2) Every special police officer so appointed shall have the same powers, functions, privileges and immunities and be liable to the same duties and responsibilities and be subject to the same authorities as an ordinary police officer; but it shall not be necessary for him to receive a certificate of office under section 11.

Additional.

22. (1) Any District Superintendent, on the application of any person showing the necessity therefor, may depute any additional number of police to keep the peace or to perform other police duties at any place within the district.

(2) Such additional police shall be employed at the charge of the person making the application, but shall be subject to the orders of the police authorities and shall be employed for such period as the District Superintendent thinks fit:

(3) Provided that if the person upon whose application such additional police are employed shall at any time make a written requisition to the District Superintendent for the withdrawal of the said police, he shall be relieved from the charge therefor on the expiration of such period, not exceeding one month from the date of delivery of such requisition, as the District Superintendent shall determine.

(4) In acting under this section the District Superintendent shall be subject to the provisions of section 13 (1).

23. (1) Whenever it shall appear to any Magistrate of a District that the behaviour, or a reasonable apprehension of the behaviour, of the persons employed on any railway, canal or other public work, or in or upon any manufactory or other commercial concern under construction or in operation at any place within his district, necessitates the employment of additional police at such place, such Magistrate may, with the sanction of Government, depute such additional police to the said place as he shall think fit and keep the said police employed at such place for so long as such necessity shall appear to him to continue.

(2) Such additional police shall be employed at the charge of the person by whom the work, manufactory or concern is being constructed or carried on and the said person shall pay the charges therefor at such rates and at such times as the Magistrate of the District, with the sanction of Government, shall from time to time require.

24. In case of any dispute in any case under section 22 or section 23, the decision of the Magistrate of the District shall be conclusive as to the amount to be paid and as to the person by whom it is to be paid, and the sum so ascertained may, on the requisition of the Magistrate of the District, be levied by the

Collector as if it were an arrear of land Revenue due by the person found to be answerable therefor.

25. (1) Government may, from time to time, by notification direct the employment of additional police for such period as it shall think fit in any local area which shall appear to it to be in a disturbed or dangerous state, or in which the conduct of the inhabitants or of any particular section of the inhabitants shall, in its opinion, render it expedient temporarily to increase the strength of the police.

Employment of additional police in cases of special danger to the public peace.

(2) The cost of such additional police shall, if Government so direct, be defrayed, either wholly or partly, by a rate charged on the inhabitants generally or on any particular section of the inhabitants of the local area to which the notification applies.

(3) The said rate shall be assessed, except in a municipal district, by the Collector at his discretion. Assessment of the cost.

If the local area in which any such rate is to be imposed is a municipal district, the amount of the charge shall be paid by the municipality from the municipal fund and the rate shall be assessed by the municipality conformably to the direction given by Government under sub-section (2).

26. (1) Every rate assessed under the last preceding section or other provision of this Act by a municipality shall be recovered by such municipality from each person answerable therefor in the same manner as a municipal tax due by him.

(2) Every rate assessed by the Collector as if it were an arrear of land revenue due by the person answerable therefor.

CHAPTER III.—REGULATION, CONTROL AND DISCIPLINE OF THE POLICE FORCE.

27. Subject to the orders of Government, the Inspector General may from time to time make rules or orders not inconsistent with this Act or with any other enactment at the time in force:

(a) relating to the recruitment, organization, classification and discipline of the police;

(b) regulating the inspection of the police by his subordinates;

(c) determining the description and quantity of arms, accoutrements, clothing and other necessaries to be furnished to the police;

(d) for the institution, management and regulation of any police fund for any purpose connected with police administration;

(e) regulating, subject to the provisions of section 13, cl. (1), and section 17, the distribution, movements and location of the police;

(f) regulating the duties of police officers of different grades;

(g) regulating the collection and communication by the police of intelligence and information;

(h) generally for the purpose of rendering the police efficient and preventing abuse or neglect of their duties.

28. The Inspector General of Police may, subject to the rules and orders of Government, call for such returns, reports and statements on subjects connected with the suppression of crime, the maintenance of order and the performance of their duties, as his subordinates may be able to furnish to him. He will communicate to the Magistrate of the District and the Commissioner any general orders issued by him for the purposes aforesaid or in consequence of the information furnished to him, and also any orders which Government may direct.

29. (1) The Governor in Council, or any officer authorized by sub-section (3) in that behalf, may suspend, reduce or dismiss any police officer whom he shall think cruel, perverse, remiss or negligent in the discharge of his duty or unfit for the same, and may fine, to an amount not exceeding one month's pay, any police officer below the grade of Assistant Superintendent who is guilty of any breach of discipline or misconduct which does not require his suspension or dismissal or who, by any act of his own, renders himself unfit for the discharge of his duty.

(2) Any punishment inflicted on a police officer under this section to be in addition to penalty under section 36, 63 or 64. of this Act or any other law in force.

(3) The Inspector General shall have authority to punish an inspector under sub-section (1). A District Superintendent shall have the like authority in respect of any police officer subordinate to him below the grade of inspector and may suspend an inspector who is subordinate to him, pending inquiry into a grave complaint against such inspector and until an order of the Inspector General can be obtained. But the exercise of any power conferred by this sub-section shall be subject always to such rules and orders as may be made by Government in that behalf.

30. When an officer passes an order for fining, suspending, reducing or dismissing a police officer, he shall record such order or cause the same to be re-recorded, together with the reasons therefor and a note of the inquiry made, in writing, under his signature in the language of the district or in English.

31. (1) The Inspector General and any District Superintendent and any Assistant Superintendent in charge of a portion of a district may punish, by confinement for a period not exceeding three days, any police officer below the rank of head-constable who is, in his presence, grossly insubordinate or who is insolent to him.

(2) Every order for punishing a police officer as aforesaid shall be recorded in the manner prescribed in section 30 and a copy of every such order made by a District Superintendent or an Assistant Superintendent shall be forwarded by him to his immediate superior.

32. (1) Every police officer shall, for all purposes of this Act, be deemed to be always on duty in the area for which he is appointed or to which he is lawfully transferred, and any police

officer and any number or body of police officers appointed for one part of the presidency may, if Government or the Inspector General so direct, at any time be employed on police duty in any other part of the presidency for so long as the services of the same may be there required.

(2) Timely intimation shall, except in cases of extreme urgency, be given to the Commissioner and Magistrate of the District by the Inspector General of any proposed transfer under this section, and except where secrecy is necessary the reasons for the transfer shall be explained; whereupon the officers aforesaid and their subordinates shall give all reasonable furtherance to such transfer.

33. (1) No police officer shall engage in trade or be in any way concerned, either as principal or agent, in the purchase or sale of land within the District wherein he is employed or in any commercial transaction whatever, without the permission of the Magistrate of the District, or of Government.

(2) No police officer under the rank of Assistant Superintendent shall, unless with the written permission of the Inspector General, hold any office, or practice in any profession, or engage in any employment whatever, other than his office or duties as such police officer.

(3) The prohibitions in sub-sections (1) and (2) apply when a police officer is on leave or under suspension as well as when he is on duty.

34. (1) Unless with the written permission of the District Superintendent or of some other police officer empowered by the Inspector General to grant such permission, no police officer under the rank of Assistant Superintendent shall resign his office or withdraw himself from the duties thereof, until:

(a) the expiration of two months after written notice of his intention so to do has been given by him to the District Superintendent; and until

(b) he has fully discharged any debt due by him, as such police officer, to Government or to any police fund :

(2) Provided that if any such police officer produces a certificate signed by the

PROVISO.

Civil Surgeon declaring him to be unfit by reason of disease or mental or physical incapacity for further service in the police, the necessary written permission to resign shall forthwith be granted to him, on his discharging or giving satisfactory security for the payment of any debt due by him as aforesaid.

(3) If any such police officer as aforesaid resigns or withdraws himself from the duties of his office in contravention of

Arrear pay of a police officer contravening this section may be forfeited.

this section, he shall be liable, on the order of the District Superintendent, to forfeit all arrears of pay then due to him. This forfeiture shall be in addition to the penalty to which the said officer is liable under section 36 of this Act or other law in force.

35. (1) Every person who for any

Certificate, arms, &c., to be delivered up by person ceasing to be a police officer, and

reason ceases to be a police officer shall forthwith deliver up to some officer empowered by the District Superintendent to receive the same, his certificate of appointment or of office and the arms, accoutrements, clothing and other necessaries which have been furnished to him for the execution of his office.

(2) Any Magistrate and, for special

if not delivered up, may be seized under a search warrant.

reasons which shall be recorded in writing at the time, any District Superintendent may issue a warrant to search for and seize, wherever they may be found, any certificate, arms, accoutrements, clothing or other necessaries not so delivered up. Every warrant so issued shall be executed in accordance with the provisions of the Code of Criminal Procedure, 1882, by a police officer or, if the Magistrate or District Superintendent issuing the warrant so directs, by any other person.

(3) Nothing in this section shall be

Saving of certain articles.

deemed to apply to any article which, under the orders of the Inspector General, has become the property of the person to whom the same was furnished.

36. (1) Any person who makes a false

statement or uses a false document for the purpose of obtaining employment or release from employment as a Police officer ; or

(2) Any police officer who :

(a) contravenes any provision of section 33 ; or

(b) is guilty of cowardice ; or

(c) resigns his office or withdraws himself from the duties thereof in contravention of section 34 ; or

(d) is guilty of any wilful breach or neglect of any provision of law or of any rule or order which, as such police officer, it is his duty to observe or obey ; or

(e) is guilty of any violation of duty for which no punishment is expressly provided by any other law in force ;

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.

(3) A police officer who, being absent

Consequence of failure to return to duty after leave.

on leave, fails, without reasonable cause, to report himself for duty on the expiration of such leave shall, for the purposes of clause (c), be deemed to withdraw himself from the duties of his office within the meaning of section 34.

37. Any police officer who wilfully

Penalty for failure to deliver up certificate of appointment or of office or other article.

neglects or refuses to deliver up his certificate of appointment or of office or any other article, in accordance with the provision of sub-section (1) of section 35, shall be punished with imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees or with both.

38. Government, whenever it shall

Government may make orders under Section 144, Criminal Procedure Code.

seem necessary, may by notification make an order to such effect as any order which if made by a Magistrate under Section 144 of the Code of Criminal Procedure could be continued in force by Government under the enactment aforesaid.

Act X of 1882.

Im. 2nd Sec

Act X of 1882.

CHAPTER IV.—POLICE REGULATIONS.

39. (1) In any town or other place in which he thinks fit, the Magistrate of the District may, from time to time and subject to such orders as may have been made by a municipal or other authority empowered in that respect, make rules or orders :

Rules may be made by District Magistrate regarding use of streets, &c.

(a) closing certain streets, or places temporarily, in cases of danger from ruinous buildings or other cause, with such exceptions as shall appear reasonable ;

(b) for guarding against injury to persons and property in the construction, repair and demolition of buildings, platforms and other structures from which danger may arise to passengers, neighbours, or the public ;

(c) regulating the leading, driving, conducting, or conveying of any elephant or wild or dangerous animal through or in any street ;

(d) prohibiting the hanging or placing of any cord or pole across a street or part thereof, or the making of a projection or structure so as to obstruct traffic or the free access of light and air ;

(e) prescribing certain hours of the day during which ordure and offensive matter or objects shall not be taken from or into houses or buildings in certain streets or conveyed through such streets, and during which cattle shall not be driven along the streets, or along certain specified streets, except subject to such reasonable regulations as he may prescribe in that behalf ;

(f) prohibiting the setting fire to or burning any straw or other matter, or lighting a bonfire or wantonly discharging a fire-arm or air-gun, or letting off or throwing a firework or sending up a fire-balloon in or upon or within fifty feet of a street or building, or the putting up of any post or other thing on the side of or across a street for the purpose of affixing thereto lamps or other contrivances for illumination, except subject to such reasonable regulations as he may prescribe in that behalf ;

(g) prohibiting, except under such reasonable regulations as the Magistrate of the District may impose, the making of any excavation, the placing of building materials or other articles, or the fastening or detention of any horse or other animal in any street ;

(h) prohibiting, save under such regulations as aforesaid, the exposure or movement in any street of persons or animals suffering from contagious or infectious diseases and the carcasses of animals or parts thereof and the corpses of persons deceased ;

(i) setting apart places for the slaughtering of animals, the cleaning of carcasses or hides, the deposit of noxious or offensive matters, and for obeying calls of nature ;

(j) in cases of existing or apprehended epidemic or infectious disease of men or animals, with respect to cleanliness and disinfection of premises by the occupier thereof and residents therein, and as to the segregation and management of the persons or animals diseased or supposed to be diseased, as may have been directed or approved by Government with a view to prevent the disease or to check the spreading thereof ;

(k) directing the closing or disuse, wholly or for certain purposes, or limiting to certain purposes only the use, of any source, supply or receptacle of water ; and providing against pollution of the same or of the water therein ;

(l) regulating the hours during which and the manner in which any place for the disposal of the dead, any dharmshala, village-gate or other place of public resort may be used, so as to secure the equal and appropriate application of its advantages and accommodation and to maintain orderly conduct amongst those who resort thereto ;

(m) regulating the entrance and exit of persons at theatres and other places of public amusement or assembly, the decent and orderly conduct of proceedings therein and the movement of persons, animals and vehicles at such times and such places at which in the opinion of the Magistrate special regulations may be necessary for the public safety and convenience.

(2) Every regulation made under clause (h) or made under clause (l) with respect to the use of a place for the disposal of the dead shall be framed with due regard to ordinary and established usages and to the necessities of prompt disposal of the dead in certain cases ; and every rule or order

made by the Magistrate of the District under clause (c), (e), (f), (g), (h) or (i) shall be published by affixing a copy thereof, in the language

of the district, in the *chavdi* or in some other public building in the town or place in which the same is to have operation, and a copy, in the language of the district, of every rule or order made under clause (α), (β), (γ), (δ), or (ε) shall be kept affixed in a conspicuous spot near to the building, structure, work or place to which the same specially relates.

(3) Every rule promulgated under the authority of article (j) of clause (1) of this section shall be forthwith reported to Government and shall be in force for not more than fifteen days unless extended by Government for a longer period and in such case for so long as Government directs.

(4). It shall be the duty of all persons concerned to conform to any order duly made as aforesaid so long as the same shall be in operation.

40. Every Magistrate of a District may from time to time make rules for the blasting of rocks or for making excavations in or near any street in any town or village in his district and may provide in such rules for the grant of licenses for such operations.

41. On complaint being made to a Magistrate of a District or of a Sub-division that any house in a town or village in his district or sub-division to which Government has by notification extended this section, is used as a common brothel or lodging-house or place of resort for prostitutes or disorderly persons of any description, to the annoyance of the respectable inhabitants of the vicinity, the said Magistrate may summon the owner or tenant of the house to answer the complaint, and on being satisfied that the house is so used may order the owner or tenant, within a reasonable period which shall be set forth in the order, to discontinue such use of it.

42. (1) The Magistrate of the District, or in his absence and subject to his order the Magistrate of the First Class having jurisdiction in any town or village and present therein or in the neighbourhood thereof, may, whenever and for such time as it shall appear necessary, by a notification

publicly promulgated or addressed to individuals, prohibit in such town or village or the vicinity thereof the carrying of arms, cudgels or other weapons, the carrying, collection and preparation of stones or other missiles or instruments or means of casting or impelling missiles, the exhibition of persons or of corpses or figures thereof, the public utterance of cries, singing of songs, delivery of harangues and use of gestures or mimetic representations and the preparation, exhibition or dissemination of pictures, symbols, placards or of any other object or thing, which may be of a nature to outrage morality or decency or, in the opinion of such Magistrate, may probably inflame religious animosity or hostility between different classes or incite to the commission of an offence, to a disturbance of the public peace or to resistance to or contempt of the law, or of a lawful authority.

(2) If in any town or village or the vicinity thereof there are two or more Magistrates of the First Class having jurisdiction therein, a prohibition as aforesaid may be made by any one of them.

(3) An order made under this section by a subordinate Magistrate shall be forthwith communicated to the Magistrate of the District who shall thereupon confirm, cancel or modify the same as shall seem expedient.

43. In order to prevent an impending or apprehended riot or grave disturbance of the peace the Magistrate of the District may temporarily close or take possession of any building or place and may exclude all or any persons therefrom or may allow access thereto to such persons only and on such terms as he shall deem expedient. All persons concerned shall be bound to conduct themselves in accordance with such order as the Magistrate may make and notify in the exercise of the authority hereby vested in him.

44. (1) In any case of an actual or intended religious or ceremonial or corporate display or exhibition or organized assemblage in any street as to which or the conduct of or

participation in which it shall appear to the Magistrate of the District that a dispute or contention exists which is likely to lead to grave disturbance of the peace, such Magistrate may give such orders as to the conduct of the persons concerned towards each other and towards the public as he shall deem necessary and reasonable under the circumstances, regard being had to the apparent legal rights and to any established practice of the parties and of the persons interested. Every such order shall be published in the town or place wherein it is to operate, and all persons concerned shall be bound to conform to the same.

(2) Any order made under the foregoing sub-section

Orders to be subject to decrees, &c., of Courts.

shall be subject to a decree, injunction or order made by a Court having jurisdiction, and shall be recalled or altered on its being made to appear to the Magistrate of the District that such order is inconsistent with a judgment, decree, injunction or order of such Court, on the complaint, suit or application of any person interested, as to the rights and duties of any persons affected by the order aforesaid.

45. (1) Whenever it shall appear to the

District Magistrate may take special measures to prevent outbreak of epidemic disease at fairs, &c.

Magistrate of a District that any place in the district, at which, on account of a fair, pilgrimage or other such occurrence, large bodies of persons have assembled or are likely to assemble, is visited or will probably be visited with an outbreak of any epidemic disease, he may take such special measures and may by public notice pre-cribe such regulations to be observed by the residents of the said place and by persons present thereat or repairing thereto or returning therefrom as he shall deem necessary to prevent the outbreak of such disease or the spread thereof.

(2) It shall be lawful for the Magistrate

Levy of fees in such cases.

of the District or for the Collector on the requisition of the Magistrate of the District, subject to the orders of Government, to assess and levy such reasonable fees on persons falling under the provisions of sub-section (1) as will provide for the expenses of the arrangements for sanitation and the preservation of order at and about the place of assemblage.

(3) When the place of assemblage is within the limits of a municipality such sums as shall be necessary for the purposes aforesaid may be recovered from the municipality.

46. Whenever it shall appear to the Magistrate of a District or to any Sub-divisional Magistrate

Dispersal of gangs and bodies of persons.

that the movement or encampment of any gang or body of persons in the district is causing or is calculated to cause danger or alarm or reasonable suspicion that unlawful designs are entertained by such gang or body or by members thereof, such Magistrate may, by notification addressed to the persons appearing to be the leaders or chief men of such gang or body and published by beat of drum or otherwise as such Magistrate thinks fit, direct the members of such gang or body so to conduct themselves as shall seem necessary in order to prevent violence and alarm, or to disperse and each of them to remove himself to such place by such route as such Magistrate shall prescribe.

47. (1) For the purpose of preventing

Police to provide against disorder, &c., at public places of amusement and public meetings.

serious disorder or breach of the law or manifest and imminent danger to the persons assembled, at any public place of amusement or at any assembly or meeting to which the public are invited or which is open to the public, the senior police officer of highest rank superior to that of constable, present in the town or village where such place of amusement is situate or such assembly or meeting is to be held, may, subject to such rules and orders as may have been lawfully made, give such reasonable directions as to the mode of admission of the public to, and for securing the peaceful and lawful conduct of the proceedings at, such place of amusement or such assembly or meeting, as he thinks necessary; and all persons shall be bound to conform to every such reasonable direction.

(2) The police shall have free access to

Police to have free access thereto.

every such place of amusement, assembly or meeting, for the purpose of giving effect to the provisions of sub-section (1) and to any direction made thereunder.

48. (1) The District Superintendent or an Assistant Superintendent may, subject to any rule or order which may at any time be legally made by any Magistrate, or other authority duly empowered in this behalf:

(a) make rules for and direct the conduct of assemblies and processions and moving crowds or assemblages on or along the streets, and prescribe, in the case of processions, the routes by which, the order in which, and the times at which the same may pass;

(b) regulate and control, by the grant of licenses or otherwise, the playing of music, the beating of drums, tom-toms or other instruments and the blowing or sounding of horns or other noisy instruments in or near a street;

(c) make reasonable orders subordinate to and in furtherance of any order made by a Magistrate under sections 39—46 of this Act.

(2) Every rule and order made under this section shall be published at or near the place where it is to operate, or shall be notified to the person affected thereby, and all persons concerned shall be bound to act conformably thereto.

49. (1) The Magistrate of the District may by public notice, extending to such place or places within the district as shall therein be named, require every dog, while in the streets and not led by some person, to be muzzled in such a manner as will admit of the animal breathing and drinking without obstruction and effectually prevent it from biting, and the police may, except as is hereinafter in sub-section (2) provided, destroy any dog found loose in any place beyond the premises of the owner thereof during the currency of such order, or may take possession of any such dog and detain the same until the owner has claimed it, has provided a proper muzzle, and has paid all expenses connected with such detention.

(2) The police shall not destroy any dog which wears a collar bearing a known owner's name, unless such dog is rabid, until the same has remained in their possession for three clear days without the owner claiming it and paying all expenses incurred

by its detention; but may sell or destroy any dog which has remained in their possession for the said period without the owner claiming it and paying the said expenses.

(3) For the expenses incurred under the preceding sub-sections the owner of the dog shall be answerable as for an arrear of land revenue.

(4) When any dog taken possession of by the police wears a collar with the apparently genuine address of any person inscribed thereon, a letter stating the fact of such dog having been taken possession of shall be forthwith sent by post to the said address.

50. Every power conferred by this chapter to be exercised by District Superintendent or officer subordinate to him shall be exercised by him subject to the orders of the Magistrate of the District, and all rules, regulations and orders made by the Magistrate of the District under this chapter shall be subject to the provisions of section 13(2).

CHAPTER V.—EXECUTIVE POWERS AND DUTIES OF THE POLICE.

51. (1) Every police officer shall:

(a) promptly obey and execute every warrant or other order lawfully issued to him by competent authority; and shall by all lawful means endeavour to give effect to the commands of his superior;

(b) to the best of his ability, obtain intelligence concerning the commission of cognizable offences or designs to commit such offences, and lay such information and take such other steps, consistent with law and with the orders of his superiors, as shall be best calculated to bring offenders to justice or to prevent the commission of offences;

(c) to the best of his ability, prevent the commission of public nuisances;

(d) apprehend all persons whom he is legally authorized to apprehend and for whose apprehension there is sufficient reason;

(e) aid another police officer when called on by him or in case of need in the discharge of his duty, in such ways as would be lawful and reasonable on the part of the officer aided ;

(f) discharge such duties as are imposed upon him by any law relating to revenue or other law at the time in force.

(2) Every police officer may, subject to the rules and orders made by Government or by a person lawfully authorised, enter for any of the said purposes, without a warrant, and inspect any place of public resort and any place which he has reason to believe is used as a drinking-shop, or a shop for the sale of intoxicating drugs or a place of resort of loose and disorderly characters.

(3) When in a street or place of public resort a person has possession or apparent possession of any article which a police officer in good faith suspects to be stolen property, such police officer may search for and examine the same and may require an account thereof, and should the account given by the possessor be manifestly false or suspicious, may detain such article and report the facts to a Magistrate, who shall thereon proceed according to sections 523 and 525 of the Code of Criminal Procedure or other law in force.

52. It shall be the duty of every police officer :

- (a) to afford every assistance within his power to disabled or helpless persons in the streets and to take charge of intoxicated persons and of lunatics at large who appear dangerous or incapable of taking care of themselves ;
- (b) to take prompt measures to procure necessary help for any person under arrest or in custody, who is wounded or sick, and, whilst guarding or conducting any such person, to have due regard to his condition ;
- (c) to arrange for the proper sustenance and shelter of every person who is under arrest or in custody ;
- (d) in conducting searches, to refrain from needless rudeness and the causing of unnecessary annoyance ;
- (e) in dealing with women and children, to act with strict regard to decency and with reasonable gentleness ;

(f) to use his best endeavours to prevent any loss or damage by fire ;

(g) to use his best endeavours to avert any accident or danger to the public.

53. (1) It shall be the duty of a police officer :

(a) to regulate and control the traffic in the streets, to prevent obstructions therein, and to the best of his ability, to prevent the infraction of any rule or order made under this Act or any other law in force for observance by the public in or near the streets ;

(b) to keep order in the streets, and at the same time to keep order in and within public streets and other public places ; and to prevent bathing, washing, and landing places, fairs, temples and all other places of public resort and in the neighbourhood of places of public worship during the time of public resort ;

(c) to regulate resort to public bathing, washing and landing places, to prevent overcrowding thereat and in public ferry-boats and, to the best of his ability, to prevent the infraction of any rule or order lawfully made for observance by the public at any such place or on any such boat.

(2) All persons shall be bound to conform to the reasonable directions of a police-officer given in fulfilment of any of the said duties.

(3) A police officer may restrain or remove any person resisting or refusing or omitting to conform to any such direction as aforesaid, and may either take such person before a Magistrate or, in trivial cases, may release him when the occasion is past.

54. Whenever a notification has been duly issued under section 42, or an order has been made under section 43 or 44, it shall be lawful for any Magistrate or police officer to require any person acting or about to act contrary thereto to desist or to abstain

from so doing, and, in case of refusal or disobedience, to arrest the person offending. Such Magistrate or police officer may also seize any object or thing used or about to be used in contravention of such notification or order as aforesaid, and the thing seized shall be disposed of according to the order of any Magistrate having jurisdiction at the place.

55. It shall be the duty of the police to see that every regulation and notification made by the Magistrate of the District under section 45, or by the Magistrate of the District or a Sub-divisional Magistrate under section 46, is duly obeyed, to warn persons who from ignorance fail to obey the same, and to arrest any person who wilfully disobeys the same.

56. A police officer may take charge of any animal falling under the provisions of the Cattle Trespass Act which may be found straying in a street and may take or send the same to the nearest pound, and the owner and other persons concerned shall thereon become subject to the provisions of the said Act.

57. The police shall take temporary charge of all unclaimed property found by or made over to them; and shall deliver all such property to the police patel, if any, of the town or village in which the same was found and take a receipt therefor, from the patel who shall forward such property to the Magistrate to whom such police patel is subordinate. If in any such case there be no police patel of such town or village, the police shall forthwith report to such Magistrate as the Magistrate of the District shall from time to time appoint in this behalf, and act thereafter as the said first-mentioned Magistrate shall direct.

58. (1) If the property regarding which a report is made to a Magistrate under the last preceding section or under section 19 of the Bombay

Village Police Act, 1867, appears to such Magistrate to have been left by a person who has died intestate and without known heirs and to be likely, if sold in public auction, to realize more than ten rupees net proceeds, he shall communicate with

the District Judge with a view to its being dealt with under the provisions of section 10 of Regulation VIII of 1827 (*a Regulation to provide for the formal recognition of heirs, &c.*) or other law in force.

(2) In any other case the Magistrate shall issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto to appear before himself or some other officer whom he appoints in this behalf and establish his claim within six months from the date of such proclamation. If no person within such period establishes his claim to such property, it shall be at the disposal of Government, and may be sold in public auction under the orders of the Magistrate.

(3) The provisions of section 10 of the Regulation aforesaid shall be deemed not to apply to intestate property which is dealt with by a Magistrate under subsection (2).

59. If the property regarding which a report is made as aforesaid is subject to speedy and natural decay or consists of live-stock, or appears to be of less value than five rupees, the Magistrate may at once direct it to be sold in public auction and the provisions of the last preceding section shall, as nearly as may be practicable, apply to the net proceeds of such sale.

60. A police officer of rank superior to that of constable may perform any duty assigned by law or by a lawful order to any officer subordinate to him; and in case of any duty imposed on such subordinate, a superior, where it shall appear to him necessary, may aid, supplement, supersede or prevent any action of such subordinate by his own action or that of any person lawfully acting under his command or authority, whenever the same shall appear necessary or expedient for giving more complete or convenient effect to the law or for avoiding an infringement thereof.

CHAPTER VI.—OFFENCES AND PUNISHMENTS.

61. In any local area to which Government by notification from time to time extends, this section or any part thereof, whoever contrary thereto;

Duty of the police to see orders issued under section 45 or 46 carried out

Police officer may take charge of stray cattle.

Act I of 1871.

Duty of police with regard to unclaimed property.

Bo. VIII of 1867.

Handwritten notes at the bottom of the page, including "the case of the..." and "the case of the..."

(a) without lawful excuse drives driving on dark nights without a light; along, or keeps standing in, any street a vehicle of any description at any time between three-quarters of an hour after sunset and one hour before sunrise, without a sufficient light or lights, except when there is sufficient moonlight to render such light unnecessary;

(b) drives a vehicle of any description disregarding the rule of the road; along a street and does not keep (except in cases of actual necessity or of some sufficient reason for deviation) on the left side of such street when meeting any other vehicle, or on the right side of such street when passing any other vehicle;

(c) leaves in any street insufficiently tended or secured leaving cattle, &c., in- any animal or sufficiently tended; vehicle;

(d) causes obstruction, injury, danger or alarm in any street, or mischief, by any misbehaviour, negligence or ill-usage in the driving, management or care of any animal or vehicle, or by driving any vehicle or animal laden with timber, poles, or other unwieldy articles through a street, contrary to any regulation made in that behalf and published by the Magistrate of the District;

(e) exposes for hire or sale any animal or vehicle, cleans exposing animal for any furniture or hire or sale, &c. vehicle or cleans, grooms, trains or breaks in any horse or other animal or makes or repairs any vehicle or any part of a vehicle in any street (unless when in the case of an accident repairing on the spot is necessary) or carries on therein any manufacture or operation so as to be a serious impediment to traffic or a serious annoyance to residents or to the public;

(f) causes obstruction in any street by allowing any animal or vehicle causing any obstruction in a street; which has to be loaded or unloaded or to take up or set down passengers, to remain or stand therein longer than may be necessary for such purpose, or by leaving any vehicle standing or fastening any cattle therein, or using any part of a street as a

halting-place for vehicles or cattle or by leaving any box, bale, package or other thing whatsoever in or upon a street for an unreasonable length of time, or contrary to any regulation made and published by the Magistrate of the District by exposing anything for sale or setting out anything for sale in or upon any stall, booth, board, cask, basket or in any other way whatsoever causes obstruction;

(g) causes obstruction on any footway, obstructing a foot- or danger, alarm way, or annoyance by driving, riding or leaving any animal or driving or drawing any vehicle thereupon or fastening any animal so that the same can stand across or upon such footway;

(h) exhibits, contrary to any regulation made and notified exhibiting mimetic, musical or other per- by the Magistrate of the District, any performances, &c.; mimetic, musical or other performances of a nature to attract crowds or carries or places bulky advertisements, pictures, figures, or emblems in any street whereby an obstruction to passengers or annoyance to the inhabitants may be occasioned;

(i) assembles with others or joins any gambling in a street; assembly in a street assembled for the purpose of gaming or wagering;

(j) slaughters any animal, cleans a doing offensive acts carcass or hide, on or near public obeys a call of streets; nature, or causes a child to do so, or bathes or washes his person in or near to and within sight of a street: (except in some place set apart for the purpose by order of the District Magistrate or of some other person having lawful authority in that behalf), so as to cause annoyance to the neighbouring residents or to passers-by;

(k) negligently lets loose any horse or letting loose horses, other animal, so as &c., and suffering to cause danger, in- ferocious dogs to be at jury, alarm or an- large; noyance or suffers a ferocious dog to be at large without a muzzle, or sets on or urges a dog or other animal to attack, worry or put in fear any person or horse or other animal;

(l) bathes or washes in or by the side of a public well, tank, or reservoir, not set apart for such purpose by order of the Magistrate of the District or of some other person having lawful authority in that behalf, or in or by the side of any pond, pool, aqueduct, part of a river, stream, nála or other source or means of water-supply in which such bathing or washing is forbidden by order of the Magistrate of the District or other person having lawful authority in that behalf;

(m) defiles, or causes to be defiled, the water in any public well, tank, reservoir, pond, pool, aqueduct or part of a river, stream, nála or other source or means of water-supply, so as to render the same less fit for any purpose for which it is set apart as aforesaid;

(n) obstructs or incommodes a person bathing at a place set apart for that purpose as aforesaid, by wilful intrusion or by using such place for any purpose for which it is not so set apart;

(o) wilfully and indecently exposes his person, uses indecent language or behaves indecently or riotously or in a disorderly manner in a street or place of public resort, or in any public office, station or station-house;

(p) is drunk and incapable of taking care of himself in a street or place of public resort;

(q) wilfully pushes, presses, hustles or obstructs any passenger in a street, or by violent movements, menacing gestures, wanton personal annoyance, screaming, shouting, wilfully frightening horses or cattle, or otherwise disturbs the public peace or order;

(r) uses in any street any threatening, abusive or insulting words or behaviour, with intent to provoke a breach of the peace or whereby a breach of the peace may be occasioned;

(s) begs importunately for alms or exposes or exhibiting offensive ailments. object of exciting charity, any deformity or disease or any offensive sore or wound, in or near to and within sight of any street;

shall be punished with fine which may extend to fifty rupees.

62. (1) Whoever cruelly beats, goads, overworks, ill-treats or tortures or causes or procures to be cruelly beaten, goaded, overworked, ill-treated, or tortured any animal;

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) Jurisdiction in cases arising under this section shall not be exercised by a Magistrate of lower rank than the First Class unless such Magistrate be specially invested with jurisdiction for that purpose by Government.

63. Any police officer who :

(a) without lawful authority or reasonable cause, enters or searches or causes to be entered or searched any

building, vessel, tent or place; or

(b) vexatiously and unnecessarily seizes the property of any person; or

(c) vexatiously and unnecessarily detains, searches or arrests any person; or

(d) offers any unwarrantable personal violence to any person in his custody;

(e) holds out any threat or promise not warranted by law to a person accused;

shall for every such offence be punished with imprisonment for a term not exceeding two months or with fine which may extend to five hundred rupees, or both.

64. Any police officer who vexatiously and unnecessarily delays forwarding a person arrested to a Magistrate or to any other authority to whom he is legally bound to forward such person, shall be punished with fine which may extend to two hundred rupees.

65. Whoever :

(a) contravenes any rule made under section 39, or

Penalty for contravention of rules under section 39 or of directions under section 53.

(b) opposes or fails to conform to any direction given by the police under section 53;

(c) abets the commission of any offence under clause (a) or (b); shall be punished with fine which may extend to fifty rupees.

66. Whoever contravenes any rule made under section 40 or any condition of any license granted under the said rules shall be punished with fine which may extend to one hundred rupees.

67. Whoever fails to comply with an order made under section 41 shall be punished with fine which may extend to twenty-five rupees for every day that such order continues to be disobeyed by him.

68. Whoever:

Penalty for contravention of rules or directions under sections 42, 43, 44, 47 and 48.

(a) disobeys an order lawfully made under sections 42, 43 or 44; or

(b) opposes or fails to conform to any direction given by the police under section 47; or

(c) opposes or disobeys any rule made or direction given by the police under section 48; or

(d) contravenes any condition of a license granted under clause (b) of the said section; or

(e) abets the commission of any offence under clause (a), (b), (c) or (d); shall be punished with fine which may extend to two hundred rupees.

69. Whoever contravenes or abets the

Penalty for contravention of a regulation made under section 45. contravention of any regulation made under section 45 shall be punished with imprisonment which may extend to three months or with fine which may extend to two hundred rupees, or with both.

70. Whoever opposes or disobeys any

Penalty for contravention of direction given under section 46. direction given by a Magistrate of a District or a Sub-divisional Magistrate

under section 46 or abets opposition to, or disobedience of, any such direction, shall be punished with imprisonment which may extend to one month or with fine which may extend to one hundred rupees or with both.

71. Whoever opposes or fails forthwith to comply with any reasonable direction given by a Magistrate or a police officer under

section 54, or abets opposition thereto or failure to comply therewith, shall be punished with imprisonment which may extend to three months or with fine which may extend to five hundred rupees or with both.

72. Offences against this Act when the accused person or any one of the accused persons is a police officer above the rank of a constable, shall not be cognizable by a Magistrate below the Second Class.

73. It shall not, except in obedience to

Prosecution for certain offences against the Act to be in the discretion of the police. a rule or order made by Government or by the Magistrate of the District, be incumbent on the police to prosecute for an offence punishable under section 61, 62, 65, 67, 68, 69, or 70, when such offence has not occasioned serious mischief and has been promptly desisted from on warning given.

74. Nothing in this Act shall be construed to prevent any

Prosecution for offences under other enactments, not affected by the Act. person from being prosecuted and punished under any other enactment for any offence made punishable by this Act or from being prosecuted and punished under this Act for an offence punishable under any other enactment: Provided that all such cases shall be subject to the provisions of Section 403 of the Code of Criminal Procedure.

Act X of 1882.

CHAPTER VII.

MISCELLANEOUS.

75. All sums paid for the service of process by police officers and all rewards, forfeitures and penalties or shares thereof

Disposal of rewards, &c., payable to police officers. which are by law payable to police officers as informers, shall, except as hereinafter in this section provided, be credited to Government: Provided that, with the sanction of Government, or under any rule made by Government in that behalf, the whole or any portion of any such reward, forfeiture or penalty may for special services be paid to a police officer or be divided amongst two or more police officers.

76. Any Magistrate of a District may delegate to the District Superintendent any authority which such Magistrate himself possesses for police purposes over any village police officer, and may withdraw such authority.

77. (1) No municipal or other local rates shall be payable by Government on police buildings.

No municipal or other rates to be payable by Government on police buildings.

house or place by members of the police force for the convenient performance of their duties.

(2) It shall be the duty of a municipality within the limits of which a police force is stationed for the service of such municipality in preserving the peace, public order and safety and preventing crime, to provide on the requisition of Government such accommodation for the police so employed as shall be reasonably necessary or such portion thereof as to Government shall seem just and expedient.

(3) The provision of such accommodation or other fulfilment of the requirements of this section shall be deemed a purpose of the Bombay District Municipal Acts of 1873 and 1884.

78. Any order or notification published or issued by Government or by a magistrate or officer under any provision of this Act, and the due publication and issue thereof may be proved by the production of a copy thereof in the *Bombay Government Gazette* or of a copy thereof signed by such magistrate or officer and by him certified to be a true copy of an original published and issued according to the provisions of the section of this Act applicable thereto.

79. No rule, order, direction, adjudication, inquiry or notification made or published, and no act done under any provision herein contained or in substantial conformity to the same, shall be deemed illegal, void, invalid or insufficient for any defect of form or publication or any irregularity of procedure.

80. (1) No commissioner, magistrate or police officer shall be liable to any penalty or to payment of damages on account of any act done in good faith in pursuance or intended pursuance of any duty imposed or any authority conferred on him by any provision of this Act or of any rule, order or direction lawfully made or given thereunder.

(2) No public servant or person duly appointed or authorized shall be liable as aforesaid for giving effect in good faith to any such order or direction issued with apparent authority by Government or by a person empowered in that behalf under this Act or any rule made under any provision thereof.

(3) In any case of an alleged offence by a magistrate, police officer or other person, or of a wrong alleged to have been done by such magistrate, police officer or other person, by any act done under colour or in excess of any such duty or authority as aforesaid, or wherein it shall appear to the Court that the offence or wrong if committed or done was of the character aforesaid, the prosecution or suit shall not be entertained, or shall be dismissed, if instituted more than six months after the date of the act complained of.

(4) In the case of an intended suit on account of such a wrong as aforesaid, the person intending to sue shall be bound to give to the alleged wrong-doer one month's notice at least of the intended suit with a sufficient description of the wrong complained of, failing which such suit shall be dismissed.

(5) The plaint shall set forth that a notice as aforesaid has been served on the defendant and the date of such service and shall state whether any and if any what tender of amends has been made by the defendant. A copy of the said notice shall be annexed to the plaint endorsed or accompanied with a declaration by the plaintiff of the time and manner of service thereof.

In suits as aforesaid one month's notice of suit to be given with sufficient description of wrong complained of.

Plaint to set forth service of notice and tender of amends.

81. (1) In the case of any rule or order made by Government under an authority conferred by this Act and requiring the public or a particular class of persons to perform some duty or act or to conduct or order themselves or those under their control in a manner therein described, it shall be competent to any person interested to apply to Government by a memorial given to a Secretary to Government to annul, reverse or alter the rule or order aforesaid on the ground of its being unlawful, oppressive or unreasonable.

(2) After such an application as aforesaid and the rejection thereof wholly or in part, or after the lapse of four months with-

Person interested may apply to Government to annul, reverse, or alter any rule or order.

When a suit shall lie to the District Court to declare a rule or order unlawful.

out an answer to such application or a decision thereon published by Government, it shall be competent to the person interested and deeming the rule or order contrary to law to institute a suit against Government in the District Court of the District wherein the rule or order operates, for a declaration that the rule or order is unlawful either wholly or in part. The decision in such suit shall be subject to appeal; and a rule or order finally adjudged to be unlawful shall by Government be annulled or reversed or so altered as to make it conformable to law.

82. Nothing in this Act shall affect any of the provisions of the Police Act, 1888, or of the Municipal Taxation Act, 1881.

Saving of certain Acts.

Act III of 1888.
Act XI of 1881.

SCHEDULE A.

(SEE SECTION 2.)

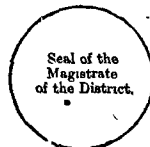
Enactments repealed.

Number and year of enactment.	Title or subject.	Extent of repeal.
Bombay Regulation No. XII of 1827.	For the establishment of a system of Police throughout the Bombay Presidency.	So much of clauses 1, 6, 7 and 8 of section 19 as has not already been repealed.
Acts of VII of 1867	<i>the Governor of Bombay in Council.</i> The Bombay District Police Act.	The whole Act, except sections 33 and 34.
III of 1886	The Bombay General Clauses Act.	So much of schedule B as relates to clauses 1, 6, 7 and 8 of section 19 of Regulation XII of 1827 and to any section of Bombay Act VII of 1867, except section 34.

SCHEDULE B.

(SEE SECTION 11.)

Form of Certificate for Police Officer below the grade of Inspector.



A. B. has been appointed to the Police of the district of and is vested with the powers, functions and privileges of a Police Officer under the Bombay District Police Act, 1890.

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

A. C. LOGAN,
Secretary to the Council of the Governor of Bombay
for making Laws and Regulations.

Bombay Castle, 1st September 1890.

THE



Bombay Government Gazette.

Published by Authority.

THURSDAY, 15TH JANUARY 1891.

 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 27th October 1890, and the assent of His Excellency the Viceroy and Governor General on the 25th December 1890, and is published for general information :—

Bombay Act No. V of 1890.

The Bombay Municipal Servants Act.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 15th January 1891.)

WHEREAS it is expedient to make better provision in the City of Bombay and elsewhere for the enforcement of regulations regarding certain classes of municipal servants whose functions intimately concern the public health or safety, and regarding the duties, withdrawal from duty, and leave of such servants; It is enacted as follows.—

1. (1) This Act may be cited as "The
Short title. Bombay Municipal
Servants Act."
- (2) It shall come into force in the
Commencement and City of Bombay at
extent. once.
- (3) The Governor in Council may, by notification, extend all or any of its provisions, on and after a day not less than two months after the date of such notification, to any

municipal district in the Bombay Presidency.

He may also cancel or vary such notification consistently with the provisions of this Act.

2. (1) Unless there be something
Interpretation. repugnant in the
subject or context,
all words used in this Act shall have respectively the meanings assigned to them in the City of Bombay Municipal Act, 1888.

(2) This Act shall, in so far as it affects
the City of Bombay,
Act to be read with be read with the City
Municipal Acts in of Bombay Municipal
force. Act, 1888, and,
in so far as it affects any other part of
the Presidency of Bombay, shall be read

with the Bombay District Municipal Acts, 1873 and 1884.

3. (1) Any municipal officer, servant or other person employed by or on behalf of the Corporation or a Municipality to perform any of the duties specified in the Schedule, who :

Conditions as to resignation, withdrawal and absence from specified duties.

(a) without the written permission, in the City of Bombay of the Commissioner, or a person by him deputed in that behalf and elsewhere of the officer authorized by the Municipality to give such permission, resigns his office without at least two months' notice given in writing to the Commissioner or person by him deputed, or to such officer, or withdraws or absents himself from the duties thereof, except in case of illness or accident disqualifying him for the discharge of such duties ; or other reason accepted as sufficient by such Commissioner or person by him deputed, or such officer ; or

(b) is guilty of any wilful breach or neglect of any provision of law or of any rule or order which, as such municipal officer, servant or other person employed by or on behalf of the Corporation or a Municipality, it is his duty to observe or obey ; or

(c) who abets an offence under clause (a) or clause (b) ;

shall be liable to forfeit his pay accruing due under a current term of service, and arrears of pay due for a term of not more than one month, and, in addition to such forfeiture and any other penalty which may be imposed on him under any enactment or rule for the time being in force, shall be liable, on conviction by a Magistrate, to imprisonment which may extend to three months, or to fine, or to both imprisonment and fine :

Provided that if any such officer, servant or other person produces a certificate

signed by the medical officer appointed in the City of Bombay by the Commissioner, and elsewhere by the Municipality in this behalf, of a present incapacity to perform his duties which will probably endure for a month or more, the necessary permission to resign shall forthwith be granted.

Provided further that no fee shall be taken from a person on account of such certificate as aforesaid or of examination in connection therewith.

(2) The provisions of clauses (a) and (b) of sub-section (1) shall not apply to persons at the date of the passing of this Act in the employment of the Corporation or of a Municipality until the lapse of two months from such date.

4. (1) The Commissioner or officer authorized by the Municipality under section 3 services after tender of resignation. (a), may :

(a) at his discretion, accept any resignation to take effect at a time less than two months from the date thereof ; or

(b) at any time after any municipal officer, servant or other person employed as aforesaid, has tendered his resignation, dispense with the services of such officer, servant or person.

(2) Any such officer, servant or other person whose services are dispensed with under sub-section 1, clause (b), shall, subject to any agreement in writing previously made between him and the Corporation or Municipality or its representative, be entitled, in addition to any wages which he may have earned at the date of tendering his resignation, to 15 days' wages or to wages for such period longer than 15 days, as his services may, after such tender of resignation, have been retained by the officer authorized in that behalf.

5. (1) It shall be lawful for the Governor in Council on the request of the Corporation or of a Municipality from

time to time, by notification, to declare that from a date to be fixed therein, which shall not be less than two months from the date thereof, any specified class of duties which concern the public health or safety, shall be deemed to be included in the Schedule to this Act, and from the date fixed on that behalf in such notification the provisions of section 3 shall apply to all persons employed by, or on behalf of, the Corporation or a Municipality to perform any duty of the class so specified in such notification.

(2) The Governor in Council may withdraw such notification and may from time to time cancel or vary the same consistently with the preceding clause and with the other provisions of this Act, and may also limit the operation of any notification to any Municipality or place wherein this Act is in operation.

6. Every person employed by or on behalf of the Corporation or a Municipality to perform any of the duties set forth in the Schedule, shall, on entering the service, and every person now so employed shall forthwith, receive gratis, and shall at any time thereafter, on payment of one anna, be entitled to receive in the City of Bombay from the Municipal Commissioner for the City of Bombay, and elsewhere from the President of a Municipality, a copy of this Act and of the notifications issued thereunder, applicable to such person or to the class to which he belongs, in the English, Maráthi, Gujaráti, Canarese or Sindhi language.

SCHEDULE.

(Vide Section 3.)

Duties which render the provisions of section 3 applicable to the persons employed by, or on behalf of, the Corporation or a Municipality to perform them.

Class I.—Duties connected with the public health :

- (a) Scavenging or cleansing streets or premises,
- (b) cleansing or flushing drains,
- (c) removing or disposing of excrementitious or polluted matter from houses, latrines, privies, urinals, or cess-pools,
- (d) removing carcasses,
- (e) preventing nuisances generally.

Class II.—Duties connected with the public safety :

Duties of

- (a) members of a fire-brigade,
- (b) persons, however designated, employed on, or in connection with, the maintenance or service of any municipal water-work, drain, pumping station or fire hydrant, including.
 - (1) inspectors,
 - (2) sub-inspectors,
 - (3) foremen,
 - (4) mechanics,
 - (5) drivers,
 - (6) watchmen,
 - (7) labourers,
 - (8) workmen,
- (c) lamp-lighters.

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

A. C. LOGAN,

Secretary to the Council of the Governor of Bombay
for making Laws and Regulations.

Bombay Castle, 13th January 1891.