

THE



# Bombay Government Gazette.

1879.

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PART IV.

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ACTS

PASSED BY THE

GOVERNMENT OF INDIA

AND BY THE

GOVERNMENT OF BOMBAY.

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Bombay:

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THE



# Bombay Government Gazette.

Published by Authority.

THURSDAY, 9TH JANUARY 1879.

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

## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 31st December 1878, and was promulgated for general information in the *Gazette of India* on the 4th January 1879:—

#### Act No. XVIII. of 1878.

*An Act to amend the Code of Civil Procedure, section 4.*

WHEREAS it is expedient to amend the Code of Preamble. Civil Procedure, section four;

It is hereby enacted as follows:—

1. In the said section, for the words "local law" in each of the places where they occur, the words "any law heretofore or hereafter passed under the Indian Councils Act, 1861, by a Governor, or a Lieutenant-Governor, in Council," shall be substituted; and for the words "landlord and tenant," the words "landholders and their tenants or agents" shall be substituted.

D. FITZPATRICK,  
Secretary to the Government of India.

**PART IV.**

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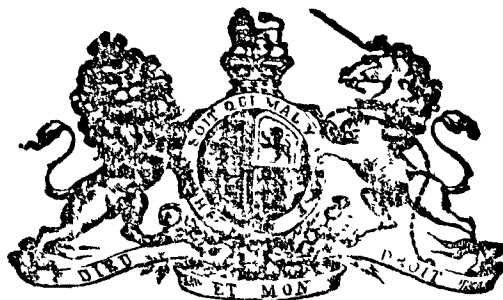
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D. FITZPATRICK,  
Secretary to the Government of India.

THE



# Bombay Government Gazette.

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THURSDAY, 20TH MARCH 1879.

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## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF INDIA

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 8th March 1879, and was promulgated for general information in the *Gazette of India* on the 15th March 1879:—

#### Act, No. III of 1879.

##### *An Act to authorize the destruction of Useless Records.*

Whereas it is expedient to provide for the destruction or other disposal of useless records, books and papers in Courts and Revenue-offices; It is hereby enacted as follows:—

1. This Act may be called "The Destruction of Records Act, 1879:"  
 Short title. it extends to the whole  
 Local extent. of British India; and it  
 Commencement. shall come into force at once.

2. The High Court may, from time to time, make rules respecting the disposal, by destruction or otherwise, of such records, books and papers belonging to or being in the custody of such High Court, or the Courts of civil and criminal jurisdiction subordinate thereto, as the High Court may consider useless or unworthy of being permanently preserved.

So far as regards his own Court, the Court of Small Causes in Rangoon and the Courts of the Magistrates within the local limits of his ordinary civil jurisdiction, the Recorder of Rangoon shall, for the purposes of this section, be deemed to be a High Court.

3. Each of the High Courts of Judicature at Fort William, Madras and Bombay may from time to time make rules respecting the disposal, by destruction or otherwise, of such records, books and papers belonging to or being in the custody of

(a) the local Court for the relief of Insolvent Debtors held under the provisions of the eleventh and twelfth of Victoria, chapter twenty-one,

(b) the local Administrator General, as the High Court may consider useless or unworthy of being permanently preserved.

4. The Chief Controlling Revenue-Authority may from time to time make rules respecting the disposal, by destruction or otherwise, of such records, books and papers belonging to or in the custody of the Revenue Courts and offices as it may consider useless or unworthy of being permanently preserved.

5. All rules made under this Act shall, after being confirmed by the Local Government and sanctioned by the Governor General in Council, be published in the local official Gazette, and shall thereupon have the force of law.

6. All rules and orders heretofore made by a Local Government, a High Court or a Chief Controlling Revenue-Authority, for the destruction of documents, shall be deemed to have been made under this Act.

Authority for the destruction or other disposal of useless records, books and papers belonging to or in the custody of any Court or Revenue-office shall be deemed to have had the force of law from the date on which they were made, and all such rules now in force shall continue to have

Bar of suits.

the force of law until they are rescinded by rules made under this Act; and no suit or other proceeding shall be instituted, maintained or continued against any person for the disposal, by destruction or otherwise, of any records, books or papers in accordance with any such rules or with any order made by a Local Government, High Court or Chief Controlling Revenue-Authority.

7. In this Act "Chief Controlling Revenue-Authority" means, in the Presidency of Fort St.

George and the territories respectively under the administration of the Lieutenant-Governors of Bengal and the North-Western Provinces—the Board of Revenue: in the Presidency of Bombay, outside Sind and the limits of the town of Bombay—a Revenue Commissioner: in Sind—the Commissioner: in the Panjáb—the Financial Commissioner; and else where—the Local Government or such officer as the Local Government may, by notification in the official Gazette, appoint in this behalf by name or in virtue of his office.

8. Nothing herein contained shall be deemed to authorize the destruction of any document which, under the provisions of any law for the time being in force, is to be kept and maintained.

9. The enactments specified in the schedule hereto annexed shall be repealed to the extent mentioned in the third column.

### THE SCHEDULE.

(See Section 9.)

Enactments repealed.

#### (a).—ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

Number and year.	Subject or short title.	Extent of repeal.
XX of 1875	The Central Provinces Laws Act, 1875.	In section eight, clause (c), the last twenty-one words.
XVIII of 1876	The Oudh Laws Act, 1876.	In section thirty-nine, clause (c), the last eighteen words.

#### (b).—ACTS OF THE GOVERNOR OF BOMBAY IN COUNCIL.

Number and year.	Subject or short title.	Extent of repeal.
VI of 1865	To authorize the destruction of Useless Records in certain Courts of the Bombay Presidency.	The whole.
V of 1869	To authorize the destruction of Useless Records in the Courts of the Province of Sind.	The whole.

#### (c).—REGULATION UNDER 33 VIC., c. 3.

Number and year.	Subject or short title.	Extent of repeal.
III of 1877	The Ajmer Laws Regulation, 1877.	In section forty, clause (c), the last twenty-one words.

D. FITZPATRICK,  
Secy. to the Govt. of India.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 13th March, 1879, and was promulgated for general information in the *Gazette of India* on the 15th March 1879:—

### Act No. IV of 1879.

## THE INDIAN RAILWAY ACT, 1879.

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## SCHEDULES.

*An Act to consolidate and amend the law relating to Railways in India.*

WHEREAS it is expedient to consolidate and amend the law relating to Railways in India; It is hereby enacted as follows:—

## CHAPTER I.

## PRELIMINARY.

Short title. 1. This Act may be called "The Indian Railway Act, 1879."

Local extent. It extends to the whole of British India and, so far as regards subjects of Her Majesty the Empress of India, to the dominions of Princes and States in India in alliance with Her said Majesty;

Commencement. And it shall come into force on the first day of July, 1879.

2. On and from that day, the Acts specified in the first schedule hereto annexed shall be repealed.

Repeal of Acts. All rules made, notifications published and powers conferred under any of such Acts, or any enactment thereby repealed, shall (so far as they are consistent herewith) be deemed to have been respectively made, published and conferred under this Act.

Nothing in the Carriers Act, 1865, shall apply to carriers by railway

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

Interpretation-clause. "Railway" means a railway for the public conveyance of passengers or goods.

It includes—

(a) all land within the fences or other boundary-marks prescribed under section fifty-two;

(b) all lines of rail, sidings or branches worked over for the purposes of, or in connection with, a Railway;

(c) all stations, offices, warehouses, fixed machinery and other works constructed for the purposes of, or in connection with, a Railway;

(d) all vessels and rafts used for the purpose of carrying on the traffic of a Railway.

In section four, "Railway" includes a railway under construction, and in the remaining part of this section and in the following sections (namely), six, eight, sixteen, twenty-five, thirty, thirty



three, thirty-four, forty to forty-six (both inclusive), fifty-two and fifty-three, "Railway" includes a Railway under construction and a Railway not used for the public conveyance of passengers or goods :

"Railway-Administration" means in the case of a Railway worked by Government or a Native State, the Manager of such Railway, and in the case of a Railway worked by a Company or private individual, such Company or individual :

"Railway-servant" means any person employed by a Railway-Administration to perform any function in connection with a Railway,

and in section twenty-five, last clause, sections twenty-six, twenty-seven, thirty-eight, and forty-two includes any person employed to perform any such function by any other person in execution of a contract into which he has entered with a Railway-Administration.

4. It shall be lawful, with the previous sanction of the Governor General in Council, to use on every Railway locomotive engines or other motive power, and carriages and wagons to be drawn or propelled thereby.

## CHAPTER II.

### DUTIES OF THE RAILWAY-ADMINISTRATION.

5. No Railway or portion or extension of, or addition to, a Railway shall be opened for the public conveyance of passengers until the Railway-Administration has given to the Governor General in Council notice in writing of the intention of opening the same and until an officer appointed by the Governor General in Council to inspect such Railway, portion, extension or addition has, after inspection thereof, reported in writing to the Governor General in Council that in his opinion the opening of the same would not be attended with danger to the public using the same.

6. Every Railway-Administration shall, within forty-eight hours after the occurrence upon the Railway of—

- (a) any accident attended with loss of human life or serious injury to person or property,
- (b) any accident of a description usually attended with such loss or injury, and
- (c) any accident of any other description which the Governor General in Council may, from time to time, direct to be notified.

give notice thereof to the Local Government ; and the Station-master nearest to the place at which the accident occurs, or, where there is no Station-master, the officer in charge of the section of the Railway on which the accident occurs, shall without unnecessary delay give notice in writing or by telegraph of such accident to the nearest Magistrate and to the officer in charge of the Police-station in the jurisdiction of which the accident occurs or to such other Magistrate and Police-officer as the Local Government from time to time appoints in this behalf.

7. Every Railway-Administration shall make up and deliver to the Governor General in Council a return of accidents occurring in the course of the public traffic upon the Railway, whether attended with personal injury or not, in such form and manner, and at such intervals of time, as the Governor General in Council from time to time directs.

8. Every Railway-Administration shall make general rules for working the following purposes (that is to say) :

- (a) for regulating the mode in which, and the speed at which, carriages and wagons used on the Railway are to be moved or propelled ;
- (b) for regulating the maximum number of passengers which each carriage and compartment may carry, and the mode in which such number shall be denoted thereon ;
- (c) for regulating the provision to be made for the accommodation and convenience of passengers ;
- (d) for declaring what shall be deemed to be, for the purposes of this Act, dangerous goods ; and
- (e) generally for regulating the travelling upon, and the use, working and management of, the Railway ;

and may, from time to time, alter any such rules.

Any such rule may contain a provision that any person committing a breach of it shall be liable to a fine which may extend to fifty rupees, or, in default of payment of such fine, to simple imprisonment for a term which may extend to two months.

No such rule shall take effect unless it is consistent with this Act and until it has received the sanction of the Governor General in Council.

All rules made under this section shall be published in the *Gazette of India*, and shall be otherwise notified to the Railway-servants and the public in such manner as the Governor General in Council, from time to time, directs.

The Governor General in Council may at any time cancel any such rule.

9. An abstract of this Act, and a copy of the Time-tables and Tariff of charges which may, from time to time, be published for any Railway by any Railway-Administration, shall be exhibited in some conspicuous place at each station of such Railway, so that they may be easily seen and read.

All such documents shall be so exhibited in English and in the principal vernacular language of the district in which the station is situate, and in such other language, if any, as the Governor General in Council may direct.

## CHAPTER III.

### CARRIAGE OF PROPERTY.

10. Every agreement purporting to limit the obligation or responsibility imposed on a carrier by Railway by the Indian Special contract limiting liability.

Contract Act, 1872, sections 151 and 161, in the case of loss, destruction or deterioration of, or damage to, property shall, in so far as it purports to limit such obligation or responsibility, be void unless—

(a) it is in writing signed by, or on behalf of, the person sending or delivering such property, and

(b) is otherwise in a form approved by the Governor General in Council.

11. When any property mentioned in the

second schedule hereto annexed is contained in any parcel or package delivered to a carrier by

Railway, the carrier shall not be liable for loss, destruction or deterioration of, or damage to, such property, unless at the time of delivery the value and nature thereof have been declared by the person sending or delivering the same, and an increased charge for the safe conveyance of the same, or an engagement to pay such charge, has been accepted by some Railway-servant specially authorized in this behalf.

When any property of which the value and nature have been declared under this section has been lost, destroyed or damaged, or has deteriorated, the compensation recoverable for such loss, destruction, damage or deterioration shall not exceed the value so declared.

12. A carrier by Railway shall in no case be

answerable for loss, destruction or deterioration of, or damage to, any passenger's luggage, unless a Railway-servant has booked and given a receipt for the same.

13. In any suit against a carrier by Railway

for compensation for loss, destruction or deterioration of, or damage to, property delivered to a Railway-servant, it shall not be necessary for the plaintiff to prove in what manner such loss, destruction, deterioration or damage was caused.

14. If any person fails to pay on demand any sum

due by him to a carrier by Railway for conveyance of any property by Railway, or for the custody of any property or for demurrage or wharfage in respect of the same, the Railway-Administration may detain the whole or any part of such property or, if the same have been removed from the Railway, any other property of such person then on such Railway or thereafter coming into the possession of the Railway-Administration ;

and may also sell by public auction, in the case of perishable property at once, and in the case of other property on the expiration of at least fifteen days' notice thereof published in one or more of the local newspapers or, where there are no such newspapers, in such manner as the Local Government may, from time to time, direct, sufficient of such property to produce the sum payable as aforesaid, and all charges and expenses of such detention, notice and sale, or, if such person fails to remove from the Railway within a reasonable time any property so detained, the whole of such property ;

and may, out of the proceeds of the sale, retain the sum so payable, together with all charges and expenses aforesaid, rendering the surplus, if any, of such proceeds, and so much of the property (if any) as remains unsold, to the person entitled thereto ;

or such carrier may recover any such sum by suit.

15. The owner or person having the care of

any property which has been carried upon any Railway, or is brought into any station or warehouse for the purpose of being carried upon a

Railway, shall, on demand by any Railway-servant appointed in this behalf by the Railway-Administration, deliver to him an exact account in writing signed by such owner or person of the quantity and description of such property.

16. No passenger shall take with him on a

Railway, and no person shall deliver or tender for carriage upon any Railway, any dangerous luggage or goods without giving notice of their nature to a Railway-servant, or, in the case of luggage or goods delivered or tendered for carriage, distinctly marking their nature on the outside of the package containing the same.

Any Railway-servant may refuse to carry upon a Railway any luggage or parcel which he suspects to contain dangerous goods, and may require such luggage or parcel to be opened to ascertain the fact previously to carrying the same ;

and in case any such luggage or parcel is received for the purpose of being carried upon a Railway, any Railway-servant may stop the transit thereof until he is satisfied as to the nature of its contents.

#### CHAPTER IV.

##### CARRIAGE OF PASSENGERS.

17. Every person desirous of travelling on a

Railway shall, upon payment of his fare, be furnished with a ticket specifying in English and the principal vernacular language of the district in which the ticket is issued, the class of carriage for which, and the place from and place to which, the fare has been paid, and the amount of such fare ;

and every passenger shall, when required, show his ticket to any Railway-servant duly authorized to examine the same, and shall deliver up such ticket upon demand to any Railway-servant duly authorized to collect tickets.

18. At the intermediate stations, the fares shall be deemed to be accepted and the tickets furnished only upon condition that there be room in the train for which the tickets are furnished.

In case there is not room for all the passengers to whom tickets have been furnished, those who have obtained tickets for the longest distance shall have the preference ;

and those who have obtained tickets for the same distance shall have the preference according to the order in which they have received their tickets :

Provided that all officers and troops of Her Majesty on duty, and all other persons on the business of the Government who, by virtue of any contract with the Government or, in the case of a Railway worked by Government, of any direction of the Governor General in Council, are entitled to be conveyed on a Railway in preference to, or in priority over, the public, shall be entitled to such preference and priority without reference to the distance for which, or the order in which, they have received their tickets.

Any passenger to whom a ticket has been furnished at any station and for whom there is no room shall, on returning the ticket within a reasonable time after its issue, be entitled to have his fare at once refunded.

19. Except with the permission of the Railway-Administration or of such officer as it appoints in this behalf, no person shall enter any carriage used on any Railway for the purpose of travelling therein without having first paid his fare and obtained a ticket.

20. Any passenger found suffering from an infectious disease in a Railway-carriage or in any place on a Railway may, if his remaining in such carriage or place is likely to spread the infection of such disease, be removed from such carriage or place by any Railway-servant ;

Any passenger so removed who has paid his proper fare to or at the place at which he is so removed, shall be entitled, on returning his ticket, to have such fare refunded.

## CHAPTER V.

### OFFENCES AND PROCEDURE.

#### (A).—Offences by the Railway-Administration.

21. Any Railway-Administration opening, in contravention of section five, any Railway, or any portion or extension of, or addition to, a Railway, shall forfeit to Government the sum of one thousand rupees for every day during which the same continues open in contravention of that section.

22. Any Railway-Administration omitting to give notice as required by section six, shall forfeit to Government the sum of one hundred rupees for every day during which such omission continues.

23. Any Railway-Administration failing to deliver any return mentioned in section seven within fourteen days after the same ought to be delivered, or to make or notify any rules as required by section eight, or to exhibit any abstract or copy mentioned in section nine in manner required by that section, shall

forfeit to Government the sum of fifty rupees for every day during which such failure continues.

#### (B).—Offences by Railway-servants.

24. Any Station-master or other person omitting to give notice as required by section six, shall be punished with fine which may extend to fifty rupees.

25. Any Railway-servant who is in a state of intoxication whilst actually employed upon a Railway in the discharge of any duty, or who negligently omits to perform his duty, or who performs the same in an improper manner,

shall be punished with fine which may extend to fifty rupees ;

or if the duty in any of the cases aforesaid be such that the negligent omission or improper performance thereof would be likely to endanger the safety of any person travelling or being upon such Railway, such servant shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

26. If any Railway-servant in the discharge of his duty endangers the safety of any person—

(a) by disobeying any general rule sanctioned and published and notified in the manner prescribed by section eight ; or

(b) by disobeying any rule or order not inconsistent with the general rules aforesaid, and which such servant was bound 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 three years, or with fine which may extend to five hundred rupees, or with both.

27. Every Railway-servant shall be deemed a "public servant" within the meaning of sections 161, 162, 163, 164 and 165 of the Indian Penal Code.

In the definition of legal remuneration contained in the said section 161, the word "Government" shall, for the purposes of this section, be deemed to include any employer of a Railway-servant as such.

28. Any Railway-servant who compels or attempts to compel any passenger to enter a carriage or compartment containing the maximum number of passengers denoted thereon in accordance with a rule made and notified under section eight, shall be punished with fine which may extend to one hundred rupees.

#### (C).—Offences by Persons generally.

29. Any person required under section fifteen to give an account of the quantity and description of any property who neglects or refuses to give such account,

or who wilfully gives a false account,

shall be punished with fine which may extend to five rupees for every maund (of 3,200 tolahs) of such property; and such fine shall be in addition to any charge to which such property may be liable.

30. Whoever, in contravention of section sixteen, takes with him any

For taking dangerous goods on Railway or delivering such goods without notice.

dangerous goods on a Railway, or delivers or tenders any such goods

for the purpose of being carried upon a Railway, shall be punished with fine which may extend to two hundred rupees.

31. Any passenger travelling on a Railway without a proper ticket

For travelling without ticket or not showing or delivering up ticket.

or having such a ticket and not showing or delivering up the same when

so required under section seventeen, shall be liable to pay the fare of the class in which he is found travelling, from the place whence the train originally started, unless he can prove that he has travelled a less distance only, in which case he shall be liable to pay the fare of the class aforesaid only from the place whence he has travelled.

Every such fare shall, on application by a Railway-servant to a Magistrate, and on proof of the passenger's liability, be recoverable from such passenger as if it were a fine, and shall, when recovered, be paid to the Railway-Administration.

32. Any person who defrauds, or attempts to

For evading payment of fare. defraud, any carrier by Railway—

(a) by travelling, or attempting to travel, on any Railway without having previously paid his fare;

(b) by riding or attempting to ride in or on a carriage, or by a train, of a higher class than that for which he has paid his fare;

(c) by using or attempting to use a ticket on any day for which such ticket is not available;

(d) by continuing his journey in or upon any carriage beyond the place to which he has paid his fare, without previously paying the fare for the additional distance;

or who, in any other manner whatever, attempts to evade the payment of his fare,

or who wilfully alters or defaces his ticket so as to render the date,

For altering ticket. number or other material portion thereof illegible,

shall be punished with fine which may extend to fifty rupees, and shall also be liable to pay the fare (if any) which he ought to have paid; and such fare shall be recoverable in manner provided by section thirty-one and shall, when recovered, be paid to the Railway-Administration.

33. Any passenger who gets into or upon, or

For entering carriage in motion.

attempts to get into or upon, or quits, or attempts to quit, any carriage

upon any Railway, while such carriage is in motion, shall be punished with fine which may extend to twenty rupees;

and any passenger who rides, or attempts to

For riding on the steps. ride, on the steps, or any other part of a carriage, upon any Railway, except on those parts which are intended for the accommodation of passengers, shall be punished with fine which may extend to fifty rupees.

34. Any person who, without the permission

For riding on engine, tender, &c. of the Railway-Administration, rides or attempts to ride upon any locomotive-engine or tender upon any Railway; or in or upon any vehicle not appropriated to the carriage of passengers,

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

35. Any person who, without the consent of

For smoking. his fellow-passengers, if any, in the same compartment, smokes in or upon any Railway carriage, except in a carriage or compartment specially provided for the purpose, shall be punished with fine which may extend to twenty rupees;

and any person who persists in so smoking (except as aforesaid) after being warned by any Railway-servant to desist may, in addition to incurring the liability above mentioned, be removed by any Railway-servant from any such carriage, and from the premises of the Railway, and where he has paid his fare and obtained a ticket, shall forfeit such fare and ticket.

36. Any person who is in a state of intoxication, or who commits

For intoxication or nuisance. any nuisance or act of indecency in any Railway-carriage, or upon any part of any Railway;

or who wilfully and without lawful excuse interferes with the comfort of any passenger, or extinguishes any lamp in any Railway-carriage,

shall be punished with fine which may extend to fifty rupees; and may be removed by any Railway-servant from any such carriage, and also from the premises of the Railway, and where he has paid his fare and obtained a ticket, shall forfeit such fare and ticket.

37. If any carriage, compartment, room or

For entering carriage or room reserved for females. place be reserved by the Railway-Administration for the exclusive use of

females, any male person who without lawful excuse enters such carriage, compartment, room or place knowing the same to be reserved as aforesaid, or remains therein after having been informed of its having been so reserved, shall be punished with fine which may extend to one hundred rupees,

and may be removed therefrom, and also from the premises of the Railway, by any Railway-servant,

and, where he has paid his fare and obtained a ticket, shall forfeit such fare and ticket.

38. Whoever wilfully obstructs or impedes

For obstructing Railway-servant in his duty. any Railway-servant in the discharge of his duty, shall be punished with

fine which may extend to one hundred rupees.

39. Any passenger wilfully entering a carriage or compartment containing the maximum number of passengers which has been denoted thereon in accordance with a rule made and notified under section eight, shall be punished with fine which may extend to one hundred rupees.

40. Any person who without authority or reasonable excuse makes, alters, shows, hides, removes or extinguishes any signal or light upon any Railway, or upon any engine, carriage, wagon or other vehicle upon a Railway,

or who negligently damages any engine, carriage, wagon or other vehicle belonging to a Railway, or any warehouse, building, machine, fence or other thing so belonging,

or who needlessly interferes with the means of communication provided in any train between the guard and the engine-driver or passengers,

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

41. Any person who unlawfully enters upon a Railway shall be punished with fine which may extend to twenty rupees; and if any person so entering refuses to leave such 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 immediately removed from such Railway by such servant or other person as aforesaid.

42. The owner or person in charge of any bulls, cows, bullocks, calves, elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids straying on any Railway provided with fences suitable for the exclusion of such animals, shall be punished with fine which may extend to ten rupees for each animal, in addition to any amount that may be recovered under the Cattle Trespass Act, 1871.

Whenever any such animals are wilfully and unlawfully driven, or knowingly and unlawfully permitted to be, on any Railway provided with fences suitable for the exclusion of such animals,

and whenever any such animals are wilfully driven, or knowingly permitted to be, on any Railway not so provided, otherwise than for the purpose of lawfully crossing the Railway, or for any other lawful purpose,

the person in charge of such animals, or if he cannot be identified, then the owner of the said animals, shall be punished with fine which may extend to fifty rupees for each animal, in addition to any amount that may be recovered under the same Act:

All fines imposed under this section may, if the convicting Magistrate so direct, be recovered in manner provided by section twenty-five of the said Cattle Trespass Act, 1871, and may be appropriated in whole or in part in compensation for loss or damage proved to his satisfaction.

The expression "public road" in sections eleven and twenty-six of the same Act shall be deemed to include a Railway. And any Railway-servant may exercise the powers of seizure provided by the said section eleven.

43. Whoever knowing or having reason to believe that any engine or train is approaching along a Railway opens any gate which the Railway-Administration has set up on either side of the Railway across any road for the use or accommodation of any person, or passes or attempts to pass, or drives or takes, or attempts to drive or take, any vehicle, animal or other thing, across the Railway;

and whoever at any time, in the absence of a gatekeeper, omits to shut and fasten such gate as soon as he and any vehicle, animal or other thing under his charge have passed through the same, shall be punished with fine which may extend to fifty rupees.

44. Whenever any minor under twelve years of age unlawfully—  
(a) places or throws, or attempts to place or throw, upon or across a Railway any wood, stone or other thing, or

(b) removes or displaces, or attempts to remove or displace, any rail, sleeper, spike, key or other thing belonging to the permanent way of a Railway, or

(c) throws or causes to fall, or attempts to throw or cause to fall, against, into or upon any engine, tender, carriage or other vehicle used upon a Railway, any wood, stone or other thing,

such minor shall be deemed guilty of an offence, and the convicting Magistrate may, in his discretion, direct either that the minor, if a male, shall be punished with whipping, or that the father or guardian of the minor shall, within such reasonable time as the Magistrate may fix, execute a bond binding himself, in such penalty as the Magistrate may direct, to prevent the minor from repeating such offence.

The amount of such bond, if forfeited, shall be recoverable as if it were a fine.

Any person neglecting or refusing to execute a bond when required under this section so to do shall be punished with fine which may extend to fifty rupees.

45. Whoever wilfully does any act, or wilfully omits to do what he is legally bound to do, intending by such act or omission to endanger, or knowing that he is thereby likely to endanger, the safety of any person travelling or being upon any Railway, shall be punished with transporta-

tion (or in the case of an European or American, penal servitude) for a term of not less than seven years or with imprisonment for a term which may extend to ten years.

46. Whoever rashly or negligently does any act, or omits to do what he is legally bound to do, and such act or omission is likely to endanger the safety of any person travelling or being upon a Railway, shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

47. Every driver or conductor of an omnibus, carriage or other vehicle shall, while in or upon any station-yard or other premises forming part of a Railway, obey the reasonable directions of any Railway-servant duly authorized in this behalf; and every person offending against this section shall be punished with fine which may extend to twenty rupees.

(D).—*Arrest of Offenders.*

48. If any person commits any offence punishable under this Act and there is reason to believe that he will abscond or his name and address are unknown, and he refuses 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 any warrant or written authority, arrest and detain such offender until he can be taken before a Magistrate or give sufficient security for his appearance before such Magistrate, or is otherwise discharged by due course of law.

49. Every person committing any offence mentioned in sections eight, twenty-five, twenty-six, thirty-six, thirty-seven, thirty-eight, forty-four, forty-five and forty-six may be arrested without any warrant or written authority by any Railway-servant or Police-officer, or by any other person whom such servant or officer may call to his aid;

and every person so arrested shall, without unnecessary delay, be taken before a Magistrate authorized to punish him or to commit him for trial.

(E).—*Jurisdiction.*

50. No Magistrate other than a Presidency Magistrate and a Magistrate whose powers are not less than those of a Magistrate of the second class shall try any offence under this Act.

Any person committing any offence against this Act or the rules made under it, shall be triable for such offence in any place in which he may be found or which the Local Government may, from time to time, 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.

Every notification under this section shall be published in the local official Gazette and a copy thereof shall also be exhibited in some conspicuous place at each of such Railway-stations as the Local Government may direct, so that it may be easily seen and read.

(F).—*Saving of other Criminal Laws.*

51. Nothing in this Act shall be deemed to prevent any person from being arrested, prosecuted or punished under any other law for any act or omission which constitutes an offence against this Act or the rules made under it:

Provided that no person shall be punished twice for the same offence.

CHAPTER VI.

MISCELLANEOUS.

52. The Governor General in Council, or the Local Government with the previous sanction of the Governor General in Council, may, from time to time, make rules requiring—

(a) that boundary-marks or fences be provided for any Railway or any part thereof, and for roads constructed in connection therewith;

(b) that gates or bars be erected at places where any Railway crosses a road on the level; and

(c) that persons be employed to open and shut such gates or bars;

and may by such rules determine what kind of fences shall, for the purposes of section forty-two, be deemed to be suitable for the exclusion of cattle,

and direct that any Railway-Administration wilfully neglecting or violating any rule made under this section, shall forfeit to Government a sum not exceeding five hundred rupees for every such neglect or violation, or, when such neglect or violation is continuous, for every day during which it continues.

53. The Governor General in Council may, from time to time by notification in the *Gazette of India*, declare what Government or other Authority shall be deemed to be, for the purposes of this Act, the Local Government in respect of the whole or any part of a Railway.

54. The Governor General in Council may, by notification, extend this Act or any portion thereof to any tramway worked by steam.

## THE FIRST SCHEDULE.

ACTS REPEALED.

*(See Section 2.)*

Number and year.	Title.
XVIII of 1854 ...	An Act relating to Railways in India.
XXXI of 1867 ...	An Act to render penal certain offences committed by servants of Railway Companies.
XIII of 1870 ...	An Act to apply the provisions of Act No. XVIII of 1854 to Railways belonging to, or worked by, Government.
XXV of 1871 ...	An Act to amend the Railway Act.

## THE SECOND SCHEDULE.

*(See Section 11.)*

(a) Gold or silver, coined or uncoined, manufactured or unmanufactured ;

(b) plated articles ;

(c) cloths and tissue and lace of which gold or silver forms part ;

(d) precious stones, jewellery, trinkets ;  
 (e) watches, clocks or time-pieces of any description ;

(f) Government securities ;

(g) Government stamps ;

(h) bills of exchange, hundis, promissory notes, bank-notes, orders or other securities for payment of money ;

(i) maps, writings, title-deeds ;

(j) paintings, engravings, lithographs, photographs, carvings, sculpture and other works of art ;

(k) glass, china, marble ;

(l) silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials ;

(m) shawls ;

(n) lace ;

(o) opium ;

(p) ivory, ebony, sandalwood, sandalwood-oil ;

(q) musical and scientific instruments ;

D. FITZPATRICK,  
*Secy. to the Govt. of India.*

[Published with the "Bombay Government Gazette" on the 27th March 1879.]

## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF INDIA

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 8th March 1879, and was promulgated for general information in the *Gazette of India* on the 15th March 1879 :—

#### Act No. III. of 1879.

##### *An Act to authorize the destruction of Useless Records.*

Whereas it is expedient to provide for the destruction or other disposal of useless records, books and papers in Courts and Revenue-offices; It is hereby enacted as follows :—

1. This Act may be called "The Destruction of Records Act, 1879 :"  
Short title. of Records Act, 1879 :"  
Local extent. it extends to the whole  
Commencement. of British India; and it shall come into force at once.

2. The High Court may, from time to time,  
Power to High Court to make rules for disposal of records, &c. make rules respecting the disposal, by destruction or otherwise, of such records, books and papers belonging to or being in the custody of such High Court, or the Courts of civil and criminal jurisdiction subordinate thereto, as the High Court may consider useless or unworthy of being permanently preserved.

So far as regards his own Court, the Court of Small Causes in Rangoon and the Courts of the Magistrates within the local limits of his ordinary civil jurisdiction, the Recorder of Rangoon shall, for the purposes of this section, be deemed to be a High Court.

3. Each of the High Courts of Judicature at Fort William, Madras and Bombay may from time to time make rules respecting the disposal, by destruction or otherwise, of such records, books and papers belonging to or being in the custody of

(a) the local Court for the relief of Insolvent Debtors held under the provisions of the eleventh and twelfth of Victoria, chapter twenty-one,

(b) the local Administrator General,

as the High Court may consider useless or unworthy of being permanently preserved.

4. The Chief Controlling Revenue-Authority may from time to time make rules respecting the disposal, by destruction or otherwise, of such records, books and papers belonging to or in the custody of the Revenue Courts and offices as it may consider useless or unworthy of being permanently preserved.

5. All rules made under this Act shall, after being confirmed by the Local Government and sanctioned by the Governor General in Council, be published in the local official Gazette, and shall thereupon have the force of law.

6. All rules and orders heretofore made by a Local Government, a High Court or a Chief Controlling Revenue-Authority for the destruction or other disposal of useless records, books and papers belonging to or in the custody of any Court or Revenue-office shall be deemed to have had the force of law from the date on which they were made, and all such rules now in force shall continue to have the force of law until they are rescinded by rules made under this Act; and no suit or other proceeding shall be instituted, maintained or continued against any person for the disposal, by destruction or otherwise, of any records, books or papers in accordance with any such rules or with any order made by a Local Government, High Court or Chief Controlling Revenue-Authority.

7. In this Act "Chief Controlling Revenue-Authority" means, in the Presidency of Fort St. George and the territories respectively under the administration of the Lieutenant-Governors of Bengal and the North-Western Provinces—the Board of Revenue: in the Presidency of Bombay, outside Sind and the limits of the town of Bombay—a Revenue Commissioner: in Sind—the Commissioner: in the Panjáb—the Financial Commissioner; and else where—the Local Government or such officer as the Local Government may, by notification in the official Gazette, appoint in this behalf by name or in virtue of his office.

8. Nothing herein contained shall be deemed to authorize the destruction of any document which, under the provi-



sions of any law for the time being in force, is to be kept and maintained.

9. The enactments specified in the schedule hereto annexed shall be repealed to the extent mentioned in the third column.

### THE SCHEDULE.

(See Section 9.)

#### Enactments repealed.

#### (a).—ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

Number and year.	Subject or short title.	Extent of repeal.
XX of 1875	The Central Provinces Laws Act, 1875.	In section eight, clause (c), the last twenty-one words.
XVIII of 1876	The Oudh Laws Act, 1876.	In section thirty-nine, clause (c), the last eighteen words.

#### (b).—ACTS OF THE GOVERNOR OF BOMBAY IN COUNCIL.

Number and year.	Subject or short title.	Extent of repeal.
VI of 1865	To authorize the destruction of Useless Records in certain Courts of the Bombay Presidency.	The whole.
V of 1869	To authorize the destruction of Useless Records in the Courts of the Province of Sind.	The whole.

#### (c).—REGULATION UNDER 33 VIC., c. 3.

Number and year.	Subject or short title.	Extent of repeal.
III of 1877	The Ajmer Laws Regulation, 1877.	In section forty, clause (c), the last twenty-one words.

D. FITZPATRICK,  
Secy. to the Govt. of India.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 13th March, 1879, and was promulgated for general information in the *Gazette of India* on the 15th March 1879:—

Act No. IV of 1879.

THE INDIAN RAILWAY ACT,  
1879.

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## SCHEDULES.

*An Act to consolidate and amend the law relating to Railways in India.*

WHEREAS it is expedient to consolidate and amend the law relating to Railways in India; It is hereby enacted as follows:—

## CHAPTER I.

## PRELIMINARY.

Short title.

1. This Act may be called "The Indian Railway Act, 1879:"

It extends to the whole of British India and, so far as regards subjects of Her Majesty the Empress of India, to the dominions of Princes and States in India in alliance with Her said Majesty;

Local extent.

And it shall come into force on the first day of July, 1879.

Commencement.

2. On and from that day, the Acts specified in the first schedule hereto annexed shall be repealed.

Repeal of Acts.

All rules made, notifications published and powers conferred under any of such Acts, or any enactment thereby repealed, shall (so far as they are consistent herewith) be deemed to have been respectively made, published and conferred under this Act.

Nothing in the Carriers Act, 1865, shall apply to carriers by railway.

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

Interpretation-clause.

"Railway" means a railway for the public conveyance of passengers or goods.

"Railway."

It includes—

(a) all land within the fences or other boundary-marks prescribed under section fifty-two;

(b) all lines of rail, sidings or branches worked over for the purposes of, or in connection with, a Railway;

(c) all stations, offices, warehouses, fixed machinery and other works constructed for the purposes of, or in connection with, a Railway;

(d) all vessels and rafts used for the purpose of carrying on the traffic of a Railway.

In section four, "Railway" includes a railway under construction, and in the remaining part of this section and in the following sections (namely), six, eight, sixteen, twenty-five, thirty, thirty-

three, thirty-four, forty to forty-six (both inclusive), fifty-two and fifty-three, "Railway" includes a Railway under construction and a Railway not used for the public conveyance of passengers or goods:

"Railway-Administration" means in the case of a Railway worked by Government or a Native State, the Manager of such Railway, and in the case of a Railway worked by a Company or private individual, such Company or individual:

"Railway-servant" means any person employed by a Railway-Administration to perform any function in connection with a Railway,

and in section twenty-five, last clause, sections twenty-six, twenty-seven, thirty-eight, and forty-two includes any person employed to perform any such function by any other person in execution of a contract into which he has entered with a Railway-Administration.

4. It shall be lawful, with the previous sanction of the Governor General in Council, to use on every Railway locomotive engines or other motive power, and carriages and wagons to be drawn or propelled thereby.

## CHAPTER II.

## DUTIES OF THE RAILWAY-ADMINISTRATION.

5. No Railway or portion or extension of, or addition to, a Railway when to be opened shall be opened for the public conveyance of passengers until the Railway-Administration has given to the Governor General in Council notice in writing of the intention of opening the same and until an officer appointed by the Governor General in Council to inspect such Railway, portion, extension or addition has, after inspection thereof, reported in writing to the Governor General in Council that in his opinion the opening of the same would not be attended with danger to the public using the same.

6. Every Railway-Administration shall, within forty-eight hours after the occurrence upon the Railway of—

(a) any accident attended with loss of human life or serious injury to person or property,

(b) any accident of a description usually attended with such loss or injury, and

(c) any accident of any other description which the Governor General in Council may, from time to time, direct to be notified.

give notice thereof to the Local Government;

and the Station-master nearest to the place at which the accident occurs, or, where there is no Station-master, the officer in charge of the section of the Railway on which the accident occurs, shall without unnecessary delay give notice in writing or by telegraph of such accident to the nearest Magistrate and to the officer in charge of the Police-station in the jurisdiction of which the accident occurs or to such other Magistrate and Police-officer as the Local Government from time to time appoints in this behalf.

7. Every Railway-Administration shall make up and deliver to the Governor General in Council a return of accidents occurring in the course of the public traffic upon the Railway, whether attended with personal injury or not, in such form and manner, and at such intervals of time, as the Governor General in Council from time to time directs.

8. Every Railway-Administration shall make general rules for the following purposes (that is to say):

(a) for regulating the mode in which, and the speed at which, carriages and wagons used on the Railway are to be moved or propelled;

(b) for regulating the maximum number of passengers which each carriage and compartment may carry, and the mode in which such number shall be denoted thereon;

(c) for regulating the provision to be made for the accommodation and convenience of passengers;

(d) for declaring what shall be deemed to be, for the purposes of this Act, dangerous goods; and

(e) generally for regulating the travelling upon, and the use, working and management of, the Railway;

and may, from time to time, alter any such rules

Any such rule may contain a provision that any person committing a breach of it shall be liable to a fine which may extend to fifty rupees, or, in default of payment of such fine, to simple imprisonment for a term which may extend to two months.

No such rule shall take effect unless it is consistent with this Act and until it has received the sanction of the Governor General in Council.

All rules made under this section shall be published in the *Gazette of India*, and shall be otherwise notified to the Railway-servants and the public in such manner as the Governor General in Council, from time to time, directs.

The Governor General in Council may at any time cancel any such rule.

9. An abstract of this Act, and a copy of the Time-tables and Tariff of charges which may, from time to time, be published for any Railway by any Railway-Administration, shall be exhibited in some conspicuous place at each station of such Railway, so that they may be easily seen and read.

All such documents shall be so exhibited in English and in the principal vernacular language of the district in which the station is situate, and in such other language, if any, as the Governor General in Council may direct.

### CHAPTER III.

#### CARRIAGE OF PROPERTY.

10. Every agreement purporting to limit the obligation or responsibility imposed on a carrier by Railway by the Indian

Contract Act, 1872, sections 151 and 161, in the case of loss, destruction or deterioration of, or damage to, property shall, in so far as it purports to limit such obligation or responsibility, be void unless—

(a) it is in writing signed by, or on behalf of, the person sending or delivering such property, and

(b) is otherwise in a form approved by the Governor General in Council.

11. When any property mentioned in the second schedule hereto annexed is contained in any parcel or package delivered to a carrier by Railway, the carrier shall not be liable for loss, destruction or deterioration of, or damage to, such property, unless at the time of delivery the value and nature thereof have been declared by the person sending or delivering the same, and an increased charge for the safe conveyance of the same, or an engagement to pay such charge, has been accepted by some Railway-servant specially authorized in this behalf.

When any property of which the value and nature have been declared under this section has been lost, destroyed or damaged, or has deteriorated, the compensation recoverable for such loss, destruction, damage or deterioration shall not exceed the value so declared.

12. A carrier by Railway shall in no case be answerable for loss, destruction or deterioration of, or damage to, any passenger's luggage, unless a Railway-servant has booked and given a receipt for the same.

13. In any suit against a carrier by Railway for compensation for loss, destruction or deterioration of, or damage to, property delivered to a Railway-servant, it shall not be necessary for the plaintiff to prove in what manner such loss, destruction, deterioration or damage was caused.

14. If any person fails to pay on demand any sum due by him to a carrier by Railway for conveyance of any property by Railway, or for the custody of any property or for demurrage or wharfage in respect of the same, the Railway-Administration may detain the whole or any part of such property or, if the same have been removed from the Railway, any other property of such person then on such Railway or thereafter coming into the possession of the Railway-Administration;

and may also sell by public auction, in the case of perishable property at once, and in the case of other property on the expiration of at least fifteen days' notice thereof published in one or more of the local newspapers or, where there are no such newspapers, in such manner as the Local Government may, from time to time, direct, sufficient of such property to produce the sum payable as aforesaid, and all charges and expenses of such detention, notice, and sale, or, if such person fails to remove from the Railway within a reasonable time any property so detained, the whole of such property;

and may, out of the proceeds of the sale, retain the sum so payable, together with all charges and expenses aforesaid, rendering the surplus, if any, of such proceeds, and so much of the property (if any) as remains unsold, to the person entitled thereto ;

or such carrier may recover any such sum by suit.

15. The owner or person having the care of any property which has been carried upon any Railway, or is brought into any station or warehouse for the purpose of being carried upon a Railway, shall, on demand by any Railway-servant appointed in this behalf by the Railway-Administration, deliver to him an exact account in writing signed by such owner or person of the quantity and description of such property.

16. No passenger shall take with him on a Railway, and no person shall deliver or tender for carriage upon any Railway, any dangerous luggage or goods without giving notice of their nature to a Railway-servant, or, in the case of luggage or goods delivered or tendered for carriage, distinctly marking their nature on the outside of the package containing the same.

Any Railway-servant may refuse to carry upon a Railway any luggage or parcel which he suspects to contain dangerous goods, and may require such luggage or parcel to be opened to ascertain the fact previously to carrying the same ;

and in case any such luggage or parcel is received for the purpose of being carried upon a Railway, any Railway-servant may stop the transit thereof until he is satisfied as to the nature of its contents.

#### CHAPTER IV.

##### CARRIAGE OF PASSENGERS.

17. Every person desirous of travelling on a Railway shall, upon payment of his fare, be furnished with a ticket specifying in English and the principal vernacular language of the district in which the ticket is issued, the class of carriage for which, and the place from and place to which, the fare has been paid, and the amount of such fare ;

and every passenger shall, when required, show his ticket to any Railway-servant duly authorized to examine the same, and shall deliver up such ticket upon demand to any Railway-servant duly authorized to collect tickets,

18. At the intermediate stations, the fares shall be deemed to be accepted and the tickets furnished only upon condition that there be room in the train for which the tickets are furnished.

In case there is not room for all the passengers to whom tickets have been furnished, those who have obtained tickets for the longest distance shall have the preference ;

and those who have obtained tickets for the same distance shall have the preference according to the order in which they have received their tickets :

Provided that all officers and troops of Her Majesty on duty, and all other persons on the business of the Government who, by virtue of any contract with the Government or, in the case of a Railway worked by Government, of any direction of the Governor General in Council, are entitled to be conveyed on a Railway in preference to, or in priority over, the public, shall be entitled to such preference and priority without reference to the distance for which, or the order in which, they have received their tickets.

Any passenger to whom a ticket has been furnished at any station and for whom there is no room shall, on returning the ticket within a reasonable time after its issue, be entitled to have his fare at once refunded.

19. Except with the permission of the Railway-Administration or of such officer as it appoints in this behalf, no person shall enter any carriage used on any Railway for the purpose of travelling therein without having first paid his fare and obtained a ticket.

20. Any passenger found suffering from an infectious disease in a Railway-carriage or in any place on a Railway may, if his remaining in such carriage or place is likely to spread the infection of such disease, be removed from such carriage or place by any Railway-servant ;

Any passenger so removed who has paid his proper fare to or at the place at which he is so removed, shall be entitled, on returning his ticket, to have such fare refunded.

#### CHAPTER V.

##### OFFENCES AND PROCEDURE.

(A).—*Offences by the Railway-Administration.*

21. Any Railway-Administration opening, in contravention of section five, any Railway, or any portion or extension of, or addition to, a Railway, shall forfeit to Government the sum of one thousand rupees for every day during which the same continues open in contravention of that section.

22. Any Railway-Administration omitting to give notice as required by section six, shall forfeit to Government the sum of one hundred rupees for every day during which such omission continues.

23. Any Railway-Administration failing to deliver any return mentioned in section seven within fourteen days after the same ought to be delivered, or to make or notify any rules as required by section eight, or to exhibit any abstract or copy mentioned in section nine in manner required by that section, shall

forfeit to Government the sum of fifty rupees for every day during which such failure continues.

(B).—*Offences by Railway-servants.*

24. Any Station-master or other person omitting to give notice as required by section six, shall be punished with fine which may extend to fifty rupees.

25. Any Railway-servant who is in a state of intoxication whilst actually employed upon a Railway in the discharge of any duty,

or who negligently omits to perform his duty, or who performs the same in an improper manner,

shall be punished with fine which may extend to fifty rupees ;

or if the duty in any of the cases aforesaid be such that the negligent omission or improper performance thereof would be likely to endanger the safety of any person travelling or being upon such Railway, such servant shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

26. If any Railway-servant in the discharge of his duty endangers the safety of any person—

(a) by disobeying any general rule sanctioned and published and notified in the manner prescribed by section eight ; or

(b) by disobeying any rule or order not inconsistent with the general rules aforesaid, and which such servant was bound 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 three years, or with fine which may extend to five hundred rupees, or with both.

27. Every Railway-servant shall be deemed a "public servant" within the meaning of sections 161, 162, 163, 164 and 165 of the Indian Penal Code.

In the definition of legal remuneration contained in the said section 161, the word "Government" shall, for the purposes of this section, be deemed to include any employer of a Railway-servant as such.

28. Any Railway-servant who compels or attempts to compel any passenger to enter a carriage or compartment containing the maximum number of passengers denoted thereon in accordance with a rule made and notified under section eight, shall be punished with fine which may extend to one hundred rupees.

(C).—*Offences by Persons generally.*

29. Any person required under section fifteen to give an account of the quantity and description of any property who neglects or refuses to give such account,

or who wilfully gives a false account, shall be punished with fine which may extend to five rupees for every maund (of 3,200 tolahs) of such property ; and such fine shall be in addition to any charge to which such property may be liable.

30. Whoever, in contravention of section sixteen, takes with him any dangerous goods on a Railway, or delivers or tenders any such goods for the purpose of being carried upon a Railway, shall be punished with fine which may extend to two hundred rupees.

31. Any passenger travelling on a Railway without a proper ticket or having such a ticket and not showing or delivering up the same when so required under section seventeen, shall be liable to pay the fare of the class in which he is found travelling, from the place whence the train originally started, unless he can prove that he has travelled a less distance only, in which case he shall be liable to pay the fare of the class aforesaid only from the place whence he has travelled.

Every such fare shall, on application by a Railway-servant to a Magistrate, and on proof of the passenger's liability, be recoverable from such passenger as if it were a fine, and shall, when recovered, be paid to the Railway-Administration.

32. Any person who defrauds, or attempts to defraud, any carrier by Railway—

(a) by travelling, or attempting to travel, on any Railway without having previously paid his fare ;

(b) by riding or attempting to ride in or on a carriage, or by a train, of a higher class than that for which he has paid his fare ;

(c) by using or attempting to use a ticket on any day for which such ticket is not available ;

(d) by continuing his journey in or upon any carriage beyond the place to which he has paid his fare, without previously paying the fare for the additional distance ;

or who, in any other manner whatever, attempts to evade the payment of his fare,

or who wilfully alters or defaces his ticket so as to render the date, number or other material portion thereof illegible,

shall be punished with fine which may extend to fifty rupees, and shall also be liable to pay the fare (if any) which he ought to have paid ; and such fare shall be recoverable in manner provided by section thirty-one and shall, when recovered, be paid to the Railway-Administration.

33. Any passenger who gets into or upon, or attempts to get into or upon, or quits, or attempts to quit, any carriage upon any Railway, while such carriage is in motion, shall be punished with fine which may extend to twenty rupees ;

and any passenger who rides, or attempts to ride, on the steps, or any other part of a carriage, upon any Railway, except on those parts which are intended for the accommodation of passengers, shall be punished with fine which may extend to fifty rupees.

34. Any person who, without the permission of the Railway-Administration, rides or attempts to ride upon any locomotive-engine or tender upon any Railway; or in or upon any vehicle not appropriated to the carriage of passengers, shall be punished with fine which may extend to one hundred rupees.

35. Any person who, without the consent of his fellow-passengers, if any, in the same compartment, smokes in or upon any Railway carriage, except in a carriage or compartment specially provided for the purpose, shall be punished with fine which may extend to twenty rupees;

and any person who persists in so smoking (except as aforesaid) after being warned by any Railway-servant to desist may, in addition to incurring the liability above mentioned, be removed by any Railway-servant from any such carriage, and from the premises of the Railway, and where he has paid his fare and obtained a ticket, shall forfeit such fare and ticket.

36. Any person who is in a state of intoxication, or who commits any nuisance, or any nuisance, or any indecency in any Railway-carriage, or upon any part of any Railway;

or who wilfully and without lawful excuse interferes with the comfort of any passenger, or extinguishes any lamp in any Railway-carriage,

shall be punished with fine which may extend to fifty rupees; and may be removed by any Railway-servant from any such carriage, and also from the premises of the Railway, and where he has paid his fare and obtained a ticket, shall forfeit such fare and ticket.

37. If any carriage, compartment, room or place be reserved by the Railway-Administration for the exclusive use of females, any male person who without lawful excuse enters such carriage, compartment, room or place knowing the same to be reserved as aforesaid, or remains therein after having been informed of its having been so reserved, shall be punished with fine which may extend to one hundred rupees,

and may be removed therefrom, and also from the premises of the Railway, by any Railway-servant,

and, where he has paid his fare and obtained a ticket, shall forfeit such fare and ticket.

38. Whoever wilfully obstructs or impedes any Railway-servant in the discharge of his duty, shall be punished with fine which may extend to one hundred rupees.

39. Any passenger wilfully entering a carriage or compartment containing the maximum number of passengers which has been denoted thereon in accordance with a rule made and notified under section eight, shall be punished with fine which may extend to one hundred rupees.

40. Any person who without authority or reasonable excuse makes, alters, shows, hides, removes or extinguishes any signal or light upon any Railway, or upon any engine, carriage, wagon or other vehicle upon a Railway,

or who negligently damages any engine, carriage, wagon or other vehicle belonging to a Railway, or any warehouse, building, machine, fence or other thing so belonging,

or who needlessly interferes with the means of communication provided in any train between the guard and the engine-driver or passengers,

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

41. Any person who unlawfully enters upon a Railway shall be punished with fine which may extend to twenty rupees; and if any person so entering refuses to leave such 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 immediately removed from such Railway by such servant or other person as aforesaid.

42. The owner or person in charge of any bulls, cows, bullocks, calves, elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids straying on any Railway provided with fences suitable for the exclusion of such animals, shall be punished with fine which may extend to ten rupees for each animal, in addition to any amount that may be recovered under the Cattle Trespass Act, 1871.

Whenever any such animals are wilfully and unlawfully driven, or knowingly and unlawfully permitted to be, on any Railway provided with fences suitable for the exclusion of such animals,

and whenever any such animals are wilfully driven, or knowingly permitted to be, on any Railway not so provided, otherwise than for the purpose of lawfully crossing the Railway, or for any other lawful purpose,

the person in charge of such animals, or if he cannot be identified, then the owner of the said animals, shall be punished with fine which may extend to fifty rupees for each animal, in addition to any amount that may be recovered under the same Act.

All fines imposed under this section may, if the convicting Magistrate so direct, be recovered in manner provided by section twenty-five of the said Cattle Trespass Act, 1871, and may be appropriated in whole or in part in compensation for loss or damage proved to his satisfaction.

The expression "public road" in sections eleven and twenty-six of the same Act shall be deemed to include a Railway. And any Railway-servant may exercise the powers of seizure provided by the said section eleven.

43. Whoever knowing or having reason to believe that any engine or train is approaching along a Railway opens any gate which the Railway-Administration has set up on either side of the Railway across any road for the use or accommodation of any person, or passes or attempts to pass, or drives or takes, or attempts to drive or take, any vehicle, animal or other thing, across the Railway;

and whoever at any time, in the absence of a gatekeeper, omits to shut and fasten such gate as soon as he and any vehicle, animal or other thing under his charge have passed through the same, shall be punished with fine which may extend to fifty rupees.

44. Whenever any minor under twelve years of age unlawfully—  
 (a) places or throws, or attempts to place or throw, upon or across a Railway any wood, stone or other thing, or

(b) removes or displaces, or attempts to remove or displace, any rail, sleeper, spike, key or other thing belonging to the permanent way of a Railway, or

(c) throws or causes to fall, or attempts to throw or cause to fall, against, into or upon any engine, tender, carriage or other vehicle used upon a Railway, any wood, stone or other thing,

such minor shall be deemed guilty of an offence, and the convicting Magistrate may, in his discretion, direct either that the minor, if a male, shall be punished with whipping, or that the father or guardian of the minor shall, within such reasonable time as the Magistrate may fix, execute a bond binding himself, in such penalty as the Magistrate may direct, to prevent the minor from repeating such offence.

The amount of such bond, if forfeited, shall be recoverable as if it were a fine.

Any person neglecting or refusing to execute a bond when required under this section so to do shall be punished with fine which may extend to fifty rupees.

45. Whoever wilfully does any act, or wilfully omits to do what he is legally bound to do, intending by such act or omission to endanger, or knowing that he is thereby likely to endanger, the safety of any person travelling or being upon any Railway, shall be punished with transporta-

tion (or in the case of an European or American, penal servitude) for a term of not less than seven years or with imprisonment for a term which may extend to ten years.

46. Whoever rashly or negligently does any act, or omits to do what he is legally bound to do, and such act or omission is likely to endanger the safety of any person travelling or being upon a Railway, shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

47. Every driver or conductor of an omnibus, carriage or other vehicle shall, while in or upon any station-yard or other premises forming part of a Railway, obey the reasonable directions of any Railway-servant duly authorized in this behalf; and every person offending against this section shall be punished with fine which may extend to twenty rupees.

(D).—*Arrest of Offenders.*

48. If any person commits any offence punishable under this Act and there is reason to believe that he will abscond or his name and address are unknown, and he refuses 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 any warrant or written authority, arrest and detain such offender until he can be taken before a Magistrate or give sufficient security for his appearance before such Magistrate, or is otherwise discharged by due course of law.

49. Every person committing any offence mentioned in sections eight, twenty-five, twenty-six, thirty-six, thirty-seven, thirty-eight, forty-four, forty-five and forty-six may be arrested without any warrant or written authority by any Railway-servant or Police-officer, or by any other person whom such servant or officer may call to his aid;

and every person so arrested shall, without unnecessary delay, be taken before a Magistrate authorized to punish him or to commit him for trial.

(E).—*Jurisdiction.*

50. No Magistrate other than a Presidency Magistrate and a Magistrate whose powers are not less than those of a Magistrate of the second class shall try any offence under this Act.

Any person committing any offence against this Act or the rules made under it, shall be triable for such offence in any place in which he may be found or which the Local Government may, from time to time, 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.

Every notification under this section shall be published in the local official Gazette and a copy thereof shall also be exhibited in some conspicuous place at each of such Railway-stations as the Local Government may direct, so that it may be easily seen and read.

(F).—*Saving of other Criminal Laws.*

51. Nothing in this Act shall be deemed to prevent any person from being arrested, prosecuted or punished under any other law for any act or omission which constitutes an offence against this Act or the rules made under it:

Provided that no person shall be punished twice for the same offence.

## CHAPTER VI.

### MISCELLANEOUS.

52. The Governor General in Council, or the Local Government with the previous sanction of the Governor General in Council, may, from time to time, make rules requiring—

(a) that boundary-marks or fences be provided for any Railway or any part thereof, and for roads constructed in connection therewith;

(b) that gates or bars be erected at places where any Railway crosses a road on the level; and

(c) that persons be employed to open and shut such gates or bars;

and may by such rules determine what kind of fences shall, for the purposes of section forty-two, be deemed to be suitable for the exclusion of cattle,

and direct that any Railway-Administration wilfully neglecting or violating any rule made under this section, shall forfeit to Government a sum not exceeding five hundred rupees for every such neglect or violation, or, when such neglect or violation is continuous, for every day during which it continues.

53. The Governor General in Council may, from time to time by notification in the *Gazette of India*, declare what Government or other Authority shall be deemed to be, for the purposes of this Act, the Local Government in respect of the whole or any part of a Railway.

54. The Governor General in Council may, by notification, extend this Act or any portion thereof to any tramway worked by steam.

## THE FIRST SCHEDULE.

### ACTS REPEALED.

(See Section 2.)

Number and year.	Title.
XVIII of 1854 ...	An Act relating to Railways in India.
XXXI of 1867 ...	An Act to render penal certain offences committed by servants of Railway Companies.
XIII of 1870 ...	An Act to apply the provisions of Act No. XVIII of 1854 to Railways belonging to, or worked by, Government.
XXV of 1871 ...	An Act to amend the Railway Act.

## THE SECOND SCHEDULE.

(See Section 11.)

(a) Gold or silver, coined or uncoined, manufactured or unmanufactured;

(b) plated articles;

(c) cloths and tissue and lace of which gold or silver forms part;

(d) precious stones, jewellery, trinkets;

(e) watches, clocks or time-pieces of any description;

(f) Government securities;

(g) Government stamps;

(h) bills of exchange, hundis, promissory notes, bank-notes, orders or other securities for payment of money;

(i) maps, writings, title-deeds;

(j) paintings, engravings, lithographs, photographs, carvings, sculpture and other works of art;

(k) glass, china, marble;

(l) silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials;

(m) shawls;

(n) lace;

(o) opium;

(p) ivory, ebony, sandalwood, sandalwood-oil;

(q) musical and scientific instruments;

D. FITZPATRICK,  
Secy. to the Govt. of India.



# Bombay Government Gazette.

Published by Authority.

SATURDAY, 29<sup>TH</sup> MARCH 1879.

*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 24th February 1879, and the assent of His Excellency the Governor General on the 27th March 1879, and is published for general information:—

#### Bombay Act No. I of 1879.

*An Act to facilitate the introduction of the Bombay District Municipal Act into Sind.*

WHEREAS the Bombay District Municipal Act was, on the 26th day of July 1878, extended by the Government of Bombay, with the previous sanction of the Governor General in Council, in virtue of the power conferred by Section 5 of the Scheduled Districts Act, 1874, to the Province of Sind with effect from the 1st October 1878; and whereas difficulties have arisen in introducing the said Act into the said Province owing, amongst other reasons, to certain portions of the said Act having been repealed by the Repealing Act, 1876, previous to the date of the said extension; and whereas doubts are entertained as to whether the said Act did not legally apply to the said Province from the date of the publication of the assent of the Governor General thereto; and whereas it is expedient to remedy the said difficulties and to remove the said doubts; It is enacted as follows:—

1. The Bombay District Municipal Act shall be deemed to have come into force in the Province of Sind on the first day of October 1878, and not at any previous time.

2. Throughout the said Act the phrases "the date of this Act coming into force," "the date of the passing of this Act," and the like, shall, in Sind, be deemed to mean the said first day of October 1878.

3. The words "*Sind Official Gazette*" shall, in Sind, be substituted for "*Bombay Government Gazette*," have always been substituted for the words "*Bombay Government Gazette*" wherever they occur in the said Act.

4. Act XXVI. of 1850 and Bombay Acts II. and IX. of 1862 and I. of 1871 shall be deemed to have been repealed, in Sind, on and from the said first day of October 1878, except as to any assessment made, act done, liability incurred, money due, or proceedings commenced thereunder :

Provided that such repeal shall not take or be deemed to have taken effect in any place to which the said Acts have been applicable until six months from the said first day of October 1878, or until such date within the said period of six months as such place shall be, or shall have been, included in a Municipal District constituted under the Bombay District Municipal Act.

5. The provisions of clauses one to three of section 4 of the Bombay District Municipal Act shall not be and shall not be deemed at any time to have been applicable to Municipalities in Sind formed under Act XXVI. of 1850, which the Commissioner in Sind may deem or may have deemed fit to declare, by notification in the *Sind Official Gazette*, Municipal Districts under the said Bombay District Municipal Act.

Section 4, clauses 1-3 of Bombay Act VI. of 1873 to what extent applicable in Sind.

Any such declaration shall be deemed sufficient authority for the constitution of the Municipality to which it relates into a Municipal District under the said Act.

6. Whenever any Municipality has been so declared to be a Municipal District under the said Act, no suit, prosecution, or other proceeding to which the Municipal Commissioners appointed under Act XXVI. of 1850 were a party, and which was pending at the date on which such Municipal District was constituted, shall abate, or be in any wise affected by the operation of the said Bombay District Municipal Act or of this Act, and all decrees and orders made, and all fines and penalties imposed and incurred previous to the said date, shall be respectively enforceable and leviable, and all administrative proceedings commenced previous to the said date may be proceeded with and completed as if the said Acts had not been passed.

And the Municipality constituted under the said Bombay District Municipal Act shall in all such matters as are aforesaid occupy the place of the Municipal Commissioners aforesaid.

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

JOHN NUGENT,  
Under Secretary to Government.

*Bombay Castle, 29th March 1879.*

[Published with the <sup>UV</sup> "Bombay Government Gazette" on the 3rd April 1879.]

## PART IV.

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1. The Bombay District Municipal Act

Date on which Bombay Act VI. of 1873 is to be deemed to have come into force in Sind.

shall be deemed to have come into force in the Province of Sind on the first day of October 1878, and

not at any previous time.

2. Throughout the said Act the phrases

Certain expressions in Bombay Act VI. of 1873 defined.

"the date of this Act coming into force," "the date of the passing of this Act," and

the like, shall, in Sind, be deemed to mean the said first day of October 1878.

3. The words "*Sind Official Gazette*" "*Sind Official Gazette*" shall, in Sind, be substituted for "*Bombay Government Gazette*." have always been substituted for the words "*Bombay Government Gazette*" wherever they occur in the said Act.

4. Act XXVI. of 1850 and Bombay Acts II. and IX. of 1862 and I. of 1871 shall be deemed to have been repealed,

in Sind, on and from the said first day of October 1878, except as to any assessment made, act done, liability incurred, money due, or proceedings commenced thereunder:

Provided that such repeal shall not take or be deemed to have taken effect in any place to which the said Acts have been applicable until six months from the said first day of October 1878, or until such date within the said period of six months as such place shall be, or shall have been, included in a Municipal District constituted under the Bombay District Municipal Act.

5. The provisions of clauses one to

Section 4, clauses 1-3 of Bombay Act VI. of 1873 to what extent applicable in Sind.

three of section 4 of the Bombay District Municipal Act shall not be and shall not be deemed at any

time to have been applicable to Municipalities in Sind formed under Act XXVI. of 1850, which the Commissioner in Sind may deem or may have deemed fit to declare,

by notification in the *Sind Official Gazette*,  
Municipal Districts under the said Bombay  
District Municipal Act.

Any such declaration shall be deemed  
sufficient authority for the constitution of  
the Municipality to which it relates into a  
Municipal District under the said Act.

6. Whenever any Municipality has  
been so declared to  
be a Municipal Dis-  
trict under the said  
Act, no suit, prosecu-  
tion, or other pro-  
ceeding to which the Municipal Commis-  
sioners appointed under Act XXVI. of  
1850 were a party, and which was pending

Saving of pending pro-  
ceedings, &c., in which  
Municipal Commission-  
ers under Act XXVI.  
of 1850 are concerned.

Act, no suit, prosecu-  
tion, or other pro-

at the date on which such Municipal Dis-  
trict was constituted, shall abate, or be in  
any wise affected by the operation of the  
said Bombay District Municipal Act or of  
this Act, and all decrees and orders made,  
and all fines and penalties imposed and  
incurred previous to the said date, shall  
be respectively enforceable and leviable,  
and all administrative proceedings com-  
menced previous to the said date may be  
proceeded with and completed as if the  
said Acts had not been passed.

And the Municipality constituted under  
the said Bombay District Municipal Act  
shall in all such matters as are aforesaid  
occupy the place of the Municipal Com-  
missioners aforesaid.

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

JOHN NUGENT,

Under Secretary to Government.

*Bombay Castle, 29th March 1879.*

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 13th March, 1879, and was promulgated for general information in the *Gazette of India* on the 15th March 1879:—

**Act No. IV of 1879.**  
**THE INDIAN RAILWAY ACT,**  
**1879.**

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PREAMBLE.

CHAPTER I.

PRELIMINARY.

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## SCHEDULES.

*An Act to consolidate and amend the law relating to Railways in India.*

WHEREAS it is expedient to consolidate and amend the law relating to Railways in India; It is hereby enacted as follows:—

## CHAPTER I.

## PRELIMINARY.

## Short title.

1. This Act may be called "The Indian Railway Act, 1879."

## Local extent.

It extends to the whole of British India and, so far as regards subjects of Her Majesty the Empress of India, to the dominions of Princes and States in India in alliance with Her said Majesty;

## Commencement.

And it shall come into force on the first day of July, 1879.

2. On and from that day, the Acts specified in the first schedule hereto annexed shall be repealed.

## Repeal of Acts.

All rules made, notifications published and powers conferred under any of such Acts, or any enactment thereby repealed, shall (so far as they are consistent herewith) be deemed to have been respectively made, published and conferred under this Act.

Nothing in the Carriers Act, 1865, shall apply to carriers by railway.

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

## Interpretation-clause.

"Railway" means a railway for the public conveyance of passengers or goods.

## "Railway."

It includes—

(a) all land within the fences or other boundary-marks prescribed under section fifty-two;

(b) all lines of rail, sidings or branches worked over for the purposes of, or in connection with, a Railway;

(c) all stations, offices, warehouses, fixed machinery and other works constructed for the purposes of, or in connection with, a Railway;

(d) all vessels and rafts used for the purpose of carrying on the traffic of a Railway.

In section four, "Railway" includes a railway under construction, and in the remaining part of this section and in the following sections (namely), six, eight, sixteen, twenty-five, thirty, thirty-

three, thirty-four, forty to forty-six (both inclusive), fifty-two and fifty-three, "Railway" includes a Railway under construction and a Railway not used for the public conveyance of passengers or goods:

"Railway-Administration" means in the case of a Railway worked by Government or a Native State, the Manager of

"Railway-Administration" means in the case of a Railway worked by a Company or private individual, such Company or individual:

"Railway-servant" means any person employed by a Railway-Administration to perform any function in connection with a Railway,

and in section twenty-five, last clause, sections twenty-six, twenty-seven, thirty-eight, and forty-two includes any person employed to perform any such function by any other person in execution of a contract into which he has entered with a Railway-Administration.

4. It shall be lawful, with the previous sanction of the Governor General in Council, to use on every Railway locomotive engines or other motive power, and carriages and wagons to be drawn or propelled thereby.

## CHAPTER II.

## DUTIES OF THE RAILWAY-ADMINISTRATION.

5. No Railway or portion or extension of, or addition to, a Railway when to be opened for the public conveyance of passengers until the Railway-Administration has given to the Governor General in Council notice in writing of the intention of opening the same and until an officer appointed by the Governor General in Council to inspect such Railway, portion, extension or addition has, after inspection thereof, reported in writing to the Governor General in Council that in his opinion the opening of the same would not be attended with danger to the public using the same.

6. Every Railway-Administration shall, within forty-eight hours after the occurrence upon the Railway of—

(a) any accident attended with loss of human life or serious injury to person or property,

(b) any accident of a description usually attended with such loss or injury, and

(c) any accident of any other description which the Governor General in Council may, from time to time, direct to be notified.

give notice thereof to the Local Government;

and the Station-master nearest to the place at which the accident occurs, or, where there is no Station-master, the officer in charge of the section of the Railway on which the accident occurs, shall without unnecessary delay give notice in writing or by telegraph of such accident to the nearest Magistrate and to the officer in charge of the Police-station in the jurisdiction of which the accident occurs or to such other Magistrate and Police-officer as the Local Government from time to time appoints in this behalf.

7. Every Railway-Administration shall make up and deliver to the Governor General in Council a return of accidents occurring in the course of the public traffic upon the Railway, whether attended with personal injury or not, in such form and manner, and at such intervals of time, as the Governor General in Council from time to time directs.

8. Every Railway-Administration shall make general rules for the following purposes (that is to say):

(a) for regulating the mode in which, and the speed at which, carriages and wagons used on the Railway are to be moved or propelled;

(b) for regulating the maximum number of passengers which each carriage and compartment may carry, and the mode in which such number shall be denoted thereon;

(c) for regulating the provision to be made for the accommodation and convenience of passengers;

(d) for declaring what shall be deemed to be, for the purposes of this Act, dangerous goods; and

(e) generally for regulating the travelling upon, and the use, working and management of, the Railway;

and may, from time to time, alter any such rules.

Any such rule may contain a provision that any person committing a breach of it shall be liable to a fine which may extend to fifty rupees, or, in default of payment of such fine, to simple imprisonment for a term which may extend to two months.

No such rule shall take effect unless it is consistent with this Act and until it has received the sanction of the Governor General in Council.

All rules made under this section shall be published in the *Gazette of India*, and shall be otherwise notified to the Railway-servants and the public in such manner as the Governor General in Council, from time to time, directs.

The Governor General in Council may at any time cancel any such rule.

9. An abstract of this Act, and a copy of the Time-tables and Tariff of charges which may, from time to time, be published for any Railway by any Railway-Administration, shall be exhibited in some conspicuous place at each station of such Railway, so that they may be easily seen and read.

All such documents shall be so exhibited in English and in the principal vernacular language of the district in which the station is situate, and in such other language, if any, as the Governor General in Council may direct.

### CHAPTER III.

#### CARRIAGE OF PROPERTY.

10. Every agreement purporting to limit the obligation or responsibility imposed on a carrier by Railway by the Indian

Contract Act, 1872, sections 151 and 161, in the case of loss, destruction or deterioration of, or damage to, property shall, in so far as it purports to limit such obligation or responsibility, be void unless—

(a) it is in writing signed by, or on behalf of, the person sending or delivering such property, and

(b) is otherwise in a form approved by the Governor General in Council.

11. When any property mentioned in the second schedule hereto annexed is contained in any parcel or package delivered to a carrier by

Railway, the carrier shall not be liable for loss, destruction or deterioration of, or damage to, such property, unless at the time of delivery the value and nature thereof have been declared by the person sending or delivering the same, and an increased charge for the safe conveyance of the same, or an engagement to pay such charge, has been accepted by some Railway-servant specially authorized in this behalf.

When any property of which the value and nature have been declared under this section has been lost, destroyed or damaged, or has deteriorated, the compensation recoverable for such loss, destruction, damage or deterioration shall not exceed the value so declared.

12. A carrier by Railway shall in no case be answerable for loss, destruction or deterioration of, or damage to, any passenger's luggage, unless a Railway-servant has booked and given a receipt for the same.

13. In any suit against a carrier by Railway for compensation for loss, destruction or deterioration of, or damage to, property delivered to a Railway-servant, it shall not be necessary for the plaintiff to prove in what manner such loss, destruction, deterioration or damage was caused.

14. If any person fails to pay on demand any sum due by him to a carrier by Railway for conveyance of any property by Railway, or for the custody of any property or for demurrage or wharfage in respect of the same, the Railway-Administration may detain the whole or any part of such property or, if the same have been removed from the Railway, any other property of such person then on such Railway or thereafter coming into the possession of the Railway-Administration;

and may also sell by public auction, in the case of perishable property at once, and in the case of other property on the expiration of at least fifteen days' notice thereof published in one or more of the local newspapers or, where there are no such newspapers, in such manner as the Local Government may, from time to time, direct, sufficient of such property to produce the sum payable as aforesaid, and all charges and expenses of such detention, notice and sale, or, if such person fails to remove from the Railway within a reasonable time any property so detained, the whole of such property;



and may, out of the proceeds of the sale, retain the sum so payable, together with all charges and expenses aforesaid, rendering the surplus, if any, of such proceeds, and so much of the property (if any) as remains unsold, to the person entitled thereto ;

or such carrier may recover any such sum by suit.

15. The owner or person having the care of any property which has been carried upon any Railway, or is brought into any station or warehouse for the purpose of being carried upon a Railway, shall, on demand by any Railway-servant appointed in this behalf by the Railway-Administration, deliver to him an exact account in writing signed by such owner or person of the quantity and description of such property.

16. No passenger shall take with him on a Railway, and no person shall deliver or tender for carriage upon any Railway, any dangerous luggage or goods without giving notice of their nature to a Railway-servant, or, in the case of luggage or goods delivered or tendered for carriage, distinctly marking their nature on the outside of the package containing the same.

Any Railway-servant may refuse to carry upon a Railway any luggage or parcel which he suspects to contain dangerous goods, and may require such luggage or parcel to be opened to ascertain the fact previously to carrying the same ;

and in case any such luggage or parcel is received for the purpose of being carried upon a Railway, any Railway-servant may stop the transit thereof until he is satisfied as to the nature of its contents.

#### CHAPTER IV.

##### CARRIAGE OF PASSENGERS.

17. Every person desirous of travelling on a Railway shall, upon payment of his fare, be furnished with a ticket specifying in English and the principal vernacular language of the district in which the ticket is issued, the class of carriage for which, and the place from and place to which, the fare has been paid, and the amount of such fare ;

and every passenger shall, when required, show his ticket to any Railway-servant duly authorized to examine the same, and shall deliver up such ticket upon demand to any Railway-servant duly authorized to collect tickets.

18. At the intermediate stations, the fares shall be deemed to be accepted and the tickets furnished only upon condition that there be room in the train for which the tickets are furnished.

In case there is not room for all the passengers to whom tickets have been furnished, those who have obtained tickets for the longest distance shall have the preference ;

and those who have obtained tickets for the same distance shall have the preference according to the order in which they have received their tickets :

Provided that all officers and troops of Her Majesty on duty, and all other persons on the business of the Government who, by virtue of any contract with the Government or, in the case of a Railway worked by Government, of any direction of the Governor General in Council, are entitled to be conveyed on a Railway in preference to, or in priority over, the public, shall be entitled to such preference and priority without reference to the distance for which, or the order in which, they have received their tickets.

Any passenger to whom a ticket has been furnished at any station and for whom there is no room shall, on returning the ticket within a reasonable time after its issue, be entitled to have his fare at once refunded.

19. Except with the permission of the Railway-Administration or of such officer as it appoints in this behalf, no person shall enter any carriage used on any Railway for the purpose of travelling therein without having first paid his fare and obtained a ticket.

20. Any passenger found suffering from an infectious disease in a Railway-carriage or in any place on a Railway may, if his remaining in such carriage or place is likely to spread the infection of such disease, be removed from such carriage or place by any Railway-servant ;

Any passenger so removed who has paid his proper fare to or at the place at which he is so removed, shall be entitled, on returning his ticket, to have such fare refunded.

#### CHAPTER V.

##### OFFENCES AND PROCEDURE.

(A).—*Offences by the Railway-Administration.*

21. Any Railway-Administration opening, in contravention of section five, any Railway, or any portion or extension of, or addition to, a Railway, shall forfeit to Government the sum of one thousand rupees for every day during which the same continues open in contravention of that section.

22. Any Railway-Administration omitting to give notice as required by section six, shall forfeit to Government the sum of one hundred rupees for every day during which such omission continues.

23. Any Railway-Administration failing to deliver any return mentioned in section seven within fourteen days after the same ought to be delivered, or to make or notify any rules as required by section eight, or to exhibit any abstract or copy mentioned in section nine in manner required by that section, shall

forfeit to Government the sum of fifty rupees for every day during which such failure continues.

(B).—*Offences by Railway-servants.*

24. Any Station-master or other person omitting to give notice as required by section six, shall be punished with fine which may extend to fifty rupees.

25. Any Railway-servant who is in a state of intoxication whilst actually employed upon a Railway in the discharge

of any duty,

or who negligently omits to perform his duty, or who performs the same in an improper manner,

shall be punished with fine which may extend to fifty rupees ;

or if the duty in any of the cases aforesaid be such that the negligent omission or improper performance thereof would be likely to endanger the safety of any person travelling or being upon such Railway, such servant shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

26. If any Railway-servant in the discharge of his duty endangers the safety of persons—

(a) by disobeying any general rule sanctioned and published and notified in the manner prescribed by section eight ; or

(b) by disobeying any rule or order not inconsistent with the general rules aforesaid, and which such servant was bound 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 three years, or with fine which may extend to five hundred rupees, or with both.

27. Every Railway-servant shall be deemed a "public servant" within the meaning of sections 161, 162, 163, 164 and 165 of the Indian Penal Code.

In the definition of legal remuneration contained in the said section 161, the word "Government" shall, for the purposes of this section, be deemed to include any employer of a Railway-servant as such.

28. Any Railway-servant who compels or attempts to compel any passenger to enter a carriage or compartment containing the maximum number of passengers denoted thereon in accordance with a rule made and notified under section eight, shall be punished with fine which may extend to one hundred rupees.

(O).—*Offences by Persons generally.*

29. Any person required under section fifteen to give an account of the quantity and description of any property who neglects or refuses to give such account,

or who wilfully gives a false account, shall be punished with fine which may extend to five rupees for every maund (of 3,200 tolahs) of such property ; and such fine shall be in addition to any charge to which such property may be liable.

30. Whoever, in contravention of section sixteen, takes with him any dangerous goods on a Railway, or delivers or tenders any such goods for the purpose of being carried upon a Railway, shall be punished with fine which may extend to two hundred rupees.

31. Any passenger travelling on a Railway without a proper ticket or having such a ticket and not showing or delivering up the same when so required under section seventeen, shall be liable to pay the fare of the class in which he is found travelling, from the place whence the train originally started, unless he can prove that he has travelled a less distance only, in which case he shall be liable to pay the fare of the class aforesaid only from the place whence he has travelled.

Every such fare shall, on application by a Railway-servant to a Magistrate, and on proof of the passenger's liability, be recoverable from such passenger as if it were a fine, and shall, when recovered, be paid to the Railway-Administration.

32. Any person who defrauds, or attempts to defraud, any carrier by Railway—

(a) by travelling, or attempting to travel, on any Railway without having previously paid his fare ;

(b) by riding or attempting to ride in or on a carriage, or by a train, of a higher class than that for which he has paid his fare ;

(c) by using or attempting to use a ticket on any day for which such ticket is not available ;

(d) by continuing his journey in or upon any carriage beyond the place to which he has paid his fare, without previously paying the fare for the additional distance ;

or who, in any other manner whatever, attempts to evade the payment of his fare,

or who wilfully alters or defaces his ticket so as to render the date, number or other material portion thereof illegible,

shall be punished with fine which may extend to fifty rupees, and shall also be liable to pay the fare (if any) which he ought to have paid ; and such fare shall be recoverable in manner provided by section thirty-one and shall, when recovered, be paid to the Railway-Administration.

33. Any passenger who gets into or upon, or attempts to get into or upon, or quits, or attempts to quit, any carriage upon any Railway, while such carriage is in motion, shall be punished with fine which may extend to twenty rupees ;

and any passenger who rides, or attempts to ride, on the steps, or any other part of a carriage, upon any Railway, except on those parts which are intended for the accommodation of passengers, shall be punished with fine which may extend to fifty rupees.

34. Any person who, without the permission of the Railway-Administration, rides or attempts to ride upon any locomotive-engine or tender upon any Railway; or in or upon any vehicle not appropriated to the carriage of passengers, shall be punished with fine which may extend to one hundred rupees.

35. Any person who, without the consent of his fellow-passengers, if any, in the same compartment, smokes in or upon any Railway carriage, except in a carriage or compartment specially provided for the purpose, shall be punished with fine which may extend to twenty rupees;

and any person who persists in so smoking (except as aforesaid) after being warned by any Railway-servant to desist may, in addition to incurring the liability above mentioned, be removed by any Railway-servant from any such carriage, and from the premises of the Railway, and where he has paid his fare and obtained a ticket, shall forfeit such fare and ticket.

36. Any person who is in a state of intoxication, or who commits any nuisance or act of indecency in any Railway-carriage, or upon any part of any Railway;

or who wilfully and without lawful excuse interferes with the comfort of any passenger, or extinguishes any lamp in any Railway-carriage,

shall be punished with fine which may extend to fifty rupees; and may be removed by any Railway-servant from any such carriage, and also from the premises of the Railway, and where he has paid his fare and obtained a ticket, shall forfeit such fare and ticket.

37. If any carriage, compartment, room or place be reserved by the Railway-Administration for the exclusive use of females, any male person who without lawful excuse enters such carriage, compartment, room or place knowing the same to be reserved as aforesaid, or remains therein after having been informed of its having been so reserved, shall be punished with fine which may extend to one hundred rupees,

and may be removed therefrom, and also from the premises of the Railway, by any Railway-servant,

and, where he has paid his fare and obtained a ticket, shall forfeit such fare and ticket.

38. Whoever wilfully obstructs or impedes any Railway-servant in the discharge of his duty, shall be punished with fine which may extend to one hundred rupees.

39. Any passenger wilfully entering a carriage or compartment containing the maximum number of passengers which has been denoted thereon in accordance with a rule made and notified under section eight, shall be punished with fine which may extend to one hundred rupees.

40. Any person who without authority or reasonable excuse makes, alters, shows, hides, removes or extinguishes any signal or light upon any Railway, or upon any engine, carriage, wagon or other vehicle upon a Railway,

or who negligently damages any engine, carriage, wagon or other vehicle belonging to a Railway, or any warehouse, building, machine, fence or other thing so belonging,

or who needlessly interferes with the means of communication provided in any train between the guard and the engine-driver or passengers,

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

41. Any person who unlawfully enters upon a Railway shall be punished with fine which may extend to twenty rupees; and if any person so entering refuses to leave such Railway on request 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 immediately removed from such Railway by such servant or other person as aforesaid.

42. The owner or person in charge of any bulls, cows, bullocks, calves, elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids straying on any Railway provided with fences suitable for the exclusion of such animals, shall be punished with fine which may extend to ten rupees for each animal, in addition to any amount that may be recovered under the Cattle Trespass Act, 1871.

Whenever any such animals are wilfully and unlawfully driven, or knowingly and unlawfully permitted to be, on any Railway provided with fences suitable for the exclusion of such animals,

and whenever any such animals are wilfully driven, or knowingly permitted to be, on any Railway not so provided, otherwise than for the purpose of lawfully crossing the Railway, or for any other lawful purpose,

the person in charge of such animals, or if he cannot be identified, then the owner of the said animals, shall be punished with fine which may extend to fifty rupees for each animal, in addition to any amount that may be recovered under the same Act.

All fines imposed under this section may, if the convicting Magistrate so direct, be recovered in manner provided by section twenty-five of the said Cattle Trespass Act, 1871, and may be appropriated in whole or in part in compensation for loss or damage proved to his satisfaction.

Recovery of fines and payment of compensation.

The expression "public road" in sections eleven and twenty-six of the same Act shall be deemed to include a Railway.

Amendment of Act I. of 1871, ss. 11 and 26.

And any Railway-servant may exercise the powers of seizure provided by the said section eleven.

43. Whoever knowing or having reason to believe that any engine or train is approaching along a Railway opens any gate which the Railway-Administration has set up on either side of the Railway across any road for the use or accommodation of any person, or passes or attempts to pass, or drives or takes, or attempts to drive or take, any vehicle, animal or other thing, across the Railway;

and whoever at any time, in the absence of a gatekeeper, omits to shut and fasten such gate as soon as he and any vehicle, animal or other thing under his charge have passed through the same,

shall be punished with fine which may extend to fifty rupees.

44. Whenever any minor under twelve years of age unlawfully—  
 (a) places or throws, or attempts to place or throw, upon or across a Railway any wood, stone or other thing, or

(b) removes or displaces, or attempts to remove or displace, any rail, sleeper, spike, key or other thing belonging to the permanent way of a Railway, or

(c) throws or causes to fall, or attempts to throw or cause to fall, against, into or upon any engine, tender, carriage or other vehicle used upon a Railway, any wood, stone or other thing,

such minor shall be deemed guilty of an offence, and the convicting Magistrate may, in his discretion, direct either that the minor, if a male, shall be punished with whipping, or that the father or guardian of the minor shall, within such reasonable time as the Magistrate may fix, execute a bond binding himself, in such penalty as the Magistrate may direct, to prevent the minor from repeating such offence.

The amount of such bond, if forfeited, shall be recoverable as if it were a fine.

Any person neglecting or refusing to execute a bond when required under this section so to do shall be punished with fine which may extend to fifty rupees.

45. Whoever wilfully does any act, or wilfully omits to do what he is legally bound to do, intending by such act or omission to endanger, or knowing that he is thereby likely to endanger, the safety of any person travelling or being upon any Railway, shall be punished with transporta-

For wilful act or omission endangering persons on Railway.

tion (or in the case of an European or American, penal servitude) for a term of not less than seven years or with imprisonment for a term which may extend to ten years.

46. Whoever rashly or negligently does any act, or omits to do what he is legally bound to do, and such act or omission is likely to endanger the safety of any person travelling or being upon a Railway, shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

47. Every driver or conductor of an omnibus, carriage or other vehicle shall, while in or upon any station-yard or other premises forming part of a Railway, obey the reasonable directions of any Railway-servant duly authorized in this behalf; and every person offending against this section shall be punished with fine which may extend to twenty rupees.

Disobedience of omnibus, &c., drivers to Railway-servants.

(D).—*Arrest of Offenders.*

48. If any person commits any offence punishable under this Act and there is reason to believe that he will abscond or his name and address are unknown, and he refuses 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 any warrant or written authority, arrest and detain such offender until he can be taken before a Magistrate or give sufficient security for his appearance before such Magistrate, or is otherwise discharged by due course of law.

49. Every person committing any offence mentioned in sections eight, twenty-five, twenty-six, thirty-six, thirty-seven, thirty-eight, forty-four, forty-five and forty-six may be arrested without any warrant or written authority by any Railway-servant or Police-officer, or by any other person whom such servant or officer may call to his aid;

and every person so arrested shall, without unnecessary delay, be taken before a Magistrate authorized to punish him or to commit him for trial.

(E).—*Jurisdiction.*

50. No Magistrate other than a Presidency Magistrate and a Magistrate whose powers are not less than those of a Magistrate of the second class shall try any offence under this Act.

Any person committing any offence against this Act or the rules made under it, shall be triable for such offence in any place in which he may be found or which the Local Government may, from time to time, notify in this behalf, as well as in

Magistrates having jurisdiction.

Place of trial.

any other place in which he might be tried under any law for the time being in force.

Every notification under this section shall be published in the local official Gazette and a copy thereof shall also be exhibited in some conspicuous place at each of such Railway-stations as the Local Government may direct, so that it may be easily seen and read.

(F).—*Saving of other Criminal Laws.*

51. Nothing in this Act shall be deemed to prevent any person from being arrested, prosecuted or punished under any other law for any act or omission which constitutes an offence against this Act or the rules made under it:

Provided that no person shall be punished twice for the same offence,

## CHAPTER VI.

### MISCELLANEOUS.

52. The Governor General in Council, or the Local Government with the previous sanction of the Governor General in Council, may, from time to time, make rules requiring—

(a) that boundary-marks or fences be provided for any Railway or any part thereof, and for roads constructed in connection therewith;

(b) that gates or bars be erected at places where any Railway crosses a road on the level; and

(c) that persons be employed to open and shut such gates or bars;

and may by such rules determine what kind of fences shall, for the purposes of section forty-two, be deemed to be suitable for the exclusion of cattle,

and direct that any Railway-Administration wilfully neglecting or violating any rule made under this section, shall forfeit to Government a sum not exceeding five hundred rupees for every such neglect or violation, or, when such neglect or violation is continuous, for every day during which it continues.

53. The Governor General in Council may, from time to time by notification in the *Gazette of India*, declare what Government or other Authority shall be deemed to be, for the purposes of this Act, the Local Government in respect of the whole or any part of a Railway.

54. The Governor General in Council may, by notification, extend this Act or any portion thereof to any tramway worked by steam.

## THE FIRST SCHEDULE.

### ACTS REPEALED.

(See Section 2.)

Number and year.	Title.
XVIII of 1854 ...	An Act relating to Railways in India.
XXXI of 1867 ...	An Act to render penal certain offences committed by servants of Railway Companies.
XIII of 1870 ...	An Act to apply the provisions of Act No. XVIII of 1854 to Railways belonging to, or worked by, Government.
XXV of 1871 ...	An Act to amend the Railway Act.

## THE SECOND SCHEDULE.

(See Section 11.)

(a) Gold or silver, coined or uncoined, manufactured or unmanufactured;

(b) plated articles;

(c) cloths and tissue and lace of which gold or silver forms part;

(d) precious stones, jewellery, trinkets;

(e) watches, clocks or time-pieces of any description;

(f) Government securities;

(g) Government stamps;

(h) bills of exchange, hundis, promissory notes, bank-notes, orders or other securities for payment of money;

(i) maps, writings, title-deeds;

(j) paintings, engravings, lithographs, photographs, carvings, sculpture and other works of art;

(k) glass, china, marble;

(l) silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials;

(m) shawls;

(n) lace;

(o) opium;

(p) ivory, ebony, sandalwood, sandalwood-oil;

(q) musical and scientific instruments.

D. FITZPATRICK,

Secy. to the Govt. of India.

THE



# Bombay Government Gazette

Published by Authority.

SATURDAY, 5TH APRIL 1879.

*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 24th February 1879, and the assent of His Excellency the Viceroy and Governor General on the 22nd March 1879, and is published for general information :—

#### Bombay Act No. II. of 1879.

*An Act to further amend Act XIII. of 1856.*

WHEREAS Act XIII. of 1856 (*an Act for regulating the Police of the Towns of Calcutta, Madras, and Bombay*) was amended, so far as concerns the Bombay City Police Force, by Bombay Act I. of 1872, and it is expedient to further amend the said Act in manner hereinafter appearing ; It is enacted as follows :—

1. For the word "pay" in the Section substituted by Section 2 of Bombay Act  
Amendment of section 17, Act XIII. of 1856.

I. of 1872, for Section seventeen of the said Act the words "salary and authorized allowances" shall be substituted.

2. For the words "upon a reduction of the Force" in Section seven of Bombay Act I. of 1872, the words "for any reason other than his own misconduct" shall be substituted.  
Amendment of Section 7 of Bombay Act I. of 1872.

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

JOHN NUGENT,

Under Secretary to Government.

*Bombay Castle, 4th April 1879.*

IV.—13



# Bombay Government Gazette

Published by Authority.

THURSDAY, 10<sup>TH</sup> APRIL 1879.

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

## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 22nd March 1879, and was promulgated for general information in the *Gazette of India* on the 5th April 1879:—

#### Act No. V. of 1879.

*An Act to amend the Presidency Banks Act, 1876.*

WHEREAS it is expedient to amend the Presidency Banks Act, 1876, in manner hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called "The Presidency Banks Act, 1879;" and it shall come into force on the first day of May, 1879.

Short title.

Commencement.

2. To the first clause of section 28 of the Presidency Banks Act, 1876, the following proviso shall be added, that is to say:

Amendment of Act XI. of 1876, section 28.

"Provided that no person shall be chosen to be President or Vice-President twice in succession."

3. In the same Act, section 34, before the words "no Khazánchi," the words "without the previous sanction of the Board" shall be inserted.

Amendment of section 34 of same Act.

4. In the same Act, section 36, clause (a), sub-clause (4), after the words "municipal body," the words "or any body

Amendments of section 36.

of Commissioners for making improvements in any port or of trustees of any port" shall be inserted.

In the same section, the words "in the case of the Bank of Madras" shall be omitted in both the places in which they occur.

In the same section, after clause (m), the following clause shall be inserted, that is to say, "(m m) the borrowing of money in India for the purposes of the Bank's business and the giving of security for money so borrowed by pledging assets or otherwise."

5. In section 37 of the same Act, for clause (d), the following shall be substituted, that is to say,

"(d) Nor shall they (except upon the security mentioned in section 36, paragraph a, Nos. 1 to 5 inclusive)

discount bills for any individual or partnership-firm for an amount exceeding in the whole at any one time such sum as may be prescribed by the bye-laws for the time being in force, or

lend or advance in any way to any individual or partnership-firm an amount exceeding in the whole at any one time such sum as may be so prescribed."

6. In section 63 of the same Act, clause (a), for the words "lent by discount of bills or otherwise to," the words "lent to or for which bills may be discounted for" shall be substituted.

Amendment of section 63.

D. FITZPATRICK,  
Secy. to the Govt. of India.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 22nd March 1879, and was promulgated for general information in the *Gazette of India* on the 5th April 1879:—

**Act No. VI. of 1879.**

*An Act for the preservation of wild elephants.*

WHEREAS it is expedient to provide for the preservation of wild elephants; It is hereby enacted as follows:—

Preamble.

Short title.

1. This Act may be called "The Elephants Preservation Act, 1879."

Local extent.

It extends to the territories now respectively administered by the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioners of Oudh, the Central Provinces, British Burma and Coorg;

and the Local Government may, with the previous sanction of the Governor General in Council, extend it to any other local area by notification in the local official Gazette.

Commencement.

So far as regards the power to make declarations and rules, it shall come into force on the passing thereof. In other respects it shall come into force on the first day of April 1879.

Repeal.

2. The words "kills or catches elephants," in section 25, clause (i), of the Indian Forest Act, 1878, and the words "killing or catching elephants," in section 31, clause (j) of the same Act, shall be repealed in every local area to which this Act extends or is extended.

Killing and capture of wild elephants prohibited.

3. No person shall kill, injure or capture, or attempt to kill, injure or capture, any wild elephant, unless—

(a) in defence of himself or some other person;

(b) when such elephant is found injuring houses or cultivation, or upon or in the immediate vicinity of, any main public road or any railway or canal; or

(c) as permitted by a license granted under this Act.

4. Every elephant captured, and the tusks of every elephant killed, in any of the cases mentioned in section three, clauses (a) and (b), by any person not licensed under this Act, shall be the property of Government.

5. The Collector or Deputy Commissioner of any District may, subject to such rules as may for the time being be in force under this Act, grant licenses to kill, or to capture, or to kill and capture, wild elephants in such district:

Provided that no such license shall authorize any person to enter upon any land without the consent of the owner or occupier thereof.

6. The Local Government may from time to time, subject to the control of the Governor General in Council,

to declare what are main roads and canals, declare what shall be deemed to be main public roads and canals within the meaning of this Act, and

make rules consistent with this Act for regulating— and to make rules as to licenses.

(a) the grant and renewal of licenses under this Act,

(b) the fees (if any) in money, tusks or captured elephants to be charged on such grant and renewal,

(c) the time during which such licenses shall continue in force, and

(d) the conditions (if any) on which they shall be granted.

All such declarations and rules shall be published in the local official Gazette and shall thereupon have the force of law.

7. Whoever, in contravention of section three, kills, injures or captures, or attempts to kill, injure or capture, any wild elephant, shall be punished with fine which may extend to five hundred rupees for each elephant concerned;

and whoever breaks any condition contained in a license granted under this Act shall be punished with fine which may extend to five hundred rupees.

Any person convicted of a second offence under this section shall be punished with imprisonment which may extend to six months, or with fine, or with both.

When any person holding a license under this Act is convicted under this section, such license shall become void and shall be delivered up to the convicting Magistrate.

8. Any officer of Revenue or Police, or any forest-officer, who may find any person killing, injuring or capturing, or attempting to kill, injure or capture, any wild elephant, except in the cases mentioned in section three, clauses (a) and (b), may require him to produce and show a license granted to him under this Act.

Any person who, on such request, wilfully refuses or is unable to produce and show such license as aforesaid, shall, in addition to any other punishment to which he may be liable under this Act, be punished with fine which may extend to one hundred rupees.

9. Every prosecution under this Act shall be commenced within six months from the commission of the offence in respect of which it is instituted.

10. The amount or value of any fee payable under any license granted under this Act may be recovered from the licensee as if it were an arrear of land-revenue.

D. FITZPATRICK,

Secretary to the Government of India.



[Published with the "Bombay Government Gazette" on the 10th April 1879.]

## 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 24th February 1879, and the assent of His Excellency the Governor General on the 27th March 1879, and is published for general information :—

#### Bombay Act No. I. of 1879.

*An Act to facilitate the introduction of the Bombay District Municipal Act into Sind.*

WHEREAS the Bombay District Municipal Act was, on the 26th day of July 1878, extended by the Government of Bombay, with the previous sanction of the Governor General in Council, in virtue of the power conferred by Section 5 of the Scheduled Districts Act, 1874, to the Province of Sind with effect from the 1st October 1878; and whereas difficulties have arisen in introducing the said Act into the said Province owing, amongst other reasons, to certain portions of the said Act having been repealed by the Repealing Act, 1876, previous to the date of the said extension; and whereas doubts are entertained as to whether the said Act did not legally apply to the said Province from the date of the publication of the assent of the Governor General thereto; and whereas it is expedient to remedy the said difficulties and to remove the said doubts; It is enacted as follows :—

1. The Bombay District Municipal Act shall be deemed to have come into force in the Province of Sind on the first day of October 1878, and not at any previous time.

Date on which Bombay Act VI. of 1873 is to be deemed to have come into force in Sind.

2. Throughout the said Act the phrases "the date of this Act coming into force," "the date of the passing of this Act," and the like, shall, in Sind, be deemed to mean the said first day of October 1878.

Certain expressions in Bombay Act VI. of 1873 defined.

3. The words "*Sind Official Gazette*" shall, in Sind, be substituted for "*Bombay Government Gazette*." have always been substituted for the words "*Bombay Government Gazette*" wherever they occur in the said Act.

4. Act XXVI. of 1850 and Bombay Acts II. and IX. of 1862 and I. of 1871 shall be deemed to have been repealed, in Sind, on and from the said first day of October 1878, except as to any assessment made, act done, liability incurred, money due, or proceedings commenced thereunder :

Provided that such repeal shall not take or be deemed to have taken effect in any place to which the said Acts have been applicable until six months from the said first day of October 1878, or until such date within the said period of six months as such place shall be, or shall have been, included in a Municipal District constituted under the Bombay District Municipal Act.

5. The provisions of clauses one to three of section 4 of the Bombay District Municipal Act shall not be and shall not be deemed at any time to have been applicable to Municipalities in Sind formed under Act XXVI. of 1850, which the Commissioner in Sind may deem or may have deemed fit to declare,

Section 4, clauses 1-3 of Bombay Act VI. of 1873 to what extent applicable in Sind.

by notification in the *Sind Official Gazette*,  
Municipal Districts under the said Bombay  
District Municipal Act.

Any such declaration shall be deemed  
sufficient authority for the constitution of  
the Municipality to which it relates into a  
Municipal District under the said Act.

6. Whenever any Municipality has  
been so declared to  
be a Municipal Dis-  
trict under the said  
Act, no suit, prosecu-  
tion, or other pro-  
ceeding to which the Municipal Commis-  
sioners appointed under Act XXVI. of  
1850 were a party, and which was pending

Saving of pending pro-  
ceedings, &c., in which  
Municipal Commission-  
ers under Act XXVI.  
of 1850 are concerned.

at the date on which such Municipal Dis-  
trict was constituted, shall abate, or be in  
any wise affected by the operation of the  
said Bombay District Municipal Act or of  
this Act, and all decrees and orders made,  
and all fines and penalties imposed and  
incurred previous to the said date, shall  
be respectively enforceable and leviable,  
and all administrative proceedings com-  
menced previous to the said date may be  
proceeded with and completed as if the  
said Acts had not been passed.

And the Municipality constituted under  
the said Bombay District Municipal Act  
shall in all such matters as are aforesaid  
occupy the place of the Municipal Com-  
missioners aforesaid.

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

JOHN NUGENT,

Under Secretary to Government.

*Bombay Castle, 29th March 1879.*

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 24th February 1879, and the assent of His Excellency the Viceroy and Governor General on the 22nd March 1879, and is published for general information :—

**Bombay Act No. II. of 1879.**

*An Act to further amend Act XIII. of 1856.*

WHEREAS Act XIII. of 1856 (*an Act for regulating the Police of the Towns of Calcutta, Madras, and Bombay*) was amended, so far as concerns the Bombay City Police Force, by Bombay Act I. of 1872, and it is expedient to further amend the said Act in manner hereinafter appearing ; It is enacted as follows :—

1. For the word “ pay ” in the Section substituted by Section 2 of Bombay Act  
Amendment of section 17, Act XIII. of 1856.

I. of 1872, for Section seventeen of the said Act the words “ salary and authorized allowances ” shall be substituted.

2. For the words “ upon a reduction of the Force ” in Section seven of Bombay Act I. of 1872, the words “ for any reason other than his own misconduct ” shall be substituted.  
Amendment of Section 7 of Bombay Act I. of 1872.

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

JOHN NUGENT,  
 Under Secretary to Government.

*Bombay Castle, 4th April 1879.*

[Published with the "Bombay Government Gazette" on the 17th April 1879.]

18-4-79  
JJP

## 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 24th February 1879, and the assent of His Excellency the Viceroy and Governor General on the 22nd March 1879, and is published for general information :—

#### Bombay Act No. II. of 1879.

*An Act to further amend Act XIII. of 1856.*

WHEREAS Act XIII. of 1856 (*an Act for regulating the Police of the Towns of Calcutta, Madras, and Bombay*) was amended, so far as concerns the Bombay City Police Force, by Bombay Act I. of 1872, and it is expedient to further amend the said Act in manner hereinafter appearing; It is enacted as follows :—

1. For the word "pay" in the Section substituted by Section 2 of Bombay Act

Amendment of section 17, Act XIII. of 1856.

I. of 1872, for Section seventeen of the said Act the words "salary and authorized allowances" shall be substituted.

2. For the words "upon a reduction of the Force" in Section seven of Bombay Act I. of 1872, the words "for any reason other than his own misconduct" shall be substituted.

Amendment of Section 7 of Bombay Act I. of 1872.

*By order of His Excellency the Honourable the Governor in Council;*

JOHN NUGENT,

Under Secretary to Government.

*Bombay Castle, 4th April 1879.*



The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 22nd March 1879, and was promulgated for general information in the *Gazette of India* on the 5th April 1879:—

**Act No. VI. of 1879.**

*An Act for the preservation of wild elephants.*

**Preamble.** WHEREAS it is expedient to provide for the preservation of wild elephants; It is hereby enacted as follows:—

**Short title.** 1. This Act may be called "The Elephants Preservation Act, 1879."

**Local extent.** It extends to the territories now respectively administered by the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioners of Oudh, the Central Provinces, British Burma and Coorg;

and the Local Government may, with the previous sanction of the Governor General in Council, extend it to any other local area by notification in the local official Gazette.

**Commencement.** So far as regards the power to make declarations and rules, it shall come into force on the passing thereof. In other respects it shall come into force on the first day of April 1879.

**Repeal.** 2. The words "kills or catches elephants," in section 25, clause (i), of the Indian Forest Act, 1878, and the words "killing or catching elephants," in section 31, clause (j) of the same Act, shall be repealed in every local area to which this Act extends or is extended.

**Killing and capture of wild elephants prohibited.** 3. No person shall kill, injure or capture, or attempt to kill, injure or capture, any wild elephant, unless—

- (a) in defence of himself or some other person;
- (b) when such elephant is found injuring houses or cultivation, or upon or in the immediate vicinity of, any main public road or any railway or canal; or
- (c) as permitted by a license granted under this Act.

**Rights of Government with respect to certain elephants and tusks.** 4. Every elephant captured, and the tusks of every elephant killed, in any of the cases mentioned in section three, clauses (a) and (b), by any person not licensed under this Act, shall be the property of Government.

**License to kill and capture wild elephants.** 5. The Collector or Deputy Commissioner of any District may, subject to such rules as may for the time being be in force under this Act, grant licenses to kill, or to capture, or to kill and capture, wild elephants in such district:

Provided that no such license shall authorize any person to enter upon any land without the consent of the owner or occupier thereof.

**Power of Local Government.** 6. The Local Government may from time to time, subject to the control of the Governor General in Council,

declare what shall be deemed to be main public roads and canals within the meaning of this Act, and

make rules consistent with this Act for regulating—  
and to make rules as to licenses. (a) the grant and renewal of licenses under this Act,

(b) the fees (if any) in money, tusks or captured elephants to be charged on such grant and renewal,

(c) the time during which such licenses shall continue in force, and

(d) the conditions (if any) on which they shall be granted.

All such declarations and rules shall be published in the local official Gazette and shall thereupon have the force of law.

**7. Whoever, in contravention of section three, kills, injures or captures, or attempts to kill, injure or capture, any wild elephant, shall be punished, with fine which may extend to five hundred rupees for each elephant concerned;**

and whoever breaks any condition contained in a license granted under this Act shall be punished with fine which may extend to five hundred rupees.

Any person convicted of a second offence under this section shall be punished with imprisonment which may extend to six months, or with fine, or with both.

When any person holding a license under this Act is convicted under this section, such license shall become void and shall be delivered up to the convicting Magistrate.

**8. Any officer of Revenue or Police, or any forest-officer, who may find any person killing, injuring or capturing, or attempting to kill, injure or capture, any wild elephant, except in the cases mentioned in section three, clauses (a) and (b), may require him to produce and show a license granted to him under this Act.**

Any person who, on such request, wilfully refuses or is unable to produce and show such license as aforesaid, shall, in addition to any other punishment to which he may be liable under this Act, be punished with fine which may extend to one hundred rupees.

**9. Every prosecution under this Act shall be commenced within six months from the commission of the offence in respect of which it is instituted.**

**10. The amount or value of any fee payable under any license granted under this Act may be recovered from the licensee as if it were an arrear of land-revenue.**

D. FITZPATRICK,  
*Secretary to the Government of India.*

[Published with the "Bombay Government Gazette" on the 24th April 1879.]

## PART IV:

### ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 22nd March 1879, and was promulgated for general information in the *Gazette of India* on the 5th April 1879 :—

#### Act No. V. of 1879.

*An Act to amend the Presidency Banks Act, 1876.*

WHEREAS it is expedient to amend the Presidency Banks Act, 1876; in manner hereinafter appearing; It is hereby enacted as follows :—

1. This Act may be called "The Presidency Banks Act, 1879;" and it shall come into force on the first day of May 1879.
 

Short title.

Commencement.
2. To the first clause of section 28 of the Presidency Banks Act, 1876, the following proviso shall be added, that is to say :
 

Amendment of Act XI. of 1876, section 28.

"Provided that no person shall be chosen to be President or Vice-President twice in succession."
3. In the same Act, section 34, before the words "no Khazánchi," the words "without the previous sanction of the Board" shall be inserted.
 

Amendment of section 34 of same Act.
4. In the same Act, section 36, clause (a), sub-clause (4), after the words "municipal body," the words "or any body

of Commissioners for making improvements in any port or of trustees of any port" shall be inserted.

In the same section, the words "in the case of the Bank of Madras" shall be omitted in both the places in which they occur.

In the same section, after clause (m), the following clause shall be inserted, that is to say, "(m m) the borrowing of money in India for the purposes of the Bank's business, and the giving of security for money so borrowed by pledging assets or otherwise."

5. In section 37 of the same Act, for clause (d), the following shall be substituted, that is to say,

"(d) Nor shall they (except upon the security mentioned in section 36, paragraph a, Nos. 1 to 5 inclusive)

discount bills for any individual or partnership-firm for an amount exceeding in the whole at any one time such sum as may be prescribed by the bye-laws for the time being in force, or

lend or advance in any way to any individual or partnership-firm an amount exceeding in the whole at any one time such sum as may be so prescribed."

6. In section 63 of the same Act, clause (a), for the words "lent by discount of bills or otherwise to," the words "lent to or for which bills may be discounted for" shall be substituted.

D. FITZPATRICK,  
*Secy. to the Govt. of India.*

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 22nd March 1879, and was promulgated for general information in the *Gazette of India* on the 5th April 1879:—

**Act No. VI. of 1879.**

*An Act for the preservation of wild elephants.*

WHEREAS it is expedient to provide for the preservation of wild elephants; It is hereby enacted as follows:—

Preamble.

Short title.

1. This Act may be called "The Elephants Preservation Act, 1879."

It extends to the territories now respectively administered by the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioners of Oudh, the Central Provinces, British Burma and Coorg;

Local extent.

and the Local Government may, with the previous sanction of the Governor General in Council, extend it to any other local area by notification in the local official Gazette.

So far as regards the power to make declarations and rules, it shall come into force on the passing thereof. In other respects it shall come into force on the first day of April 1879.

Commencement.

2. The words "kills or catches elephants," in section 25, clause (i), of the Indian Forest Act, 1878, and the words "killing or catching elephants," in section 31, clause (j) of the same Act, shall be repealed in every local area to which this Act extends or is extended.

Repeal.

3. No person shall kill, injure or capture, or attempt to kill, injure or capture, any wild elephant, unless—

Killing and capture of wild elephants prohibited.

(a) in defence of himself or some other person;

(b) when such elephant is found injuring houses or cultivation, or upon or in the immediate vicinity of, any main public road or any railway or canal; or

(c) as permitted by a license granted under this Act.

4. Every elephant captured, and the tusks of every elephant killed, in any of the cases mentioned in section three, clauses (a) and (b), by any person not licensed under this Act, shall be the property of Government.

Rights of Government with respect to certain elephants and tusks.

5. The Collector or Deputy Commissioner of any District may, subject to such rules as may for the time being be in force under this Act, grant licenses to kill, or to capture, or to kill and capture, wild elephants in such district:

License to kill and capture wild elephants.

Provided that no such license shall authorize any person to enter upon any land without the consent of the owner or occupier thereof.

6. The Local Government may from time to time, subject to the control of the Governor General in Council,

Power of Local Government

declare what shall be deemed to be main public roads and canals within the meaning of this Act, and

make rules consistent with this Act for regulating—

and to make rules as to licenses. (a) the grant, and renewal of licenses under this Act,

(b) the fees (if any) in money, tusks or captured elephants to be charged on such grant and renewal,

(c) the time during which such licenses shall continue in force, and

(d) the conditions (if any) on which they shall be granted.

All such declarations and rules shall be published in the local official Gazette and shall thereupon have the force of law.

7. Whoever, in contravention of section three, kills, injures or captures, or attempts to kill, injure or capture, any wild elephant, shall be punished with fine which may extend to five hundred rupees for each elephant concerned;

Penalty for contravening section 3.

and whoever breaks any condition contained in a license granted under this Act shall be punished with fine which may extend to five hundred rupees.

Any person convicted of a second offence under this section shall be punished with imprisonment which may extend to six months, or with fine, or with both.

When any person holding a license under this Act is convicted under this section, such license shall become void and shall be delivered up to the convicting Magistrate.

8. Any officer of Revenue or Police, or any forest-officer, who may find any person killing, injuring or capturing, or attempting to kill, injure or capture, any wild elephant, except in the cases mentioned in section three, clauses (a) and (b), may require him to produce and show a license granted to him under this Act.

License to be produced and shown on requisition of certain officers.

Any person who, on such request, wilfully refuses or is unable to produce and show such license as aforesaid, shall, in addition to any other punishment to which he may be liable under this Act, be punished with fine which may extend to one hundred rupees.

9. Every prosecution under this Act shall be commenced within six months from the commission of the offence in respect of which it is instituted.

Limitation of prosecution.

10. The amount or value of any fee payable under any license granted under this Act may be recovered from the licensee as if it were an arrear of land-revenue.

Recovery of fees.

D. FITZPATRICK,

Secretary to the Government of India,



THE



# Bombay Government Gazette.

Published by Authority.

TUESDAY, 27<sup>TH</sup> MAY 1879.

*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 24th February 1879, and the assent of His Excellency the Viceroy and Governor General on the 10th May 1879, and is published for general information:—

#### Bombay Act No. III. of 1879.

*An Act to provide for the levy of Fees for the use of Government Landing-places in the Port of Kurrachee.*

WHEREAS it is expedient to provide for the levy of fees for the use of the Government landing-places in the Port of Kurrachee, it is enacted as follows:—

1. This Act shall be called "the Kurrachee Landing and Wharfage Fees Act of 1879."  
Short Title.
2. In this Act the term "landing-place" includes a bund, wharf, pier, jetty, hard, and any place used for the landing, shipping, wharfage, crannage, or storage of goods.  
"Landing-place" defined.
3. It shall be lawful for the Governor in Council from time to time, by Notification in the *Bombay Government Gazette* and in the *Sind Official Gazette*:  
The Governor in Council to fix limits of bunds, &c., and the fees to be levied.

(a). To determine the limits of any Government landing place to which the provisions of this Act shall apply;

(b). To fix the fees to be levied—

- (1). For the landing, shipping, wharfage, crannage, storage or demurrage of goods at; and
- (2). For permitting animals or vehicles to bring or remove goods to or from, or to ply for hire at; and
- (3). For permitting vessels or boats to approach or lie alongside, any such landing-place:

Provided that it shall be lawful for the Governor in Council at any time to exempt any goods, vessel, boat, animal or vehicle, either wholly or partially, from any fee to which the same may be liable under this section.

4. The levy of fees under this Act shall be made, and all other powers and duties conferred and imposed by this Act or by any bye-laws made hereunder, shall be exercised and performed by such officers as the Governor in Council shall from time to time direct, or by such persons as he shall from time to time appoint in this behalf.

5. The officers and persons whose duty it may be to levy fees under this Act shall have the same powers for collecting and enforcing payment of the same as are exercisable under the provisions of any law, for the time being in force, in respect of duties of sea-customs by the Collector of Customs and his subordinates, and shall have the same privileges and be subject to the same liabilities in respect of any thing done by them in collecting and enforcing payment of the said fees as the said Collector of Customs and his subordinates have, or are liable to, under the provisions of any such law.

The law for the time being in force for the punishment of offences relating to the levy or payment of duties of sea-customs, and for the reward of informers, shall, as far as may be, apply to similar offences committed in respect of the said fees.

6. Tables of the fees leviable under this Act in the English, Sindhi and Gujarathi languages shall be posted up in some conspicuous position at every landing-place at which such fees are leviable.

7. The Commissioner in Sind may, with the previous sanction of Government, from time to time make, and from time to time alter or repeal, bye-laws not inconsistent with the provisions of this Act :

(a). Regulating the use of every landing place to which this Act applies ;

(b). Providing for the management of the traffic over, on and about and to and from every such landing-place ; and

(c). Generally for the guidance of all persons in matters connected with the enforcement of this Act.

The bye-laws so made, and every alteration of the same and every order repealing the same or any portion thereof, shall be published in the *Bombay Government Gazette* and in the *Sind Official Gazette*.

8. The proceeds of all fees realized under this Act shall be applied :

(a). In payment of the expenses of the administration of this Act ;

(b). In defraying the cost of acquiring or constructing new landing-places required for the convenience of the trade of the Port of Kurrachee or the interest on any moneys expended in any such acquisition or construction ; and

(c). In maintaining and improving any existing landing-place and generally in the improvement of the said Port.

Accounts of all receipts and expenditures under this Act shall be published once in every year in the *Bombay Government Gazette* and in the *Sind Official Gazette*.

9. The levy of wharfage dues heretofore made in the Port of Kurrachee in conformity with a Notification of the Governor in Council dated the 23rd October 1865, and published at page 1039 of the *Bombay Government Gazette* of the 26th October 1865, shall be deemed to have been lawfully made, and all officers are hereby indemnified in respect of any thing done by them under the authority of the said Notification which might have been done if the said Notification had been lawfully made, and no suit shall be maintained against Government or against any Officer of Government in respect of any thing so done.

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

C. G. W. MACPHERSON,

Acting Under Secretary to Government.

[Published with the "Bombay Government Gazette" on the 29th May 1879.]

## 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 24th February 1879, and the assent of His Excellency the Viceroy and Governor General on the 10th May 1879, and is published for general information :—

#### Bombay Act No. III. of 1879.

*An Act to provide for the levy of Fees for the use of Government Landing-places in the Port of Kurrachee.*

WHEREAS it is expedient to provide for the levy of fees for the use of the Government landing-places in the Port of Kurrachee, it is enacted as follows :—

1. This Act shall be called "the Kurrachee Landing and Wharfage Fees Act of 1879."

Short Title.

2. In this Act the term "landing-place" includes a bund, wharf, pier, jetty, hard, and any place used for the landing, shipping, wharfage, craning, or storage of goods.

3. It shall be lawful for the Governor in Council from time to time, by Notification in the *Bombay Government Gazette* and in the *Sind Official Gazette* :

(a). To determine the limits of any Government landing place to which the provisions of this Act shall apply ;

(b). To fix the fees to be levied—

- (1). For the landing, shipping, wharfage, craning, storage or demurrage of goods at ; and
- (2). For permitting animals or vehicles to bring or remove goods to or from, or to ply, for hire at ; and
- (3). For permitting vessels or boats to approach or lie alongside, any such landing-place :

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Provided that it shall be lawful for the Governor in Council at any time to exempt any goods, vessel, boat, animal or vehicle, either wholly or partially, from any fee to which the same may be liable under this section.

4. The levy of fees under this Act shall be made, and all other powers and duties conferred and imposed by this Act shall be exercised and performed by such officers as the Governor in Council shall from time to time direct, or by such persons as he shall from time to time appoint in this behalf.

5. The officers and persons whose duty it may be to levy fees under this Act shall have the same powers for collecting and enforcing payment of the same as are exercisable under the provisions of any law, for the time being in force, in respect of duties of sea-customs by the Collector of Customs and his subordinates, and shall have the same privileges and be subject to the same liabilities in respect of any thing done by them in collecting and enforcing payment of the said fees as the said Collector of Customs and his subordinates have, or are liable to, under the provisions of any such law.

The law for the time being in force for the punishment of offenders, the punishment of offences relating to the levy or payment of duties of sea-customs, and for the reward of informers, shall, as far as may be, apply to similar offences committed in respect of the said fees.

6. Tables of the fees leviable under this Act in the English, Sindhi and Gujaráthi languages shall be posted up in some conspicuous position at every landing-place at which such fees are leviable.

7. The Commissioner in Sind may, with the previous sanction of Government, from time to time make, and from time to time alter or repeal, bye-laws not inconsistent with the provisions of this Act :

- (a). Regulating the use of every landing place to which this Act applies ;
- (b). Providing for the management of the traffic over, on and about and to and from every such landing-place ; and
- (c). Generally for the guidance of all persons in matters connected with the enforcement of this Act.

The bye-laws so made, and every alteration of the same and every order repealing the same or any portion thereof, shall be published in the *Bombay Government Gazette* and in the *Sind Official Gazette*.

8. The proceeds of all fees realized under this Act shall be applied :  
Fees realized under this Act how to be applied.

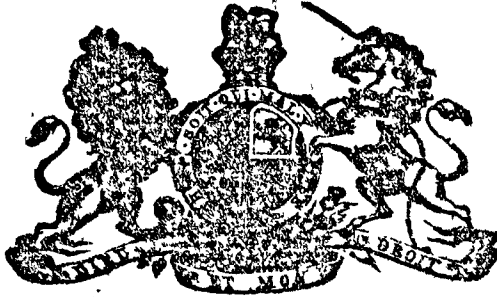
- (a). In payment of the expenses of the administration of this Act ;
- (b). In defraying the cost of acquiring or constructing new landing-places required for the convenience of the trade of the Port of Kurrachee or the interest on any moneys expended in any such acquisition or construction ; and
- (c). In maintaining and improving any existing landing-place and generally in the improvement of the said Port.

Accounts of all receipts and expenditures under this Act shall be published once in every year in the *Bombay Government Gazette* and in the *Sind Official Gazette*.

9. The levy of wharfage dues heretofore made in the Port of Kurrachee in conformity with a Notification of the Governor in Council dated the 23rd October 1865, and published at page 1039 of the *Bombay Government Gazette* of the 26th October 1865, shall be deemed to have been lawfully made, and all officers are hereby indemnified in respect of any thing done by them under the authority of the said Notification which might have been done if the said Notification had been lawfully made, and no suit shall be maintained against Government or against any Officer of Government in respect of any thing so done.

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

C. G. W. MACPHERSON,  
Acting Under Secretary to Government.



# Bombay Government Gazette.

Published by Authority.

THURSDAY, 29<sup>TH</sup> MAY 1879.

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

## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 23rd May, 1879, and was promulgated for general information in the *Gazette of India* of 24th May 1879:—

#### Act No. IX of 1879.

*An Act to amend the law relating to Coast-lights in the eastern part of the Bay of Bengal.*

Whereas it is expedient to increase the coast-light dues paid under the provisions of Act No.

XIII of 1867 (*An Act to provide for the establishment and maintenance of Coast-lights in the eastern part of the Bay of Bengal*), and to render chargeable with Coast-light dues certain vessels which are not now so chargeable; It is hereby enacted as follows:—

#### *Preliminary.*

Short title. 1. This Act may be called "The Burma Coast-lights Act, 1879":

Commencement. It shall come into force on the first day of July, 1879;

Local extent. and it shall extend to the territories respectively administered by the Governors of Fort St. George and Bombay in Council, the Lieutenant-Governor of Bengal and the Chief Commissioners of British Burma and the Andaman and Nicobar Islands.

But nothing herein contained shall apply to any vessel belonging to or in the service of Her Majesty or the Government of India, or to any vessel of war belonging to any Foreign Prince or State.

2. Act No. XIII. of 1867 (*to provide for the establishment and maintenance of Coast-lights in the eastern part of the Bay of Bengal*) is hereby repealed:

But any appointment made under the said Act shall be deemed to have been made under this Act.

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

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

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

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

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

*Coast-light Dues.*

4. For the purpose of establishing and maintaining coast-lights in the eastern part of the Bay of Bengal, a toll, hereinafter called "coast-light dues," shall be paid in respect of every vessel of the burden of fifty tons and upwards making any voyage mentioned in the schedule hereto annexed at the rate of one anna and six pie per ton of burden:

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

5. The said coast-light dues shall become due and payable—

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

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

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

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

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

7. The Customs Collector shall collect the coast-light dues,

and shall grant to the person paying the same a voucher in writing under his hand, setting forth the name of his office, the port at which the coast-light dues are paid, the amount so paid, the name, tonnage and other proper description of the vessel in respect of which such payment is made, and the voyage on which she is or has been bound.

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

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

(a). If such vessel be a British registered vessel or a vessel registered under Act No. X of 1841 or Act No. XI. of 1850, or under any other law for the time being in force for the registration of vessels in India, the Customs-Collector may require the owner or master of such vessel, or any other person having possession of her

register, to produce such register for inspection. If any such owner, master or other person neglects or refuses to produce such register, or otherwise to satisfy the Customs-Collector as to what is the true tonnage of the vessel in respect of which such coast-light dues are payable; he shall be punished with fine which may extend to one hundred rupees, and the Customs-Collector may cause such vessel to be measured and the tonnage thereof to be ascertained; and in such case the owner or master of such vessel shall also be liable to pay the expenses of such measurement.

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

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

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

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

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

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

*Determination of Disputes under Act.*

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

*Prosecutions under other Laws.*

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

*Statement of Receipts and Expenditure.*

16. The Governor General in Council shall, on or before the first day of October in each year, publish in the *Gazette of India* a statement showing the amount received on account of coast-light dues during the year ending on the thirty-first day of March last preceding, and the amount expended during the same period on the establishment and maintenance of coast-lights in the eastern part of the Bay of Bengal.

And whereas it is also expedient to amend the Indian Ports Act, 1875, in manner hereinafter appearing; It is hereby further enacted as follows:—

17. For section 77 of the same Act the following Amendment of Indian Ports Act, 1875. shall be substituted:—

"77. 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 British Burma."

SCHEDULE.

(See section 4.)

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

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

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

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

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

4. A voyage to or from any port in British Burma other than Tavoy and Mergui— from or to any port in the Andaman and Nicobar islands.

D. FITZPATRICK,  
Secy. to the Govt. of India,  
Legislative Department.

[Published with the "Bombay Government Gazette" on the 5th June 1879.]

## 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 24th February 1879, and the assent of His Excellency the Viceroy and Governor General on the 10th May 1879, and is published for general information:—

#### Bombay Act No. III. of 1879.

*An Act to provide for the levy of Fees for the use of Government Landing-places in the Port of Kurrachee.*

WHEREAS it is expedient to provide for the levy of fees for the use of the Government landing-places in the Port of Kurrachee, it is enacted as follows:—

1. This Act shall be called "the Kurrachee Landing and Wharfage Fees Act of 1879."
 

Short Title.
2. In this Act the term "landing-place" includes a bunder, wharf, pier, jetty, hard, and any place used for the landing, shipping, wharfage, cranage, or storage of goods.
 

"Landing-place" defined.
3. It shall be lawful for the Governor in Council from time to time, by Notification in the *Bombay Government Gazette* and in the *Sind Official Gazette*:
 

The Governor in Council to fix limits of bunder, &c., and the fees to be levied.

  - (a). To determine the limits of any Government landing place to which the provisions of this Act shall apply;
  - (b). To fix the fees to be levied—
    - (1). For the landing, shipping, wharfage, cranage, storage or demurage of goods at; and
    - (2). For permitting animals or vehicles to bring or remove goods to or from, or to ply for hire at; and
    - (3). For permitting vessels or boats to approach or lie alongside, any such landing-place;

Provided that it shall be lawful for the Governor in Council at any time to exempt any goods, vessel, boat, animal or vehicle, either wholly or partially, from any fee to which the same may be liable under this section.

4. The levy of fees under this Act shall be made, and all Powers and duties under this Act by whom to be exercised and performed. other powers and duties conferred and imposed by this Act or by any bye-laws made hereunder, shall be exercised and performed by such officers as the Governor in Council shall from time to time direct, or by such persons as he shall from time to time appoint in this behalf.

5. The officers and persons whose duty it may be to levy fees under this Act shall have the same powers for collecting and enforcing payment of the same as are exercisable under the provisions of any law, for the time being in force, in respect of duties of sea-customs by the Collector of Customs and his subordinates, and shall have the same privileges and be subject to the same liabilities in respect of any thing done by them in collecting and enforcing payment of the said fees as the said Collector of Customs and his subordinates have, or are liable to, under the provisions of any such law.



The law for the time being in force for the punishment of offenders. the punishment of offences relating to the levy or payment of duties of sea-customs, and for the reward of informers, shall, as far as may be, apply to similar offences committed in respect of the said fees.

6. Tables of the fees leviable under this Act in the English, Sindhi and Gujaráthi languages shall be posted up in some conspicuous position at every landing-place at which such fees are leviable.

7. The Commissioner in Sind may, with the previous sanction of Government, from time to time make, and from time to time alter or repeal, bye-laws not inconsistent with the provisions of this Act :

- (a). Regulating the use of every landing-place to which this Act applies ;
- (b). Providing for the management of the traffic over, on and about and to and from every such landing-place ; and
- (c). Generally for the guidance of all persons in matters connected with the enforcement of this Act.

The bye-laws so made, and every alteration of the same and every order repealing the same or any portion thereof, shall be published in the *Bombay Government Gazette* and in the *Sind Official Gazette*.

8. The proceeds of all fees realized under this Act shall be applied.

- (a). In payment of the expenses of the administration of this Act ;
- (b). In defraying the cost of acquiring or constructing new landing-places required for the convenience of the trade of the Port of Kurrachee or the interest on any moneys expended in any such acquisition or construction ; and
- (c). In maintaining and improving any existing landing-place and generally in the improvement of the said Port.

Accounts of all receipts and expenditures under this Act shall be published once in every year in the *Bombay Government Gazette* and in the *Sind Official Gazette*.

9. The levy of wharfage dues heretofore made in the Port of Kurrachee in conformity with a Notification of the Governor in Council dated the 23rd October 1865, and published at page 1039 of the *Bombay Government Gazette* of the 26th October 1865, shall be deemed to have been lawfully made, and all officers are hereby indemnified in respect of any thing done by them under the authority of the said Notification which might have been done if the said Notification had been lawfully made, and no suit shall be maintained against Government or against any Officer of Government in respect of any thing so done.

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

C. G. W. MACPHERSON,  
Acting Under Secretary to Government.

## ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 23rd May, 1879, and was promulgated for general information in the *Gazette of India* of 24th May 1879 :—

### Act No. IX of 1879.

*An Act to amend the law relating to Coast-lights in the eastern part of the Bay of Bengal.*

Whereas it is expedient to increase the coast-light dues paid under the provisions of Act No.

XIII of 1867 (*An Act to provide for the establishment and maintenance of Coast-lights in the eastern part of the Bay of Bengal*), and to render chargeable with Coast-light dues certain vessels which are not now so chargeable; It is hereby enacted as follows :—

#### Preliminary.

Short title. 1. This Act may be called "The Burma Coast-lights Act, 1879":

Commencement. It shall come into force on the first day of July, 1879;

Local extent. and it shall extend to the territories respectively administered by the Governors of Fort St. George

and Bombay in Council, the Lieutenant-Governor of Bengal and the Chief Commissioners of British Burma and the Andaman and Nicobar Islands.

But nothing herein contained shall apply to any vessel belonging to or in the service of Her Majesty or the Government of India, or to any vessel of war belonging to any Foreign Prince or State.

2. Act No. XIII. of 1867 (*to provide for the establishment and maintenance of Coast-lights in the eastern part of the Bay of Bengal*) is hereby repealed:

But any appointment made under the said Act shall be deemed to have been made under this Act.

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

"Customs-Collector" means a Customs-Collector appointed under the Sea Customs Act, 1878,

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

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

"Master," when used in relation to any vessel, means any person (except

a Pilot or Harbour Master) having for the time being the charge or control of such vessel:

"Voyage" means the whole distance between a vessel's place of departure and her final place

of arrival; but the return of a vessel from any place shall, notwithstanding the terms of any charter-party, be deemed a distinct voyage.

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#### Coast-light Dues.

4. For the purpose of establishing and maintaining coast-lights in the eastern part of the Bay of Bengal, a toll, hereinafter called "coast-light dues," shall be paid in respect of every vessel of the burden of fifty tons and upwards making any voyage mentioned in the schedule hereto annexed, at the rate of one anna and six pie per ton of burden:

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

5. The said coast-light dues shall become due and payable—

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

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

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

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

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

7. The Customs Collector shall collect the coast-light dues,

and shall grant to the person paying the same a voucher in writing under his hand, setting forth the name of his office, the port at which the coast-light dues are paid, the amount so paid, the name, tonnage and other proper description of the vessel in respect of which such payment is made, and the voyage on which she is or has been bound.

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

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

(a) If such vessel be a British registered vessel or a vessel registered under Act No. X of 1841 or Act No. XI. of 1850, or under any other law for the time being in force for the registration of vessels in India, the Customs-Collector may require the owner or master of such vessel, or any other person having possession of her register, to produce such register for inspection. If any such owner, master or other person neglects or refuses to produce such register, or otherwise

to satisfy the Customs-Collector as to what is the true tonnage of the vessel in respect of which such coast-light dues are payable, he shall be punished with fine which may extend to one hundred rupees, and the Customs-Collector may cause such vessel to be measured and the tonnage thereof to be ascertained; and in such case the owner or master of such vessel shall also be liable to pay the expenses of such measurement.

(b) If such vessel be not a British registered vessel or a vessel registered under Act No. X of 1841

If not registered.

or Act No. XI of 1850, or under any other law for the time being in force for the registration of vessels in India, and the owner or master thereof fails to satisfy the Customs-Collector as to what is her true tonnage according to the mode of measurement prescribed by the law in force for the time being for regulating the measurement of British registered vessels, the Customs-Collector shall cause such vessel to be measured and the tonnage thereof, according to the mode aforesaid, to be ascertained; and in such case the owner or master of such vessel shall be liable to pay the expenses of such measurement.

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

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

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

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

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

#### Determination of Disputes under Act.

14. If any dispute arises as to whether any vessel is chargeable with any coast-light dues, expenses or costs under

this Act, or as to the amount of such dues, expenses or costs, such dispute shall, upon application made in that behalf by either of the disputing parties, be heard and determined in the towns of Calcutta, Madras and Bombay by a Presidency Magistrate, and elsewhere by any Magistrate exercising at the place where the dispute arises powers under the Code of Criminal Procedure not less than those of a Magistrate of the second class. All decisions under this section shall be final.

#### Prosecutions under other Laws.

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

#### Statement of Receipts and Expenditure.

16. The Governor General in Council shall, on or before the first day of October in each year, publish in the *Gazette of India* a statement

showing the amount received on account of coast-light dues during the year ending on the thirty-first day of March last preceding, and the amount expended during the same period on the establishment and maintenance of coast-lights in the eastern part of the Bay of Bengal.

And whereas it is also expedient to amend the Indian Ports Act, 1875, in manner hereinafter appearing; It is hereby further enacted as follows:—

17. For section 77 of the same Act the following shall be substituted:—

“77. 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 British Burma.”

#### SCHEDULE.

(See section 4.)

1. A voyage to or from (a) from or to any port Chittagong or any place west in British Burma; or of the longitude of Chittagong—

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

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

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

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

4. A voyage to or from from or to any port in the any port in British Burma Andaman and Nicobar is- other than Tavoy and lands. Mergui—

D. FITZPATRICK,

Secy. to the Govt. of India,  
Legislative Department.

[Published with the "Bombay Government Gazette" on the 12th June 1879.]

## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 23rd May 1879, and was promulgated for general information in the *Gazette of India* of 24th May 1879:—

#### Act No. IX of 1879.

*An Act to amend the law relating to Coast-lights in the eastern part of the Bay of Bengal.*

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

#### Preliminary.

**Short title.** 1. This Act may be called "The Burma Coast-lights Act, 1879":

**Commencement.** It shall come into force on the first day of July 1879;

and it shall extend to the territories respectively administered by the Governors of Fort St. George and Bombay in Council, the Lieutenant-Governor of Bengal and the Chief Commissioners of British Burma and the Andaman and Nicobar Islands.

But nothing herein contained shall apply to any vessel belonging to or in the service of Her Majesty or the Government of India, or to any vessel of war belonging to any Foreign Prince or State.

**2. Act No. XIII. of 1867** (*to provide for the establishment and maintenance of Coast-lights in the eastern part of the Bay of Bengal*) is hereby repealed:

But any appointment made under the said Act shall be deemed to have been made under this Act.

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

"Customs-Collector" means a Customs-Collector appointed under the Sea Customs Act, 1878,

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

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

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

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

#### Coast-light Dues.

**4. For the purpose of establishing and maintaining coast-lights in the eastern part of the Bay of Bengal, a toll, hereinafter called "coast-light dues," shall be paid in respect of every vessel of the burden of fifty tons and upwards making any voyage mentioned in the schedule hereto annexed, at the rate of one anna and six pie per ton of burden:**

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

**5. The said coast-light dues shall become due and payable—**

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

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

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

**6. The Governor General in Council may from time to time, by notification in the *Gazette of India*, reduce or raise**

the rate of coast-light dues in respect of all vessels or any particular class of vessels:

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

*Próviso.*

7. The Customs Collector shall collect the coast-light dues,

and shall grant to the person paying the same a voucher in writing under his hand, setting forth the

name of his office, the port at which the coast-light dues are paid, the amount so paid, the name, tonnage and other proper description of the vessel in respect of which such payment is made, and the voyage on which she is or has been bound.

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

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

(a). If such vessel be a British registered vessel or a vessel registered under Act No. X of 1841 or Act No. XI. of 1850, or under any other law for the time being in force for the registration of vessels in India, the Customs-Collector may require the owner or master of such vessel, or any other person having possession of her register, to produce such register for inspection. If any such owner, master or other person neglects or refuses to produce such register, or otherwise to satisfy the Customs-Collector as to what is the true tonnage of the vessel in respect of which such coast-light dues are payable, he shall be punished with fine which may extend to one hundred rupees, and the Customs-Collector may cause such vessel to be measured and the tonnage thereof to be ascertained; and in such case the owner or master of such vessel shall also be liable to pay the expenses of such measurement.

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

10. If the master of any vessel refuses or neglects to pay to the Customs-Collector on demand by him the amount of any dues or expenses

payable in respect of such vessel under this Act, the Customs-Collector may distrain or arrest such vessel, and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount of such dues or expenses is paid;

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

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

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

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

#### *Determination of Disputes under Act.*

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

#### *Prosecutions under other Laws.*

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

*Statement of Receipts and Expenditure.*

16. The Governor General in Council shall, on or before the first day of October in each year, publish in the *Gazette of India* a statement showing the amount received on account of coast-light dues during the year ending on the thirty-first day of March last preceding, and the amount expended during the same period on the establishment and maintenance of coast-lights in the eastern part of the Bay of Bengal.

And whereas it is also expedient to amend the Indian Ports Act, 1875, in manner hereinafter appearing; It is hereby further enacted as follows:—

17. For section 77 of the same Act the following shall be substituted:—

“77. 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 British Burma.”

## SCHEDULE.

(See section 4.)

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

(a) from or to any port in British Burma; or

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

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

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

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

4. A voyage to or from any port in British Burma other than Mergui— from or to any port in the Andaman and Nicobar Islands, Tavoy and lands.

D. FITZPATRICK,

*Secy. to the Govt. of India,**Legislative Department.*



# Bombay Government Gazette.

Published by Authority.

FRIDAY, 27<sup>TH</sup> JUNE 1879.

*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 24th February 1879, and the assent of His Excellency the Viceroy and Governor General on the 14th April 1879, and is published for general information:—

#### Bombay Act No. IV. of 1879.

*An Act to prohibit the practice of Inoculation, and to make the Vaccination of Children in the Town of Kurrachee compulsory.*

WHEREAS it is expedient to prohibit the practice of inoculation, and to make the vaccination of children in the Town of Kurrachee compulsory; It is enacted as follows:—

#### *Preliminary.*

1. This Act may be cited as "The Kurrachee Vaccination Act, 1879."

Short title. It extends only to the Town of Kurrachee.

Local extent. It shall come into force on such day as the Governor in Council directs by notification in the *Bombay Government Gazette*, and its operation may at any time be suspended by the Governor in Council by notification in the said Gazette.

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

(1.) "Parent" includes the father and mother of a legitimate child and the mother of an illegitimate child;

(2.) "Guardian" means any person to whom the care, nurture, or custody of any child falls by law, or by natural right or recognized usage, or who has accepted or assumed the care, nurture, or custody of any child, or to whom the care or custody of any child has been entrusted by any authority lawfully authorized in that behalf;

(3.) "Public Vaccinator" means any vaccinator appointed under this Act, or any

deputy duly authorized to act for such Public Vaccinator ;

(4.) "Medical Practitioner" means any person duly qualified by a diploma, degree, or license to practise in medicine or surgery, or specially licensed by the Governor in Council to practise vaccination and grant certificates under the provisions of this Act;

(5.) "Unprotected Child" means a child who has not been protected from small-pox by having had that disease either naturally or by inoculation, or by having been successfully vaccinated, and who has not been certified under the provisions of this Act to be insusceptible to vaccination.

(6.) "Animal lymph" means vaccine taken from the calf.

#### *Establishment.*

3. For the purposes of this Act the Civil Surgeon of Kurrachee, or such other officer as Government directs, shall divide the Town of Kurrachee into as many districts for the performance of vaccination as he shall from time to time deem fit. Each such district shall be called a "Vaccination District."

The Civil Surgeon, or other officer aforesaid, shall appoint a Public Vaccinator for every Vaccination District, and shall appoint such places as he shall from time to time deem fit in each district to be stations for the performance of vaccination. Such stations shall be called "Public Vaccine Stations." Every such Public Vaccinator shall be removable from office by the Civil Surgeon or other officer aforesaid:

The limits of the Vaccination Districts made, and the positions of the Public Vaccine Stations fixed under the provisions of this section, and the days and hours of the Public Vaccinator's attendance at each station, shall be published from time to time in such manner as shall be directed in rules to be framed under Section thirty-one of this Act.

4. Every Public Vaccinator, unless specially permitted by the Civil Surgeon or other officer aforesaid

to reside elsewhere, shall reside within the district for which he is appointed, and shall cause his name, with the addition of the words "Public Vaccinator for the District of \_\_\_\_\_," to be posted up in some conspicuous place on or near the outer door of his dwelling-house and of every public vaccine station in his district.

5. No person shall be appointed a Public Vaccinator, or act as a deputy for a Public Vaccinator, who shall not possess a certificate of qualification signed by the Civil Surgeon or other officer aforesaid.

6. A Superintendent of Vaccination shall be appointed by Government, who, subject to the orders of the Civil Surgeon or other officer aforesaid, shall have a general control over all the proceedings of Public Vaccinators, and shall perform such duties, in addition to those prescribed by this Act, as shall be required by Government.

The Superintendent shall have, if necessary, one or more Assistants as Government may from time to time direct.

#### *Vaccination.*

7. The parent or guardian of every child born in the Town of Kurrachee shall, within six months after the birth of such child, and the parent or guardian of every unprotected child under the age of fourteen years brought to reside, whether temporarily or permanently, in the Town of Kurrachee, shall, within three months after such child's arrival in the Town, or if the child be at the time of its arrival less than three months old, within six months after its birth ; and

the parent or guardian of every unprotected child living in the Town of Kurrachee at the date of this Act coming into force and whose age at such date exceeds six months, but does not exceed fourteen years, shall, within six months from the said date,



take it, or cause it to be taken, to a Public Vaccinator to be vaccinated, or shall, within such period as aforesaid, cause it to be vaccinated by some medical practitioner;

and the Public Vaccinator to whom such child, or to whom any child under the age of fourteen years is brought for vaccination, is hereby required, with all reasonable despatch, subject to the conditions hereinafter mentioned, to vaccinate such child.

8. At an appointed hour upon the same day in the following week after vaccination shall have been performed by a Public Vaccinator or a medical practitioner, or on an earlier day, if the Public Vaccinator or medical practitioner so desires, the parent or guardian shall again take the child, or cause it to be taken, to the Public Vaccinator or to the medical practitioner by whom the operation was performed, that he may inspect it and ascertain the result of the operation;

In the event of the vaccination being unsuccessful, such parent or guardian shall, if the Public Vaccinator or medical practitioner so direct, cause the child to be forthwith again vaccinated and subsequently inspected as on the previous occasion.

9. If any Public Vaccinator or medical practitioner shall be of opinion that any child is not in a fit state to be vaccinated, he shall forthwith deliver to the parent or guardian of such child a certificate under his hand, according to the form of Schedule A, hereto annexed, or to the like effect, that the child is then in a state unfit for vaccination.

The said certificate shall remain in force for two months only, but shall be renewable for successive periods of two months until a Public Vaccinator or medical practitioner shall deem the child to be in a fit state for vaccination, when the child shall, with all reasonable despatch, be vaccinated, and a certificate of successful vaccination given in the form of Schedule C, hereto annexed, according to the provisions of Section eleven of this Act, if warranted by the result.

At or before the end of each successive period, the parent or guardian shall take, or cause the child to be taken, to some Public Vaccinator or medical practitioner, who shall then examine the child and give a fresh certificate according to the said form A, so long as he deems requisite under the circumstances of the case.

10. If any Public Vaccinator or medical practitioner shall find that a child whom he has three times unsuccessfully vaccinated is insusceptible of successful vaccination, or that a child brought to him for vaccination has already had the small-pox, he shall deliver to the parent or guardian of such child a certificate under his hand, according to the form of Schedule B, hereto annexed, or to the like effect, and the parent or guardian shall thenceforth not be required to cause the child to be vaccinated.

11. Every Public Vaccinator or medical practitioner who shall have performed the operation of vaccination upon any child, and shall have ascertained that the same has been successful, shall deliver to the parent or guardian of such child a certificate, according to the form of Schedule C, hereto annexed, or to the like effect, certifying that the said child has been successfully vaccinated.

12. Except as is hereinafter otherwise provided, the vaccination of a child under the provisions of this Act must, if the parent or guardian of the child so require, be performed with animal lymph;

but it shall at any time be lawful for the Governor in Council, on its being shown to his satisfaction that animal lymph is not procurable, to direct, by notification in the *Bombay Government Gazette* :—

- (a) that, during such period as he may deem fit to appoint, the vaccination of children may, without the assent of the parents or guardians of such children, be performed with lymph taken from a human being; and
- (b) that the Public Vaccinator or medical practitioner to whom at any time during the said period a vaccinated child is brought under the provisions

When successive postponement certificates are to be granted.

Provision for giving certificates of insusceptibility to successful vaccination.

Provision for giving certificates of successful vaccination.

Vaccination must ordinarily be performed with animal lymph.

must procure their vaccination.

Public Vaccinator is bound to vaccinate all children brought to him.

Inspection.

Re-vaccination.

If child be unfit for vaccination, certificate in Form A to be given.

Which shall remain in force for two months, but shall be renewable.

of Section eight of this Act for inspection may, if he see fit, take from such child lymph for the performance of other vaccinations.

13. No fee or remuneration shall be charged by any Public Vaccinator to the parent or guardian of any child for any such certificate as aforesaid, nor for any vaccination done by him in pursuance of this Act at a public vaccine station.

But it shall be lawful for a Public Vaccinator to accept a fee for vaccinating a child, by request of the parent or guardian, elsewhere than at a public vaccine station.

#### *Registration.*

14. On the registration of the birth of any child under the provisions of the bye-laws of the Kurrachee Municipality, or of any other law for the time being in force, the Registrar shall deliver to the person giving information of such birth a printed notice in the form of Schedule D, hereto annexed, or to the like effect, and such notice shall have attached thereto the several forms of certificates prescribed by this Act.

15. Every Public Vaccinator or medical practitioner who gives to any parent or guardian a certificate in any of the forms of Schedules A, B, and C, hereto annexed, shall, within twenty-one days after giving the same, transmit a duplicate thereof to the Registrar of Births of the district where the birth of the child on whose account such certificate was given has been registered, or if that be not known to him, or if the child was born out of the Town of Kurrachee, or his birth has not been registered in the said city, to the Registrar of the district within which the child was vaccinated, or presented for vaccination.

16. The Registrar of Births shall keep a book, in such form as may from time to time be prescribed by the Civil Surgeon or other officer under Section twenty-nine of this Act, in which he shall enter minutes of the notices of vaccination given by him as herein required, and shall also register the duplicates of certificates transmitted to him as herein provided.

17. He shall also prepare and keep a duplicate of the Register of Births required to be kept by him under the provisions of the Bye-laws of the Kurrachee Municipality or of any other law for the time being in force, with such additional columns as shall from time to time be prescribed by the Civil Surgeon or other officer under Section twenty-nine of this Act, in which he shall record the date of every duplicate certificate in the form of Schedule B or Schedule C, hereto annexed, received by him concerning any child whose birth he has registered, and make an entry to the effect that the child has been vaccinated, or is insusceptible of vaccination, as the case may be.

18. He shall also keep a Register of Postponed Vaccinations in the form of Schedule E, hereto annexed, in which he shall record the name of every child concerning whom he receives a duplicate certificate in the form of Schedule A, hereto annexed, together with the date of such duplicate certificate, and of each such successive duplicate certificate, if he receives more than one, and shall show the number and year of the entry, if any, in the Register of Births in which such child's birth has been registered.

19. Every Registrar shall transmit on the first of every month to the Superintendent of Vaccination a return, in such form as may from time to time be prescribed by the Civil Surgeon or other officer under Section twenty-nine of this Act, of all cases in which duplicate certificates have not been duly received by him in pursuance of the provisions of this Act during the last preceding month.

#### *Prosecutions and Offences.*

20. Whoever produces, or attempts to produce, in any person by inoculation with variolous matter, or by wilful exposure to variolous matter, or to anything impregnated therewith, or who wilfully by any other means produces the disease of small-pox in any person;

and whoever having been inoculated with small-pox in a place to which this Act does not extend shall afterwards enter the Town

of Kurrachee before the expiration of forty days from the date of such inoculation, or without a certificate from a medical practitioner that such person is no longer likely to cause contagion ;

and whoever having the charge, custody, or control of any person so inoculated, shall within such period, or without such certificate, as aforesaid, knowingly bring such person into, or permit such person to enter, the Town of Kurrachee ;

shall be punished with imprisonment of either description, within the meaning of the Indian Penal Code, for a term which may extend to three months, or to fine which may extend to two hundred rupees, or with both.

21. If the Superintendent of Vaccination shall give information in writing to a Magistrate that he has reason to believe that

Magistrate may make an order for the vaccination of any unprotected child under 14 years.

any child within the Town of Kurrachee, under the age of fourteen years, is an unprotected child, and that he has given notice to the parent or guardian of such child to procure its being vaccinated, and that the said notice has been disregarded, such Magistrate may summon such parent or guardian to appear with the child before him, and if the Magistrate shall find, after such examination as he shall deem necessary, that the child is an unprotected child, he may make an order, directing such child to be vaccinated within a certain time.

If, at the expiration of such time, the child shall not have been vaccinated, or shall not be shown to

Penalty for disobedience of such order.

be then unfit to be vaccinated, or to be insusceptible of vaccination, the person upon whom such order shall have been made, shall, unless he can show some reasonable ground for his omission to carry the order into effect, be punished with fine, which may extend to fifty rupees :

Provided that if the Magistrate shall be of opinion that the person is improperly brought before him, and shall refuse to

Proviso for costs to person improperly summoned.

make an order for the vaccination of the child, he may order the informant to pay to such person such sum of money as he shall consider a fair compensation for his expenses and loss of time in attending before the Magistrate.

22. If any parent or guardian intentionally omits to produce a child whom he has been summoned

Penalty for not producing a child.

to produce under the last preceding section, he shall be punished with simple imprisonment, within the meaning of the Indian Penal Code, for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both,

Penalty for neglect to take child to be vaccinated, &c.

23. Whoever, in contravention of this Act,

(a) neglects, without reasonable excuse, to take, or cause a child to be taken to be vaccinated, or after vaccination to be inspected ; or

(b) at any time during the period for which any notification made under Section 12 of this Act is in force, prevents any public vaccinator from taking lymph from any child whom he has vaccinated ; or

(c) neglects to fill up and sign and give to the parent or guardian of any child any certificate which such parent or guardian is entitled to receive from him, or to transmit a duplicate of the same to the Registrar of Births ;

shall be punished for each such offence with fine which may extend to fifty rupees.

24. Whoever wilfully signs, or makes

Penalty for making or signing false certificate.

or procures the signing or making of, a false certificate, or duplicate certificate,

under this Act, shall be punished with imprisonment of either description, within the meaning of the Indian Penal Code, for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

25. If any Public Vaccinator accepts,

Penalty for accepting illegal fee or remuneration.

or obtains, or agrees to accept, or attempts to obtain from any person any fee, or remuneration, contrary to the provisions of Section thirteen of this Act, he shall be deemed to have committed an offence punishable under Section 161 of the Indian Penal Code.

26. All offences under this Act shall be cognizable by a Magistrate of the first class subject to the provisions of any law for the time being in

Cognizance of offences under this Act.

force for the trial of offences, but no complaint of any such offence shall be entertained unless the prosecution be instituted by order of, or under authority from, Government or the Superintendent of Vaccination.

27. In any prosecution for neglect to procure the vaccination of a child, it shall not be necessary in support thereof to prove that the defendant had received notice from the Registrar, or any other officer, of the requirements of the law in this respect; but if the defendant produce any such certificate as hereinbefore described, or the duplicate of the Register of Births or the Register of Postponed Vaccinations kept by the Registrar as hereinbefore provided, in which such certificate shall be duly entered, the same shall be a sufficient defence for him, except, in regard to the certificate according to the form of Schedule A, when the time specified therein for the postponement of the vaccination shall have expired before the time when the information shall have been laid.

28. The provisions of Sections sixty-four to seventy, both inclusive, of the Indian Penal Code shall apply to all fines imposed under this Act.

*Miscellaneous.*

29. The Civil Surgeon of Kurrachee, or such other officer as Government directs, shall frame and provide appropriate books and forms for the use of the Public Vaccinators, and also such forms as shall be

required for the signature of medical practitioners under the provisions of this Act, and he shall also transmit to the Registrars such books and forms as are required by them under the provisions of this Act.

30. It shall be the duty of the Registrar appointed under the Bye-laws of the Kurrachee Municipality to show in any Annual General Abstract of Births and Deaths prepared by him the number of children successfully vaccinated, the number whose vaccination has been postponed, and the number certified to be insusceptible to successful vaccination during the year.

31. The Civil Surgeon of Kurrachee, or such other officer as Government directs, may, with the sanction of the Governor in Council, from time to time make rules or issue orders consistent with this Act:

- (a) providing for the appointment of deputies of Public Vaccinators, when necessary;
- (b) determining the qualifications to be required of Public Vaccinators, or their deputies, and regulating the grant of certificates of qualification under section five;
- (c) for the guidance of Public Vaccinators and others in all other matters connected with the working of this Act.

All such rules or orders shall be published in the *Bombay Government Gazette*.

### SCHEDULE A.

(See Section 9.)

I, the undersigned, hereby certify that in my opinion \_\_\_\_\_, the child of \_\_\_\_\_, resident at \_\_\_\_\_, in Kurrachee, is not now in a fit and proper state to be vaccinated, and I do hereby postpone the vaccination for the period of two months from this date.—Dated this \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_\_.

(Signature of Medical Practitioner or Public Vaccinator.)

### SCHEDULE B.

(See Section 10.)

I, the undersigned, hereby certify that I have three times unsuccessfully vaccinated \_\_\_\_\_, the child of \_\_\_\_\_, residing at \_\_\_\_\_, in Kurrachee (or that the child has already had small-pox, as the case may be,) and I am of opinion that the said child is insusceptible of successful vaccination.—Dated this \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_\_.

(Signature of Medical Practitioner or Public Vaccinator.)

## SCHEDULE C.

(See Section 11.)

I, the undersigned, hereby certify that \_\_\_\_\_, the child of \_\_\_\_\_ age \_\_\_\_\_ resident at \_\_\_\_\_, in Kurrachée, has been successfully vaccinated by me.—Dated this \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_\_.

(Signature of Medical Practitioner or Public Vaccinator.)

## SCHEDULE D.

(See Section 14.)

To \_\_\_\_\_

(Here insert the name of the parent, guardian, or other person who gives information of the child's birth.)

Take notice that the child of (here enter the mother's name) whose birth has this day been registered, must be vaccinated under the provisions of the Kurrachee Vaccination Act, 187 \_\_\_\_\_, within six months from the date of its birth, under a penalty of ten rupees.

The public vaccine station nearest to the house in which the child was born is at No. \_\_\_\_\_. The days and hours for vaccination at that station are as follows :—

(Here insert the days and the hours when the Public Vaccinator is in attendance.)

On your taking, or causing the child to be taken, to the Public Vaccinator at the said station within the said hours on any of the said days, or at any other public vaccine station in the city on the days and within the hours prescribed for public vaccination at such station, it will be vaccinated free of charge.

You should be careful to have one of the annexed forms of certificates filled in by the Public Vaccinator, or if you employ a private medical practitioner to vaccinate the child by such medical practitioner, and to keep the same in your possession. Any such certificate will be granted to you by a Public Vaccinator free of charge.

Dated the \_\_\_\_\_ of \_\_\_\_\_ 187 \_\_\_\_\_.

Registrar of Births.

## SCHEDULE E.

(See Section 18.)

Register of Postponed Vaccinations for the District of \_\_\_\_\_ in Kurrachée.

Consecutive Number.	Name of Child.	Birth.		Date of Certificate of Postponement.	Signature of Registrar.
		Year.	No. of Entry in Register.		
1	Venayek Pandurang	1868	12	1868 May 10	H. O.

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

C. G. W. MACPHERSON,

Acting Under Secretary to Government.

[Published with the "Bombay Government Gazette" on the 3rd July 1879.]

## 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 24th February 1879, and the assent of His Excellency the Viceroy and Governor General on the 14th April 1879, and is published for general information :—

#### Bombay Act No. IV. of 1879.

*An Act to prohibit the practice of Inoculation, and to make the Vaccination of Children in the Town of Kurrachee compulsory.*

WHEREAS it is expedient to prohibit the practice of inoculation, and to make the vaccination of children in the Town of Kurrachee compulsory; It is enacted as follows :—

#### *Preliminary.*

1. This Act may be cited as "The Kurrachee Vaccination Act, 1879."

Short title,

Local extent,

It extends only to the Town of Kurrachee.

It shall come into force on such day as the Governor in Council directs by notification in the *Bombay Government Gazette*, and its operation may at any time be suspended by the Governor in Council by notification in the said *Gazette*.

Commencement,

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

(1.) "Parent" includes the father and mother of a legitimate child and the mother of an illegitimate child;

(2.) "Guardian" means any person to whom the care, nurture, or custody of any child falls by law, or by natural right or recognized usage, or who has accepted or assumed the care, nurture, or custody of any child, or to whom the care or custody of any child has been entrusted by any authority lawfully authorized in that behalf;

(3.) "Public Vaccinator" means any "Public Vaccinator." vaccinator appointed under this Act, or any deputy duly authorized to act for such Public Vaccinator;

(4.) "Medical Practitioner" means any "Medical Practitioner." person duly qualified by a diploma, degree, or license to practise in medicine or surgery, or specially licensed by the Governor in Council to practise vaccination and grant certificates under the provisions of this Act;

(5.) "Unprotected Child" means a "Unprotected Child." child who has not been protected from small-pox by having had that disease either naturally or by inoculation, or by having been successfully vaccinated, and who has not been certified under the provisions of this Act to be insusceptible to vaccination.

(6.) "Animal lymph" means vaccine taken from the calf.

#### *Establishment.*

3. For the purposes of this Act the Civil Surgeon of Kurrachee, or such other officer as Government directs, shall divide the Town of Kurrachee into as many districts for the performance of vaccination as he shall from time to time deem fit. Each such district shall be called a "Vaccination District."

The Civil Surgeon, or other officer aforesaid, shall appoint a Public Vaccinator for every Vaccination

Appointment of Public Vaccinators.

District, and shall appoint such places as he shall from time to time deem fit in each district to be stations for the performance of vaccination. Such stations shall be called "Public Vaccine Stations." Every such Public Vaccinator shall be removable from office by the Civil Surgeon or other officer aforesaid:

The limits of the Vaccination Districts made, and the positions of the Public Vaccine Stations fixed under the provisions of this section, and the days and hours of the Public Vaccinator's attendance at each station, shall be published from time to time in such manner as shall be directed in rules to be framed under Section thirty-one of this Act.

4. Every Public Vaccinator, unless specially permitted by the Civil Surgeon or other officer aforesaid to live within his district, shall reside within the district for which he is appointed, and shall cause his name, with the addition of the words "Public Vaccinator for the District of \_\_\_\_\_," to be posted up in some conspicuous place on or near the outer door of his dwelling-house and of every public vaccine station in his district.

5. No person shall be appointed a Public Vaccinator, or act as a deputy for a Public Vaccinator, who shall not possess a certificate of qualification signed by the Civil Surgeon or other officer aforesaid.

6. A Superintendent of Vaccination shall be appointed by Government, who, subject to the orders of the Civil Surgeon or other officer aforesaid, shall have a general control over all the proceedings of Public Vaccinators, and shall perform such duties, in addition to those prescribed by this Act, as shall be required by Government.

The Superintendent shall have, if necessary, one or more Assistants as Government may from time to time direct.

#### Vaccination.

7. The parent or guardian of every child born in the Town of Kurrachee shall, within six months after the birth of such child, and

the parent or guardian of every unprotected child under the age of fourteen years brought to reside, whether temporarily or permanently, in the Town of Kurrachee, shall, within three months after such child's arrival in the Town, or if the child be at the time of its arrival less than three months old, within six months after its birth; and

the parent or guardian of every unprotected child living in the Town of Kurrachee at the date of this Act coming into force and whose age at such date exceeds six months, but does not exceed fourteen years, shall, within six months from the said date,

take it, or cause it to be taken, to a Public Vaccinator to be vaccinated, or shall, within such period as aforesaid, cause it to be vaccinated by some medical practitioner;

and the Public Vaccinator to whom such child, or to whom any child under the age of fourteen years is brought for vaccination, is hereby required, with all reasonable despatch, subject to the conditions hereinafter mentioned, to vaccinate such child.

8. At an appointed hour upon the same day in the following week after vaccination shall have been performed by a Public Vaccinator or a medical practitioner, or on an earlier day, if the Public Vaccinator or medical practitioner so desires, the parent or guardian shall again take the child, or cause it to be taken, to the Public Vaccinator or to the medical practitioner by whom the operation was performed, that he may inspect it and ascertain the result of the operation;

In the event of the vaccination being unsuccessful, such parent or guardian shall, if the Public Vaccinator or medical practitioner so direct, cause the child to be forthwith again vaccinated and subsequently inspected as on the previous occasion.

9. If any Public Vaccinator or medical practitioner shall be of opinion that any child is not in a fit state to be vaccinated, he shall forthwith deliver to the parent or

guardian of such child, a certificate under his hand, according to the form of Schedule A, hereto annexed, or to the like effect, that the child is then in a state unfit for vaccination.

The said certificate shall remain in force for two months only,

Which shall remain in force for two months, but shall be renewable.

but shall be renewable for successive periods of two months until

a Public Vaccinator or medical practitioner shall deem the child to be in a fit state for vaccination, when the child shall, with all reasonable despatch, be vaccinated, and a certificate of successful vaccination given in the form of Schedule C, hereto annexed, according to the provisions of Section eleven of this Act, if warranted by the result.

At or before the end of each successive period, the parent or guardian shall take, or

When successive postponement certificates are to be granted.

cause the child to be taken, to some Public

Vaccinator or medical practitioner, who shall then examine the child and give a fresh certificate according to the said form A, so long as he deems requisite under the circumstances of the case.

10. If any Public Vaccinator or medical practitioner shall

Provision for giving certificates of insusceptibility to successful vaccination.

find that a child whom he has three times unsuccessfully vaccinated is insusceptible

of successful vaccination, or that a child brought to him for vaccination has already had the small-pox, he shall deliver to the parent or guardian of such child a certificate under his hand, according to the form of Schedule B, hereto annexed, or to the like effect, and the parent or guardian shall thenceforth not be required to cause the child to be vaccinated.

11. Every Public Vaccinator or medical practitioner who

Provision for giving certificates of successful vaccination.

shall have performed the operation of vaccination upon any

child, and shall have ascertained that the same has been successful, shall deliver to the parent or guardian of such child a certificate, according to the form of Schedule C, hereto annexed, or to the like effect, certifying that the said child has been successfully vaccinated.

12. Except as is hereinafter otherwise

Vaccination must ordinarily be performed with animal lymph.

provided, the vaccination of a child under the provisions of this Act must, if the

parent or guardian of the child so require, be performed with animal lymph;

but it shall at any time be lawful for the Governor in Council, on its being shown to his satisfaction that animal lymph is not procurable, to direct, by notification in the *Bombay Government Gazette* :—

(a) that, during such period as he may deem fit to appoint, the vaccination of children may, without the assent of the parents or guardians of such children, be performed with lymph taken from a human being; and

(b) that the Public Vaccinator or medical practitioner to whom at any time during the said period a vaccinated child is brought under the provisions of Section eight of this Act for inspection may, if he see fit, take from such child lymph for the performance of other vaccinations.

13. No fee or remuneration shall be

No fee to be charged for vaccination at a public vaccine station or for certificates.

charged by any Public Vaccinator to the parent or guardian of any child for any

such certificate as aforesaid, nor for any vaccination done by him in pursuance of this Act at a public vaccine station.

But it shall be lawful for a Public Vaccinator to accept

Proviso.

a fee for vaccinating a child, by request of the parent or guardian, elsewhere than at a public vaccine station.

#### *Registration.*

14. On the registration of the birth of

Registrar of Births to give notice of the requirement of vaccination.

any child under the provisions of the bye-laws of the Kurrachee Municipality, or of any other law for the

time being in force, the Registrar shall deliver to the person giving information of such birth a printed notice in the form of Schedule D, hereto annexed, or to the like effect, and such notice shall have attached thereto the several forms of certificates prescribed by this Act.

15. Every Public Vaccinator or medical practitioner who

Duplicates of all certificates to be transmitted to the Registrar.

gives to any parent or guardian a certificate in any of the forms

of Schedules A, B, and C, hereto annexed, shall, within twenty-one days after giving the same, transmit a duplicate thereof to the Registrar of Births of the district where the birth of the child on whose account such certificate was given has been



registered, or if that be not known to him, or if the child was born out of the Town of Kurrachee, or his birth has not been registered in the said city, to the Registrar of the district within which the child was vaccinated, or presented for vaccination.

16. The Registrar of Births shall keep a book, in such form as may from time to time be prescribed by the Civil Surgeon or other officer under Section twenty-nine of this Act, in which he shall enter minutes of the notices of vaccination given by him as herein required, and shall also register the duplicates of certificates transmitted to him as herein provided.

17. He shall also prepare and keep a duplicate of the Register of Births required to be kept by him under the provisions of the Bye-laws of the Kurrachee Municipality or of any other law for the time being in force, with such additional columns as shall from time to time be prescribed by the Civil Surgeon or other officer under Section twenty-nine of this Act, in which he shall record the date of every duplicate certificate in the form of Schedule B or Schedule C, hereto annexed, received by him concerning any child whose birth he has registered, and make an entry to the effect that the child has been vaccinated, or is insusceptible of vaccination, as the case may be.

18. He shall also keep a Register of Postponed Vaccinations in the form of Schedule E, hereto annexed, in which he shall record the name of every child concerning whom he receives a duplicate certificate in the form of Schedule A, hereto annexed, together with the date of such duplicate certificate, and of each such successive duplicate certificate, if he receives more than one, and shall show the number and year of the entry, if any, in the Register of Births in which such child's birth has been registered.

19. Every Registrar shall transmit on the first of every month to the Superintendent of Vaccination a return, in such form as may from time to time be prescribed by the Civil Surgeon or other officer under Section twenty-nine of this Act, of all cases in which duplicate certificates have not been duly

received by him in pursuance of the provisions of this Act during the last preceding month.

#### *Prosecutions and Offences.*

20. Whoever produces, or attempts to produce, in any person by inoculation with variolous matter, or by wilful exposure to variolous matter, or to anything impregnated therewith, or who wilfully by any other means produces the disease of small-pox in any person;

and whoever having been inoculated with small-pox in a place to which this Act does not extend shall afterwards enter the Town of Kurrachee before the expiration of forty days from the date of such inoculation, or without a certificate from a medical practitioner that such person is no longer likely to cause contagion;

and whoever having the charge, custody, or control of any person so inoculated; shall within such period, or without such certificate, as aforesaid, knowingly bring such person into, or permit such person to enter, the Town of Kurrachee;

shall be punished with imprisonment of either description, within the meaning of the Indian Penal Code, for a term which may extend to three months, or to fine which may extend to two hundred rupees, or with both.

21. If the Superintendent of Vaccination shall give information in writing to a Magistrate that he has reason to believe that any child within the Town of Kurrachee, under the age of fourteen years, is an unprotected child, and that he has given notice to the parent or guardian of such child to procure its being vaccinated, and that the said notice has been disregarded, such Magistrate may summon such parent or guardian to appear with the child before him, and if the Magistrate shall find, after such examination as he shall deem necessary, that the child is an unprotected child, he may make an order, directing such child to be vaccinated within a certain time.

If, at the expiration of such time, the child shall not have been vaccinated, or shall not be shown to be then unfit to be vaccinated, or to be insusceptible of vaccination, the person upon whom such order shall have been made, shall, unless he can show some rea-

sonable ground for his omission to carry the order into effect, be punished with fine, which may extend to fifty rupees :

Provided that if the Magistrate shall be of opinion that the

Proviso for costs to person improperly summoned.

person is improperly brought before him, and shall refuse to

make an order for the vaccination of the child, he may order the informant to pay to such person such sum of money as he shall consider a fair compensation for his expenses and loss of time in attending before the Magistrate.

22. If any parent or guardian intentionally omits to produce a child whom he

Penalty for not producing a child.

has been summoned

to produce under the last preceding section, he shall be punished with simple imprisonment, within the meaning of the Indian Penal Code, for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for neglect to take child to be vaccinated, &c.

23. Whoever, in contravention of this Act,

(a) neglects, without reasonable excuse, to take, or cause a child to be taken to be vaccinated, or after vaccination to be inspected ; or

(b) at any time during the period for which any notification made under Section 12 of this Act is in force, prevents any public vaccinator from taking lymph from any child whom he has vaccinated ; or

(c) neglects to fill up and sign and give to the parent or guardian of any child any certificate which such parent or guardian is entitled to receive from him, or to transmit a duplicate of the same to the Registrar of Births ;

shall be punished for each such offence with fine which may extend to fifty rupees.

24. Whoever wilfully signs, or makes

Penalty for making or signing false certificate.

or procures the signing or making of, a false certificate, or duplicate certificate,

under this Act, shall be punished with imprisonment of either description, within the meaning of the Indian Penal Code, for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

iv.—18 b

25. If any Public Vaccinator accepts,

Penalty for accepting illegal fee or remuneration.

or obtains, or agrees to accept, or attempts to obtain from any person any fee, or re-

muneration, contrary to the provisions of Section thirteen of this Act, he shall be deemed to have committed an offence punishable under Section 161 of the Indian Penal Code.

26. All offences under this Act shall

Cognizance of offences under this Act.

be cognizable by a Magistrate of the first class subject to the

provisions of any law for the time being in force for the trial of offences, but no complaint of any such offence shall be entertained unless the prosecution be instituted by order of, or under authority from, Government or the Superintendent of Vaccination.

27. In any prosecution for neglect to

Prosecution for neglect.

procure the vaccination of a child, it shall not be necessary in

support thereof to prove that the defendant had received notice from the Registrar, or any other officer, of the requirements of the law in this respect ; but if the defendant produce any such certificate as hereinbefore described, or the duplicate of the Register of Births or the Register of Postponed Vaccinations kept by the Registrar as hereinbefore provided, in which such certificate shall be duly entered, the same shall be a sufficient defence for him, except, in regard to the certificate according to the form of Schedule A, when the time specified therein for the postponement of the vaccination shall have expired before the time when the information shall have been laid.

28. The provisions of Sections sixty-

Recovery of Fine.

four to seventy, both inclusive, of the In-

dian Penal Code shall apply to all fines imposed under this Act.

#### Miscellaneous.

29. The Civil Surgeon of Kurrachee,

Books and forms.

or such other officer as Government di-

rects, shall frame and provide appropriate books and forms for the use of the Public Vaccinators, and also such forms as shall be required for the signature of medical practitioners under the provisions of this Act, and he shall also transmit to the Registrars such books and forms as are required by them under the provisions of this Act.

30. It shall be the duty of the Registrar appointed under the Bye-laws of the Kurrachee Municipality to show in any Annual General Abstract of Births and Deaths prepared by him the number of children successfully vaccinated, the number whose vaccination has been postponed, and the number certified to be insusceptible to successful vaccination during the year.

31. The Civil Surgeon of Kurrachee, or such other officer as Government directs, may, with the sanction of the Governor in Council, from

time to time make rules or issue orders consistent with this Act:

- (a) providing for the appointment of deputies of Public Vaccinators, when necessary;
- (b) determining the qualifications to be required of Public Vaccinators, or their deputies, and regulating the grant of certificates of qualification under section five;
- (c) for the guidance of Public Vaccinators and others in all other matters connected with the working of this Act.

All such rules or orders shall be published in the *Bombay Government Gazette*.

### SCHEDULE A.

(See Section 9.)

I, the undersigned, hereby certify that in my opinion \_\_\_\_\_, the child of \_\_\_\_\_, resident at \_\_\_\_\_, in Kurrachee, is not now in a fit and proper state to be vaccinated, and I do hereby postpone the vaccination for the period of two months from this date.—Dated this \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_\_.

(Signature of Medical Practitioner or Public Vaccinator.)

### SCHEDULE B.

(See Section 10.)

I, the undersigned, hereby certify that I have three times unsuccessfully vaccinated \_\_\_\_\_, the child of \_\_\_\_\_, residing at \_\_\_\_\_, in Kurrachee (or that the child has already had small-pox, as the case may be,) and I am of opinion that the said child is insusceptible of successful vaccination.—Dated this \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_\_.

(Signature of Medical Practitioner or Public Vaccinator.)

### SCHEDULE C.

(See Section 11.)

I, the undersigned, hereby certify that \_\_\_\_\_, the child of \_\_\_\_\_ age \_\_\_\_\_, resident at \_\_\_\_\_, in Kurrachee, has been successfully vaccinated by me.—Dated this \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_\_.

(Signature of Medical Practitioner or Public Vaccinator.)

### SCHEDULE D.

(See Section 14.)

To

(Here insert the name of the parent, guardian, or other person who gives information of the child's birth.)

Take notice that the child of (here enter the mother's name) whose birth has this day been registered, must be vaccinated under the provisions of the Kurrachee Vaccination Act, 187 \_\_\_\_\_, within six months from the date of its birth, under a penalty of ten rupees.

The public vaccine station nearest to the house in which the child was born is at No. . The days and hours for vaccination at that station are as follows :—

*(Here insert the days and the hours when the Public Vaccinator is in attendance.)*

On your taking, or causing the child to be taken, to the Public Vaccinator at the said station within the said hours on any of the said days, or at any other public vaccine station in the city on the days and within the hours prescribed for public vaccination at such station, it will be vaccinated free of charge.

You should be careful to have one of the annexed forms of certificates filled in by the Public Vaccinator, or if you employ a private medical practitioner to vaccinate the child by such medical practitioner, and to keep the same in your possession. Any such certificate will be granted to you by a Public Vaccinator free of charge.

Dated the                      of                      187 .

Registrar of Births.

### SCHEDULE E.

*(See Section 18.)*

Register of Postponed Vaccinations for the District of                      in Kurrachee.

Consecutive Number.	Name of Child.	Birth.		Date of Certificate of Postponement.	Signature of Registrar.
		Year.	No. of Entry in Register.		
1	Venayek Pandurang    ...    ...    ...	1868	12	1868 May         10	H. O

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

C. G. W. MACPHERSON,  
Acting Under Secretary to Government.

[Published with the "Bombay Government Gazette" on the 10th July 1879.]

## 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 24th February 1879, and the assent of His Excellency the Viceroy and Governor General on the 14th April 1879, and is published for general information :—

#### Bombay Act No. IV. of 1879.

*An Act to prohibit the practice of Inoculation, and to make the Vaccination of Children in the Town of Kurrachee compulsory.*

WHEREAS it is expedient to prohibit the practice of inoculation, and to make the vaccination of children in the Town of Kurrachee compulsory; It is enacted as follows :—

##### *Preliminary.*

1. This Act may be cited as "The Kurrachee Vaccination Act, 1879."

Local extent. It extends only to the Town of Kurrachee.

Commencement. It shall come into force on such day as the Governor in Council directs by notification in the *Bombay Government Gazette*, and its operation may at any time be suspended by the Governor in Council by notification in the said Gazette.

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

(1.) "Parent" includes the father and mother of a legitimate child and the mother of an illegitimate child;

(2.) "Guardian" means any person to whom the care, nurture, or custody of any child falls by law, or by natural right or recognized usage, or who has accepted or assumed the care, nurture, or custody of any child, or to whom the care or custody of any child has been entrusted by any authority lawfully authorized in that behalf;

(3.) "Public Vaccinator" means any "Public Vaccinator." vaccinator appointed under this Act, or any deputy duly authorized to act for such Public Vaccinator;

(4.) "Medical Practitioner" means any "Medical Practitioner." person duly qualified by a diploma, degree, or license to practise in medicine or surgery, or specially licensed by the Governor in Council to practise vaccination and grant certificates under the provisions of this Act;

(5.) "Unprotected Child" means a "Unprotected Child." child who has not been protected from small-pox by having had that disease either naturally or by inoculation, or by having been successfully vaccinated, and who has not been certified under the provisions of this Act to be insusceptible to vaccination.

(6.) "Animal lymph" means vaccine taken from the calf.

##### *Establishment.*

3. For the purposes of this Act the Vaccination Districts. Civil Surgeon of Kurrachee, or such other officer as Government directs, shall divide the Town of Kurrachee into as many districts for the performance of vaccination as he shall from time to time deem fit. Each such district shall be called a "Vaccination District."

The Civil Surgeon, or other officer aforesaid, shall appoint a Public Vaccinator for every Vaccination

Appointment of Public Vaccinators.

District, and shall appoint such places as he shall from time to time deem fit in each district to be stations for the performance of vaccination. Such stations shall be called "Public Vaccine Stations." Every such Public Vaccinator shall be removable from office by the Civil Surgeon or other officer aforesaid.

The limits of the Vaccination Districts made, and the positions of the Public Vaccine Stations fixed under the provisions of this section, and the days and hours of the Public Vaccinator's attendance at each station, shall be published from time to time in such manner as shall be directed in rules to be framed under Section thirty-one of this Act.

4. Every Public Vaccinator, unless specially permitted by the Civil Surgeon or other officer aforesaid to live within his district, shall reside within the district for which he is appointed, and shall cause his name, with the addition of the words "Public Vaccinator for the District of \_\_\_\_\_," to be posted up in some conspicuous place on or near the outer door of his dwelling-house and of every public vaccine station in his district.

5. No person shall be appointed a Public Vaccinator, or act as a deputy for a Public Vaccinator, who shall not possess a certificate of qualification signed by the Civil Surgeon or other officer aforesaid.

6. A Superintendent of Vaccination shall be appointed by Government, who, subject to the orders of the Civil Surgeon or other officer aforesaid, shall have a general control over all the proceedings of Public Vaccinators, and shall perform such duties, in addition to those prescribed by this Act, as shall be required by Government.

The Superintendent shall have, if necessary, one or more Assistants as Government may from time to time direct.

#### Vaccination.

7. The parent or guardian of every child born in the Town of Kurrachee shall, within six months after the birth of such child, and

the parent or guardian of every unprotected child under the age of fourteen years brought to reside, whether temporarily or permanently, in the Town of Kurrachee, shall, within three months after such child's arrival in the Town, or if the child be at the time of its arrival less than three months old, within six months after its birth; and

the parent or guardian of every unprotected child living in the Town of Kurrachee at the date of this Act coming into force and whose age at such date exceeds six months, but does not exceed fourteen years, shall, within six months from the said date,

take it, or cause it to be taken, to a Public Vaccinator to be vaccinated, or shall, within such period as aforesaid, cause it to be vaccinated by some medical practitioner;

and the Public Vaccinator to whom such child, or to whom any child under the age of fourteen years is brought for vaccination, is hereby required, with all reasonable despatch, subject to the conditions hereinafter mentioned, to vaccinate such child.

8. At an appointed hour upon the same day in the following week after vaccination shall have been performed by a Public Vaccinator or a medical practitioner, or on an earlier day, if the Public Vaccinator or medical practitioner so desires, the parent or guardian shall again take the child, or cause it to be taken, to the Public Vaccinator or to the medical practitioner by whom the operation was performed, that he may inspect it and ascertain the result of the operation;

In the event of the vaccination being unsuccessful, such parent or guardian shall, if the Public Vaccinator or medical practitioner so direct, cause the child to be forthwith again vaccinated and subsequently inspected as on the previous occasion.

9. If any Public Vaccinator or medical practitioner shall be of opinion that any child is not in a fit state to be vaccinated, he shall forthwith deliver to the parent or

guardian of such child a certificate under his hand, according to the form of Schedule A, hereto annexed, or to the like effect, that the child is then in a state unfit for vaccination.

The said certificate shall remain in force

Which shall remain in force for two months, but shall be renewable.

for two months only, but shall be renewable for successive periods of two months until

a Public Vaccinator or medical practitioner shall deem the child to be in a fit state for vaccination, when the child shall, with all reasonable despatch, be vaccinated, and a certificate of successful vaccination given in the form of Schedule C, hereto annexed, according to the provisions of Section eleven of this Act, if warranted by the result.

At or before the end of each successive

When successive postponement certificates are to be granted.

period, the parent or guardian shall take, or cause the child to be taken, to some Public

Vaccinator or medical practitioner, who shall then examine the child and give a fresh certificate according to the said form A, so long as he deems requisite under the circumstances of the case.

10. If any Public Vaccinator or medi-

Provision for giving certificates of insusceptibility to successful vaccination.

cal practitioner shall find that a child whom he has three times unsuccessfully vaccinated is insusceptible

of successful vaccination, or that a child brought to him for vaccination has already had the small-pox, he shall deliver to the parent or guardian of such child a certificate under his hand, according to the form of Schedule B, hereto annexed, or to the like effect, and the parent or guardian shall thenceforth not be required to cause the child to be vaccinated.

11. Every Public Vaccinator or medi-

Provision for giving certificates of successful vaccination.

cal practitioner who shall have performed the operation of vaccination upon any

child, and shall have ascertained that the same has been successful, shall deliver to the parent or guardian of such child a certificate, according to the form of Schedule C, hereto annexed, or to the like effect, certifying that the said child has been successfully vaccinated.

12. Except as is hereinafter otherwise

Vaccination must ordinarily be performed with animal lymph.

provided, the vaccination of a child under the provisions of this Act must, if the

parent or guardian of the child so require, be performed with animal lymph;

but it shall at any time be lawful for the Governor in Council, on its being shown to his satisfaction that animal lymph is not procurable, to direct, by notification in the *Bombay Government Gazette* :—

(a) that, during such period as he may deem fit to appoint, the vaccination of children may, without the assent of the parents or guardians of such children, be performed with lymph taken from a human being; and

(b) that the Public Vaccinator or medical practitioner to whom at any time during the said period a vaccinated child is brought under the provisions of Section eight of this Act for inspection may, if he see fit, take from such child lymph for the performance of other vaccinations.

13. No fee or remuneration shall be

No fee to be charged for vaccination at a public vaccine station or for certificates.

charged by any Public Vaccinator to the parent or guardian of any child for any such certificate as aforesaid, nor for any vaccination done by him in pursuance of this Act at a public vaccine station.

But it shall be lawful for a Public

Proviso.

Vaccinator to accept a fee for vaccinating a child, by request of the parent or guardian, elsewhere than at a public vaccine station.

#### *Registration.*

14. On the registration of the birth of

Registrar of Births to give notice of the requirement of vaccination.

any child under the provisions of the bye-laws of the Kurrachee Municipality, or of any other law for the

time being in force, the Registrar shall deliver to the person giving information of such birth a printed notice in the form of Schedule D, hereto annexed, or to the like effect, and such notice shall have attached thereto the several forms of certificates prescribed by this Act.

15. Every Public Vaccinator or medi-

Duplicates of all certificates to be transmitted to the Registrar.

cal practitioner who gives to any parent or guardian a certificate in any of the forms

of Schedules A, B, and C, hereto annexed, shall, within twenty-one days after giving the same, transmit a duplicate thereof to the Registrar of Births of the district where the birth of the child on whose account such certificate was given has been

registered, or if that be not known to him, or if the child was born out of the Town of Kurrachee, or his birth has not been registered in the said city, to the Registrar of the district within which the child was vaccinated, or presented for vaccination.

16. The Registrar of Births shall keep a book, in such form as may from time to time be prescribed by the Civil Surgeon or other officer under Section twenty-nine of this Act, in which he shall enter minutes of the notices of vaccination given by him as herein required, and shall also register the duplicates of certificates transmitted to him as herein provided.

17. He shall also prepare and keep a duplicate of the Register of births required to be kept by him under the provisions of the Bye-laws of the Kurrachee Municipality or of any other law for the time being in force, with such additional columns as shall from time to time be prescribed by the Civil Surgeon or other officer under Section twenty-nine of this Act, in which he shall record the date of every duplicate certificate in the form of Schedule B or Schedule C, hereto annexed, received by him concerning any child whose birth he has registered, and make an entry to the effect that the child has been vaccinated, or is insusceptible of vaccination, as the case may be.

18. He shall also keep a Register of Postponed Vaccinations in the form of Schedule E, hereto annexed, in which he shall record the name of every child concerning whom he receives a duplicate certificate in the form of Schedule A, hereto annexed, together with the date of such duplicate certificate, and of each such successive duplicate certificate, if he receives more than one, and shall show the number and year of the entry, if any, in the Register of Births in which such child's birth has been registered.

19. Every Registrar shall transmit on the first of every month to the Superintendent of Vaccination a return, in such form as may from time to time be prescribed by the Civil Surgeon or other officer under Section twenty-nine of this Act, of all cases in which duplicate certificates have not been duly

received by him in pursuance of the provisions of this Act during the last preceding month.

#### *Prosecutions and Offences.*

20. Whoever produces, or attempts to produce, in any person by inoculation with variolous matter, or by wilful exposure to variolous matter, or to anything impregnated therewith, or who wilfully by any other means produces the disease of small-pox in any person;

and whoever having been inoculated with small-pox in a place to which this Act does not extend shall afterwards enter the Town of Kurrachee before the expiration of forty days from the date of such inoculation, or without a certificate from a medical practitioner that such person is no longer likely to cause contagion;

and whoever having the charge, custody, or control of any person so inoculated, shall within such period, or without such certificate, as aforesaid, knowingly bring such person into, or permit such person to enter, the Town of Kurrachee;

shall be punished with imprisonment of either description, within the meaning of the Indian Penal Code, for a term which may extend to three months, or to fine which may extend to two hundred rupees, or with both.

21. If the Superintendent of Vaccination shall give information in writing to a Magistrate that he has reason to believe that any child within the Town of Kurrachee, under the age of fourteen years, is an unprotected child, and that he has given notice to the parent or guardian of such child to procure its being vaccinated, and that the said notice has been disregarded, such Magistrate may summon such parent or guardian to appear with the child before him, and if the Magistrate shall find, after such examination as he shall deem necessary, that the child is an unprotected child, he may make an order, directing such child to be vaccinated within a certain time.

If, at the expiration of such time, the child shall not have been vaccinated, or shall not be shown to be then unfit to be vaccinated, or to be insusceptible of vaccination, the person upon whom such order shall have been made, shall, unless he can show some rea-



sonable ground for his omission to carry the order into effect, be punished with fine, which may extend to fifty rupees :

Provided that if the Magistrate shall be of opinion that the

Proviso for costs to person improperly summoned.

person is improperly brought before him, and shall refuse to make an order for the vaccination of the child, he may order the informant to pay to such person such sum of money as he shall consider a fair compensation for his expenses and loss of time in attending before the Magistrate.

22. If any parent or guardian intentionally omits to produce a child whom he

Penalty for not producing a child.

has been summoned to produce under the last preceding section, he shall be punished with simple imprisonment, within the meaning of the Indian Penal Code, for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for neglect to take child to be vaccinated, &c.

23. Whoever, in contravention of this Act,

(a) neglects, without reasonable excuse, to take, or cause a child to be taken to be vaccinated, or after vaccination to be inspected; or

(b) at any time during the period for which any notification made under Section 12 of this Act is in force, prevents any public vaccinator from taking lymph from any child whom he has vaccinated; or

(c) neglects to fill up and sign and give to the parent or guardian of any child any certificate which such parent or guardian is entitled to receive from him, or to transmit a duplicate of the same to the Registrar of Births ;

shall be punished for each such offence with fine which may extend to fifty rupees.

24. Whoever wilfully signs, or makes

Penalty for making or signing false certificate.

or procures the signing or making of, a false certificate, or duplicate certificate, under this Act, shall be punished with imprisonment of either description, within the meaning of the Indian Penal Code, for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

IV.—18 d

25. If any Public Vaccinator accepts, or obtains, or agrees to accept, or attempts to obtain from any person any fee, or re-

Penalty for accepting illegal fee or remuneration.

muneration, contrary to the provisions of Section thirteen of this Act, he shall be deemed to have committed an offence punishable under Section 161 of the Indian Penal Code.

26. All offences under this Act shall

Cognizance of offences under this Act.

be cognizable by a Magistrate of the first class subject to the provisions of any law for the time being in force for the trial of offences, but no complaint of any such offence shall be entertained unless the prosecution be instituted by order of, or under authority from, Government or the Superintendent of Vaccination.

27. In any prosecution for neglect to

Prosecution for neglect.

procure the vaccination of a child, it shall not be necessary in support thereof to prove that the defendant had received notice from the Registrar, or any other officer, of the requirements of the law in this respect ; but if the defendant produce any such certificate as hereinbefore described, or the duplicate of the Register of Births or the Register of Postponed Vaccinations kept by the Registrar as hereinbefore provided, in which such certificate shall be duly entered, the same shall be a sufficient defence for him, except, in regard to the certificate according to the form of Schedule A, when the time specified therein for the postponement of the vaccination shall have expired before the time when the information shall have been laid.

28. The provisions of Sections sixty-

Recovery of Fine.

four to seventy, both inclusive, of the Indian Penal Code shall apply to all fines imposed under this Act.

#### Miscellaneous.

29. The Civil Surgeon of Kurrachee,

Books and forms.

or such other officer as Government directs, shall frame and provide appropriate books and forms for the use of the Public Vaccinators, and also such forms as shall be required for the signature of medical practitioners under the provisions of this Act, and he shall also transmit to the Registrars such books and forms as are required by them under the provisions of this Act.

30. It shall be the duty of the Registrar appointed under the Bye-laws of the Kurrachee Municipality to show in any Annual General Abstract of Births and Deaths prepared by him the number of children successfully vaccinated, the number whose vaccination has been postponed, and the number certified to be insusceptible to successful vaccination during the year.

31. The Civil Surgeon of Kurrachee, or such other officer as Government directs, may, with the sanction of the Governor in Council, from

time to time make rules or issue orders consistent with this Act:

- (a) providing for the appointment of deputies of Public Vaccinators, when necessary;
- (b) determining the qualifications to be required of Public Vaccinators, or their deputies, and regulating the grant of certificates of qualification under section five;
- (c) for the guidance of Public Vaccinators and others in all other matters connected with the working of this Act.

All such rules or orders shall be published in the *Bombay Government Gazette*.

### SCHEDULE A.

(See Section 9.)

I, the undersigned, hereby certify that in my opinion \_\_\_\_\_, the child of \_\_\_\_\_, resident at \_\_\_\_\_, in Kurrachee, is not now in a fit and proper state to be vaccinated, and I do hereby postpone the vaccination for the period of two months from this date.—Dated this \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_\_.

(Signature of Medical Practitioner or Public Vaccinator.)

### SCHEDULE B.

(See Section 10.)

I, the undersigned, hereby certify that I have three times unsuccessfully vaccinated \_\_\_\_\_, the child of \_\_\_\_\_, residing at \_\_\_\_\_, in Kurrachee (or that the child has already had small-pox, as the case may be,) and I am of opinion that the said child is insusceptible of successful vaccination.—Dated this \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_\_.

(Signature of Medical Practitioner or Public Vaccinator.)

### SCHEDULE C.

(See Section 11.)

I, the undersigned, hereby certify that \_\_\_\_\_, the child of \_\_\_\_\_ age \_\_\_\_\_, resident at \_\_\_\_\_, in Kurrachee, has been successfully vaccinated by me.—Dated this \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_\_.

(Signature of Medical Practitioner or Public Vaccinator.)

### SCHEDULE D.

(See Section 14.)

To

(Here insert the name of the parent, guardian, or other person who gives information of the child's birth.)

Take notice that the child of (here enter the mother's name) whose birth has this day been registered, must be vaccinated under the provisions of the Kurrachee Vaccination Act, 187 \_\_\_\_\_, within six months from the date of its birth, under a penalty of ten-rupees.

The public vaccine station nearest to the house in which the child was born is at No. . The days and hours for vaccination at that station are as follows :—

*(Here insert the days and the hours when the Public Vaccinator is in attendance.)*

On your taking, or causing the child to be taken, to the Public Vaccinator at the said station within the said hours on any of the said days, or at any other public vaccine station in the city on the days and within the hours prescribed for public vaccination at such station, it will be vaccinated free of charge.

You should be careful to have one of the annexed forms of certificates filled in by the Public Vaccinator, or if you employ a private medical practitioner to vaccinate the child by such medical practitioner, and to keep the same in your possession. Any such certificate will be granted to you by a Public Vaccinator free of charge.

Dated the                      of                      187 .

Registrar of Births.

### SCHEDULE E.

*(See Section 18.)*

Register of Postponed Vaccinations for the District of                      in Kurrachee.

Consecutive Number.	Name of Child.	Birth.		Date of Certificate of Postponement.	Signature of Registrar.
		Year.	No. of Entry in Register.		
1	Venayek Pandurang . . . . .	1868	12	1868 May   10	H. O.

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

C. G. W. MACPHERSON,  
Acting Under Secretary to Government.

THE



# Bombay Government Gazette.

Published by Authority.

THURSDAY, 31st JULY 1879.

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

## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 21st July 1879, and was promulgated for general information in the *Gazette of India* of 26th July 1879:—

Act No. XI. of 1879.

#### THE LOCAL AUTHORITIES LOAN ACT, 1879.

WHEREAS it is expedient to re-enact the Local Public Works Loan Act, 1871, with the amendments hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called "The Local Authorities Loan Act, 1879":  
 Short title.
- It extends to the whole of British India, and shall come into force upon the passing thereof.  
 Local extent.
2. The Local Public Works Loan Act, 1871, is hereby repealed. But all applications, declarations, authorizations, attachments, loans and rules made under the said Act, shall be deemed to have been made under this Act.  
 Commencement.
3. In this Act, "local authority" means any body corporate, municipal committee, or other persons legally entitled to the control or management of any local or municipal fund, or legally entitled to impose any cess, rate, duty or tax upon any persons within any local area; and  
 "Local authority."

"funds," used with reference to any local authority, includes any local or municipal fund to the control or management of which such authority is legally entitled, and any cess, rate, duty or tax which such authority is legally entitled to impose, and any property vested in such authority.

4. Any local authority desiring to obtain a loan, on the security of its funds or any portion thereof, for the carrying out of any works which it is legally authorized to carry out may, in manner provided by the rules made by the Governor General in Council under the power hereinafter conferred, apply to the Local Government for such loan.

5. The Governor General in Council may from time to time make rules consistent with this Act as to—

- (1) the nature of the funds on the security of which loans may be made;
- (2) the works for which loans may be made;
- (3) the manner of making applications for loans;
- (4) the inquiries to be made in relation to such loans, and the manner of conducting such inquiries;
- (5) the cases and the forms in which particulars of applications and proceedings, and orders thereon, shall be published;

(6) the cases in which the Local Government may make loans without the previous sanction of the Governor General in Council, and the cases in which such previous sanction must be obtained ;

(7) the manner of recording and enforcing the conditions on which such loans are to be made ;

(8) the manner and time of making loans ;

(9) the inspection of any works carried out by means of loans ;

(10) the instalments by which loans shall be repaid, the interest to be charged on loans, and the manner and time of repaying loans and of paying the interest thereon ;

(11) the sum to be charged against the funds which are to form the security for the loan, as cost in effecting the loan ;

(12) the attachment of such securities, and the manner of disposing of or collecting them ;

(13) the accounts to be kept in respect of loans, and as to all other matters incidental to carrying this Act into effect.

All such rules shall be published in the *Gazette of India*.

6. If any loan made under such rules, or any interest or costs due in respect thereof, is or are not repaid according to the conditions of the loan, the Local Government may attach the funds on the security of which the loan was made. After such attachment, no person except an officer appointed in this behalf by the Local Government shall in any way deal with the attached funds ; but such officer may do all acts in respect thereof which the borrowers might have done if such attachment had not taken place, and may apply the proceeds in satisfaction of the loan and of all interest and costs due in respect thereof, and of all expenses caused by the attachment and subsequent proceedings :

Provided that no such attachment shall defeat or prejudice any debt for which the funds attached were previously pledged in accordance with law ; but all such prior charges shall be paid out of the proceeds of the funds before any part of the proceeds is applied to the satisfaction of a liability incurred under this Act.

7. The Local Government, with the previous sanction of the Governor General in Council, may authorize any local authority which might, under the provisions

Local Government may authorize parties to borrow from private persons under this Act.

Local Government may authorize any local authority which might, under the provisions

hereinbefore contained, have borrowed money for any work upon the security of its funds to borrow money from any other person for such work upon such security ; and, if any such loan or the interest thereon is not duly paid, the Local Government shall, upon the application of the lender, attach such funds for his benefit in manner provided by section six.

The Governor General in Council may, in respect of loans to be taken under this section, exercise the power conferred by section five, so far as the same may be applicable to the case of such loans.

8. Except as provided by this Act and the rules made hereunder, no local authority shall for any purpose borrow money upon or otherwise charge its funds ; and any contract otherwise made for that purpose after the passing of this Act shall be void :

Provided that nothing herein contained shall be deemed—

(a) to preclude the Municipality of Calcutta, Madras or Bombay, or the Trustees of the Port of Bombay, or the Commissioners for making improvements in the Port of Calcutta, or any like body hereafter created for the Port of Madras, from exercising the borrowing powers conferred on them by any special enactment now or hereafter in force ; or

(b) to preclude any other local authority from exercising the borrowing power (if any) conferred on it by any such enactment with a view to raising money for any purpose other than the carrying out of works.

9. The Secretary of State in Council shall be entitled to the remedy mentioned in section six for the recovery of any money lent by him to any local authority before the fifth day of September 1871, and the interest due on such money ; and the Governor General in Council or the Local Government may declare that any person, who before the said fifth day of September 1871, has lent money to any local authority shall be entitled to the said remedy for the recovery of such money, or of the interest due thereon.

D. FITZPATRICK,  
Secy. to the Govt. of India,  
Legislative Department.

[Published with the "Bombay Government Gazette" on the 7th August 1879.]

## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 21st July 1879, and was promulgated for general information in the *Gazette of India* of 26th July 1879 :—

#### Act No. XI. of 1879.

#### THE LOCAL AUTHORITIES LOAN ACT, 1879.

WHEREAS it is expedient to re-enact the Local Public Works Loan Act, 1871, with the amendments hereinafter appearing; It is hereby enacted as follows :—

1. This Act may be called "The Local Authorities Loan Act, 1879":

Local extent. It extends to the whole of British India, and shall come into force upon the passing thereof.

2. The Local Public Works Loan Act, 1871, is hereby repealed. But all applications, declarations, authorizations, attachments, loans and rules made under the said Act, shall be deemed to have been made under this Act.

3. In this Act, "local authority" means any body corporate, municipal committee, or other persons legally entitled to the control or management of any local or municipal fund, or legally entitled to impose any cess, rate, duty or tax upon any persons within any local area; and

"funds," used with reference to any local authority, includes any local or municipal fund to the control or management of which such authority is legally entitled, and any cess, rate duty or tax which such authority is legally entitled to impose, and any property vested in such authority.

4. Any local authority desiring to obtain a loan, on the security of its funds or any portion thereof, for the carrying out of any works which

it is legally authorized to carry out may, in manner provided by the rules made by the Governor General in Council under the power hereinafter conferred, apply to the Local Government for such loan.

5. The Governor General in Council may from time to time make rules consistent with this Act as to—

- (1) the nature of the funds on the security of which loans may be made;
- (2) the works for which loans may be made;
- (3) the manner of making applications for loans;
- (4) the inquiries to be made in relation to such loans, and the manner of conducting such inquiries;
- (5) the cases and the forms in which particulars of applications and proceedings, and orders thereon, shall be published;
- (6) the cases in which the Local Government may make loans without the previous sanction of the Governor General in Council, and the cases in which such previous sanction must be obtained;
- (7) the manner of recording and enforcing the conditions on which such loans are to be made;
- (8) the manner and time of making loans;
- (9) the inspection of any works carried out by means of loans;
- (10) the instalments by which loans shall be repaid, the interest to be charged on loans, and the manner and time of repaying loans and of paying the interest thereon;
- (11) the sum to be charged against the funds which are to form the security for the loan, as cost in effecting the loan;
- (12) the attachment of such securities, and the manner of disposing of or collecting them;
- (13) the accounts to be kept in respect of loans, and as to all other matters incidental to carrying this Act into effect.

All such rules shall be published in the *Gazette of India*.

6. If any loan made under such rules, or any interest or costs due in respect thereof, is or are not repaid according to the conditions of the loan, the Local Government may attach the funds on the security of which

the loan was made. After such attachment, no person except an officer appointed in this behalf by the Local Government shall in any way deal with the attached funds; but such officer may do all acts in respect thereof which the borrowers might have done if such attachment had not taken place, and may apply the proceeds in satisfaction of the loan and of all interest and costs due in respect thereof, and of all expenses caused by the attachment and subsequent proceedings:

Provided that no such attachment shall defeat or prejudice any debt for which the funds attached were previously pledged in accordance with law; but all such prior charges shall be paid out of the proceeds of the funds before any part of the proceeds is applied to the satisfaction of a liability incurred under this Act.

7. The Local Government, with the previous sanction of the Governor General in Council, may authorize any local authority which might, under the provisions hereinbefore contained, have borrowed money for any work upon the security of its funds to borrow money from any other person for such work upon such security; and, if any such loan or the interest thereon is not duly paid, the Local Government shall, upon the application of the lender, attach such funds for his benefit in manner provided by section six.

The Governor General in Council may, in respect of loans to be taken under this section, exercise the power conferred by section five, so far as the same may be applicable to the case of such loans.

8. Except as provided by this Act and the rules made hereunder, no local authority shall for any purpose borrow money upon or otherwise charge its funds; and any contract otherwise made for that purpose after the passing of this Act shall be void:

Provided that nothing herein contained shall be deemed—

(a) to preclude the Municipality of Calcutta, Madras or Bombay, or the Trustees of the Port of Bombay, or the Commissioners for making improvements in the Port of Calcutta, or any like body hereafter created for the Port of Madras, from exercising the borrowing powers conferred on them by any special enactment now or hereafter in force; or

(b) to preclude any other local authority from exercising the borrowing power (if any) conferred on it by any such enactment with a view to raising money for any purpose other than the carrying out of works.

9. The Secretary of State in Council shall be entitled to the remedy mentioned in section six for the recovery of any money lent by him to any local authority before the fifth day of September 1871, and the interest due on such money; and the Governor General in Council or the Local Government may declare that any person, who before the said fifth day of September 1871, has lent money to any local authority shall be entitled to the said remedy for the recovery of such money, or of the interest due thereon.

D. FITZPATRICK,  
Secy. to the Govt. of India,  
Legislative Department.

[Published with the "Bombay Government Gazette" on the 21st August 1879.]

## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 29th July 1879, and was promulgated for general information in the *Gazette of India* of the 2nd August 1879:—

#### Act No. XII. of 1879.

*An Act to amend the Code of Civil Procedure, the Registration Act, 1877, and the Limitation Act, 1877.*

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

1. The following portions of the said Code shall be repealed (namely):—

Repeal of certain portions of Act X. of 1877.

In section 4, the words and figures "The Panjáb Courts Act, 1865," and "The Panjáb Appeals Act, 1873":

In section 5, the third sentence:

In section 51, the words "with the permission of the Court":

In section 52, from and including the words "and when he makes it out of Court" to the end:

In section 61, the words "bill of exchange or other":

In section 64, the words "or as soon thereafter as may be practicable":

In section 80, the words "or to receive the copy of the summons":

In section 97, the words "a duly authorized":

In sections 113 and 177 the word "other":

In section 115, the second paragraph:

In section 131, the words "in whose plaint, written statement or affidavits reference is made to any document": and the words "in the presence of such officer as the Court appoints in this behalf":

In section 199, the words from and including "and in" to the end:

In section 221, the second paragraph:

In section 224, the word "therewith":

In section 230, paragraphs three and four, the words "unless the Court is satisfied that on the last preceding application due diligence was used to procure complete satisfaction of the decree; and the order of the Court granting any such subsequent application shall be conclusive evidence that due diligence was used to procure such satisfaction. And no such subsequent application shall be granted":

In section 246, clause (e) and the letters (f) and (g):

In section 259, the words "and keeping the same under attachment until the further order of the Court":

In section 339, paragraph three, the words "to the proper officer of the Court":

In section 353, the words "within three months from its publication", and "within three months from the publication of the schedule":

In section 355, paragraph two, the words "from arrest or imprisonment, as the case may be":

In sections 407 and 408, the words "upon such examination":

In section 638, the figures "261":

In the second schedule, the words and figures "section 648 (so far as relates to arrest)."

In the fourth schedule, No. 152, the words "ON SECURITIES BEING GIVEN," and "on security to the amount of Rs. decreed to the in the above suit, being given to your satisfaction."

2. In section 2, for the definitions of "judgment" and "decree," the following shall be substituted (namely):

"decree" means the formal expression of an adjudication upon any right claimed, or defence set up, in a Civil Court when such adjudication, so far as regards the Court expressing it, decides the suit or appeal. An order rejecting a plaint, or directing accounts to be taken, or determining any question mentioned or referred to in section 244 but not specified in section 588, is within this definition: an order specified in section 588, is not within this definition:



'order' means the formal expression of any decision of a Civil Court which is not a decree as above defined:

'judgment' means the statement given by the Judge of the grounds of a decree or order."

In the same section, to the definition of "signed," the following words shall be added (namely), "it also includes stamped with the name of the person referred to."

3. In section 3, for the last paragraph the following shall be substituted (namely):—

"Save as provided by section 99A, nothing herein contained shall affect any proceedings prior to decree in any suit instituted or appeal presented before the first day of October 1877, or any proceedings after decree that may have been commenced and were still pending at that date."

4. In section 4, for the words "local law" in each of the places where they occur, the words "law heretofore or hereafter passed under the Indian Councils Act, 1861, by a Governor or a Lieutenant-Governor in Council" shall be substituted; and for the words "landlord and tenant" the words "landholders and their tenants or agents" shall be substituted.

Act No. XVIII. of 1878 (to amend the Code of Civil Procedure, section 4), is hereby repealed.

5. In section 5, to the first sentence, the following shall be added (namely): "and to all other Courts (other than the Courts of Small Causes in the towns of Calcutta, Madras and Bombay) exercising the jurisdiction of a Court of Small Causes."

6. In section 13, for the first paragraph, the following shall be substituted (namely):—

"13. No Court shall try any suit or issue in which the matter directly and substantially in issue, having been directly and substantially in issue in a former suit in a Court of competent jurisdiction, between the same parties, or between parties under whom they or any of them claim, litigating under the same title, has been heard and finally decided by such Court,"

and in the same section, explanation I, for the word "confessed" the word "admitted" shall be substituted.

7. In section 43, paragraph one, for the words "arising out of" the words "which the plaintiff is entitled to make in respect of" shall be substituted: in the same section, paragraph two, for the word "for" (in each of the places where it occurs) the words "in respect of" shall be substituted; and in the same section, paragraph three, for the word "claim" the words "cause of action" shall be substituted;

and to the same section the following paragraph shall be added: "For the purpose of this section, an obligation and a collateral security for its performance shall be deemed to constitute but one cause of action."

8. To section 44 the following words shall be added (namely): "or are such as he was entitled to, or liable for, jointly with the deceased person whom he represents."

9. In section 45, for paragraph one, the following shall be substituted (namely): "subject to the rules contained in chapter

II and in section 44, the plaintiff may unite in the same suit several causes of action against the same defendant or the same defendants jointly; and any plaintiffs having causes of action in which they are jointly interested against the same defendant or the same defendants jointly may unite such causes of action in the same suit":

in the same section, paragraph two, for the words "the defendant" the words "any defendant, or at any subsequent stage of the suit, if the parties agree" shall be substituted.

10. In section 50, for the word "abode" in each of the places where it occurs, the word "residence" shall be substituted.

11. To section 51 the following proviso shall be added (namely):—

"Provided that, if the plaintiff, by reason of absence or for other good cause, is unable to sign the plaint, it may be signed by any person duly authorized by him in this behalf."

12. In sections 51, 53, 115, 346, 393 and 403, for the word "subscribed" (wherever it occurs) the word "signed" shall be substituted: in sections 115 and 346, for the word "subscribing" the word "signing" shall be substituted; and in section 403, for the word "subscription" the word "signing" shall be substituted.

13. In section 58, for the word "filed" the word "produced" shall be substituted.

14. In section 68, for the word "cognizable" the word "heard" shall be substituted.

15. In section 93, after the word "levied" and in section 95, after the word "paid," and in section 397, after the word "be," the words "within a time to be fixed by the Court" shall be inserted.

16. After section 99, the following shall be inserted (namely):—

"99A. If, after a summons has, whether before or after the first day of October 1877, been issued to the defendant, or to one of several defendants and returned unserved, the plaintiff fails for a period of one year from such return to apply for the issue of a fresh summons and to satisfy the Court that he has used his best endeavours to discover the residence of the defendant who has not been served, or that

such defendant is avoiding service of process, the Court may dismiss the suit as against such defendant.

"In such case the plaintiff may (subject to the law of limitation) bring a fresh suit."

17. In section 108, paragraph one, the words and figures "under section 100" shall be omitted; and in the same

Amendment of section 108. section, paragraph two, for the words "it be proved to the satisfaction of the Court that the defendant," the words "he satisfies the Court that the summons was not duly served, or that he" shall be substituted.

18. In section 131, paragraph one, for the word "Every" the word "Any" shall be substituted, and for the words "such document" the words "any specified document" shall be substituted.

19. In section 136, after the word "discovery" (in each of the places in which it occurs) the word "production" shall be inserted.

20. In section 139, for the words and figures "the production of which has been called for under section 138 and which has not been produced" the words and figures "which should have been, but has not been, produced in accordance with the requirements of section 138" shall be substituted.

21. In section 207, for the words "or numbers" to the end the following words shall be substituted (namely): "or by numbers in a record of settlement or survey, the decree shall specify such boundaries or numbers."

22. In section 211, for the words "land or other," the words "therecovery of possession of immoveable" shall be substituted: to the same section the words "together with interest on such profits" shall be added; and in section 212, before the word "immoveable" the words "the recovery of possession of" shall be inserted.

23. After section 215 the following section shall be inserted (namely):—

"215A. When a suit is for an account of

Suit for account between principal and agent. pecuniary transactions between a principal and agent, and in all other suits not hereinbefore provided for, where it is necessary, in order to ascertain the amount of money due to or from any party, that an account should be taken, the Court shall, before making its decree, pass an order directing such accounts to be taken as it thinks fit."

24. To section 220 the following words shall be added (namely): "Every order relating to costs made under this

Code and not forming part of a decree may be executed as if it were a decree for money."

25. In section 223, clause (c), for the words "district within which" the words "local limits of the jurisdiction of" shall be substituted; and in the penultimate paragraph of the same section, for the words "local Court of Small Causes" the words "Court of Small Causes in Calcutta, Madras, Bombay or Rangoon, as the case may be," shall be substituted.

26. In section 229, for the words "Native Prince or State in India" the words "Foreign Prince or State" shall be substituted.

27. In section 20, clause (b), for the words "the payment of money or the delivery of property by instalments—the date of the default in paying or delivering the instalment" the following words shall be substituted (namely): "any payment of money, or the delivery of any property, to be made at a certain date—the date of the default in making the payment or delivering the property."

28. In the second proviso to section 232, after the word "decree" the words "for money" shall be inserted.

29. In section 235, for the words "in manner hereinbefore provided for the verification of complaints," the following words shall be substituted (namely), "by the applicant or by some other person proved to the satisfaction of the Court, to be acquainted with the facts of the case."

30. In sections 236 and 237, for the words "If the application be," the words "Whenever an application is made" shall be substituted.

31. In section 244, clause (c), after the word "execution," the words "discharge or satisfaction" shall be inserted.

32. In section 245, for the first sentence, the following shall be substituted (namely): "The Court on receiving an application for the execution of a decree shall ascertain whether such of the requirements of sections 235, 236, 237 and 238 as may be applicable to the case have been complied with; and if they have not been complied with, the Court may reject the application, or may allow it to be amended then and there, or within a time fixed by the Court. If the application be not so amended, it shall be rejected."

33. In section 246, for Explanation I, the following shall be substituted (namely):—

"Explanation I.—The decrees contemplated by this section are decrees capable of execution at the same time and by the same Court."

In Explanation II, after the words "assignor as" the words "in respect of judgment-debts due" shall be inserted.

34. In section 252, for the words "If no such property can be found and the judgment-debtor," the words "If no such property remains in the possession of the judgment-debtor, and he" shall be substituted.

Amendment of section 252.

35. After section 257 the following shall be inserted:—

Addition to section 257.

"257A. Every agreement to give time for the satisfaction of a judgment-debt shall be void unless it is made for consideration and with the sanction of the Court which passed the decree, and such Court deems the consideration to be under the circumstances reasonable.

Agreement to give time to judgment-debtor.

"Every agreement for the satisfaction of a judgment-debt, which provides for the payment, directly or indirectly, of any sum in excess of the sum due, or to accrue due under the decree, shall be void unless it is made with the like sanction.

Agreement for satisfaction of judgment-debt.

"Any sum paid in contravention of the provisions of this section shall be applied to the satisfaction of the judgment-debt; and the surplus, if any, shall be recoverable by the judgment-debtor."

Amendment of section 258.

36. For section 258 the following shall be substituted:—

"258. If any money payable under a decree is paid out of Court, or the decree is otherwise adjusted in whole or in part to the satisfaction of the decree-holder, or if any payment is made in pursuance of an agreement of the nature mentioned in section 257A, the decree-holder shall certify such payment or adjustment to the Court whose duty it is to execute the decree.

Payment to decree-holder.

"The judgment-debtor also may inform the Court of such payment or adjustment, and apply to the Court to issue a notice to the decree-holder to show cause, on a day to be fixed by the Court, why such payment or adjustment should not be recorded as certified; and if, after due service of such notice, the decree-holder fails to appear on the day fixed, or having appeared fails to show cause why the payment or adjustment should not be recorded as certified, the Court shall record the same accordingly.

"No such payment or adjustment shall be recognized by any Court unless it has been certified as aforesaid."

37. For the second paragraph of section 259,

Amendment of section 259. the following shall be substituted:—

"When any attachment under this section has remained in force for six months, if the judgment-debtor has not obeyed the decree, and the decree-

holder has applied to have the attached property sold, such property may be sold; and out of the proceeds the Court may award to the decree-holder, in cases where any amount has been fixed under section 208, such amount, and, in other cases, such compensation as it thinks fit, and shall pay the balance, if any, to the judgment-debtor on his application.

"If the judgment-debtor has obeyed the decree and paid all costs of executing the same which he is bound to pay, or if, at the end of six months from the date of the attachment, no application to have the property sold has been made, or, if made, has been refused, the attachment shall cease to exist."

38. In section 260, in the first paragraph, after the words "the performance of," the words "or abstention from" shall be inserted; and for the second paragraph the following paragraphs shall be substituted (namely):—

Amendment of section 260.

"When any attachment under this section has remained in force for one year, if the judgment-debtor has not obeyed the decree and the decree-holder has applied to have the attached property sold, the property may be sold; and out of the proceeds the Court may award to the decree-holder such compensation as it thinks fit, and may pay the balance, if any, to the judgment-debtor on his application.

"If the judgment-debtor has obeyed the decree and paid all costs of executing the same which he is bound to pay, or if, at the end of one year from the date of the attachment, no application to have the property sold has been made and granted, the attachment shall cease to exist."

39. In section 264, after the words "the same" the words "and not bound by the decree to relinquish such occupancy" shall be inserted.

Amendment of section 264.

40. To section 265 the following words shall be added (namely), "and according to the law, if any, for the time being in force for the partition, or the separate possession of shares, of such estates."

Amendment of section 265.

41. For the last paragraph of section 268, the following shall be substituted (namely):—

Amendment of section 268.

"In the case of the salary of a public officer or the servant of a Railway Company, the attachment shall be made by a written order requiring the officer whose duty it is to disburse the salary to withhold every month such portion as the Court may direct, until the further orders of the Court.

"A copy of every such order shall be fixed up in a conspicuous part of the court-house, and shall be served on the officer so required.

"Every such officer may from time to time pay into Court any portion so withheld, and such payment shall discharge the Government or the Railway Company, as the case may be, as effectually as payment to the judgment-debtor."

42. For the first paragraph of section 271 the following shall be substituted :—

Amendment of section 271.  
 "271. No person executing any process under this Code, directing or authorizing seizure of moveable property, shall enter any dwelling-house after sunset and before sunrise, or shall break open any outer door of a dwelling-house. But when any such person has duly gained access to any dwelling-house, he may unfasten and open the door of any room in which he has reason to believe any such property to be."

43. To section 289, paragraph one, the following words shall be added (namely): "and a copy thereof shall be fixed up in the court-house and, in the case of land paying revenue to Government, also in the Collector's office"; and in section 290, for the words "notification has been affixed," the words "copy of the proclamation has been fixed up" shall be substituted.

44. In section 291, for the first eight words the following shall be substituted (namely): "The Court may in its discretion adjourn any sale under this chapter (other than a sale by the Collector) to a specified day and hour, and the officer conducting any such sale;" and in the same section, after the proviso, the following sentence shall be inserted, (namely): "whenever a sale is adjourned under this section for a longer period than seven days, a fresh proclamation under section 289 shall be made, unless the judgment-debtor consents to waive it."

Amendment of section 294.  
 45. To section 294 the following paragraph shall be added (namely):—

"When a decree-holder purchases, by himself or through another person, without such permission, the Court may, if it thinks fit, on the application of the judgment-debtor or any other person interested in the sale, by order set aside the sale; and the costs of such application and order, and any deficiency of price which may happen on the re-sale, and all expenses attending it, shall be paid by the decree-holder."

46. In section 295, first proviso, after the words "shall not," the words "as such" shall be inserted.

Amendment of section 295.  
 and after the second proviso the following shall be inserted :—

"Provided also that, when immoveable property is sold in execution of a decree ordering its sale for the discharge of an incumbrance thereon, the proceeds of sale shall be applied—

*first*, in defraying the expenses of the sale;

*secondly*, in discharging the interest and principal money due on the incumbrance;

*thirdly*, in discharging the interest and principal moneys due on subsequent incumbrances (if any); and

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*fourthly*, rateably among the holders of decrees for money against the judgment-debtor, who have, prior to the sale of the said property, applied to the Court which made the decree, ordering such sale for execution of such decrees and have not obtained satisfaction thereof."

47. In section 305, paragraph two, after the word "therein," the words and figures "and notwithstanding anything contained in section 276," shall be inserted; and for the last paragraph, the following shall be substituted (namely) :—

"Provided also that no mortgage, lease or sale under this section shall become absolute until it has been confirmed by the Court."

48. In section 314, after the word "party" the words "in execution of a decree" shall be inserted.

Amendment of section 316.  
 49. For section 316 the following shall be substituted (namely) :—

"316. When a sale of immoveable property has become absolute in manner aforesaid, the Court shall grant a certificate stating the property sold and the name of the person who at the time of sale is declared to be the purchaser. Such certificate shall bear the date of the confirmation of the sale; and, so far as regards the parties to the suit and persons claiming through or under them, the title to the property sold shall vest in the purchaser from the date of such certificate and not before: provided that the decree under which the sale took place was still subsisting at that date."

50. In section 320, paragraph two, after the word "also" the words "notwithstanding anything hereinbefore contained" shall be inserted; and for sections 321 to 325, both inclusive, the following shall be substituted (namely) :—

Power of Collector when execution of decree is so transferred.  
 "321. When the execution of a decree has been so transferred, the Collector may—

(a) proceed as the Court would proceed under section 305; or

(b) raise the amount of the decree by letting in perpetuity, or for a term, on payment of a premium, or by mortgaging, the whole or any part of the property ordered to be sold; or

(c) sell the property ordered to be sold or so much thereof as may be necessary.

"322. When the execution of a decree, not being a decree ordering the sale of immoveable property in pursuance of a contract specifically affecting the same, but being a decree for money in satisfaction of which the Court has ordered the sale of immoveable property, has been so transferred, the Collec-

tor, if, after such enquiry as he thinks necessary, he has reason to believe that all the liabilities of the judgment-debtor can be discharged without a sale of the whole of his available immoveable property, may proceed as hereinafter provided.

Notice to be given to decree-holders and to persons having claims on the property.

"322A. In the case mentioned in section 322, the Collector shall publish a notice calling upon—

(a) every person holding a decree for money against the judgment-debtor capable of execution by sale of his immoveable property, and which such decree-holder desires to have so executed, and every holder of a decree for money in execution of which proceedings for the sale of such property are pending, to produce before the Collector a copy of the decree, and a certificate from the Court which passed or is executing the same, declaring the amount recoverable thereunder.

(b) every person having any claim on the said property, to submit to the Collector a statement of such claim, and to produce the documents, if any, by which it is evidenced.

Such notice shall be in the language of the district, and shall allow a period of sixty days from the date of its publication for compliance therewith. It shall be published by being posted in the court-house of the Court which made the original order under section 304, and at such other places (if any) as the Collector thinks fit. Where the address of any such decree-holder or claimant is known, a copy of the notice shall be sent to him by post or otherwise.

"322B. Upon the expiration of the said period the Collector shall appoint a day for hearing any representations which the judgment-debtor and the decree-holders or claimants (if any) may desire to make, and for holding such enquiry as he may deem necessary for informing himself as to the nature and extent of such decrees and claims and of the judgment-debtor's immoveable property, and may from time to time adjourn such hearing and enquiry.

If there be no dispute as to the fact or extent of the liability of the judgment-debtor to any of the decrees or claims of which the Collector is informed, or as to the relative priorities of such decrees or claims, or as to the liability of any such property for the satisfaction of such decrees or claims, the Collector shall draw up a statement specifying the amount to be recovered for the discharge of such decrees, the order in which such decrees and claims are to be satisfied, and the immoveable property available for that purpose.

If any such dispute arises, the Collector shall refer the same, with a statement thereof and his own opinion thereon, to the Court which made the original order under section 304, and shall, pending the reference, stay proceedings relating to the subject thereof. The Court shall dispose of the dispute if the matter thereof be within its jurisdiction, or transmit the case to a competent Court for disposal, and the final decision shall be communicated to the Collector. The Collector

shall then draw up a statement as above provided in accordance with such decision.

"322C. The Collector may, instead of himself issuing the notices and holding the enquiry required by sections 322A and 322B, draw up a statement specifying the circumstances of the judgment-debtor and of his immoveable property so far as they are known to the Collector or appear in the records of his office, and forward such statement to the District Court; and such Court shall thereupon issue the notices, hold the inquiry and draw up the statement required by sections 322A and 322B, and transmit such statement to the Collector.

"322D. The decision by the Court of any dispute arising under section 322B or section 322C shall, as between the parties thereto, have the force of, and be appealable as, a decree.

"323. Whenever the amount to be recovered and the property available have been determined as provided in section 322B or 322C, the Collector may—

(1) if it appears that the amount cannot be recovered without the sale of the whole of the property available, proceed to sell such property; or if it appears that the amount with interest (if any) in accordance with the decree, and when not decreed, with interest (if any) at such rate as he thinks reasonable, may be recovered without such sale,

(2) raise such amount and interest (notwithstanding any order under section 304);

"(a) by letting in perpetuity, or for a term, on payment of a premium the whole or any part of the said property; or

"(b) by mortgaging the whole or any part of such property: or

"(c) by selling part of such property: or

"(d) by letting on farm, or managing by himself or another, the whole or any part of such property for any term not exceeding twenty years from the date of the order of sale: or

"(e) partly by one of such modes and partly by another or others of such modes.

(3) For the purpose of managing under this section the whole or any part of such property, the Collector may exercise all the powers of its owner.

(4) For the purpose of improving the saleable value of the property available or any part thereof, or rendering it more suitable for letting or managing, or for preserving the property from sale in satisfaction of an incumbrance, the Collector may discharge the claim of any incumbrancer which has become payable or compound the claim of any incumbrancer whether it has become payable or not, and, for the purpose of providing funds to effect such discharge or composition, may mortgage, let or sell any portion of the property which he deems sufficient. If any dispute arises as to the amount due on any incum-

branch with which the Collector purposes to deal under this paragraph, he may institute a suit in the proper Court, either in his own name or the name of the judgment-debtor, to have an account taken, or he may agree to refer such dispute to the decision of two arbitrators, one to be chosen by each party, or of an umpire to be named by such arbitrators.

In proceeding under paragraphs (2), (3) and (4) of this section, the Collector shall be subject to such rules consistent with this Act as may from time to time be made in this behalf by the Chief Controlling Revenue-Authority.

"324. If, on the expiration of the letting Recovery of balance, or management under if any, after letting or management. section 323, the amount to be recovered has not been realized, the Collector shall notify the fact in writing to the judgment-debtor or his representative in interest, stating at the same time that, if the balance necessary to make up the said amount is not paid to the Collector within six weeks of the date of such notice, he will proceed to sell the whole or a sufficient part of the said property; and if on the expiration of the said six weeks the said balance is not so paid, the Collector shall sell such property or part accordingly.

"324A. The Collector shall from time to time Collector to render accounts to the Civil Court. render to the Court which made the original order under section 304 an account of all monies which come to his hands and of all charges incurred by him in the exercise and performance of the powers and duties conferred and imposed on him under the provisions of this chapter, and shall hold the balance at the disposal of the Court.

Such charges shall include all debts and liabilities from time to time due to the Government in respect of the property or any part thereof, the rent (if any) from time to time due to a superior holder in respect of such property or part, and (if the Collector so directs) the expenses of witnesses summoned by him.

Application of Balance. Such balance shall be applied by the Court as follows:—

*firstly*, in providing for the maintenance of such members of the judgment-debtor's family (if any) as are entitled to be maintained out of the income of the property to such amount in the case of each member as the Court thinks fit; and

*secondly*, where the Collector has proceeded under section 321, in satisfaction of the original decree in execution of which the Court ordered the sale of immoveable property, or otherwise as the Court may under section 295 direct; or

*thirdly*, where the Collector has proceeded under section 322, in keeping down the interest on incumbrances on the property, and (when the judgment-debtor has no other sufficient means of subsistence) in providing for his subsistence to such amount as the Court thinks fit; and in discharging rateably the claims of the original decree-holder and any other decree-holders who have complied with the said notice, and whose

claims were included in the amount ordered to be recovered;

and no other holder of a decree for money shall be entitled to be paid out of such property or balance until the decree-holders who have obtained such order have been satisfied;

and the residue, if any, shall be paid to the judgment-debtor or such other person, if any, as the Court directs.

"325. When the Collector sells any property under this chapter, he Sales how to be conducted. shall put it up to public auction, in one or more lots as he thinks fit, and may—

(a) fix a reasonable reserved price for each lot;

(b) adjourn the sale for a reasonable time, whenever he deems the adjournment necessary for the purpose of obtaining a fair price for the property, recording his reasons for such adjournment;

(c) buy in the property offered for sale, and re-sell the same by public auction or private contract, as he thinks fit.

"325A. So long as the Collector can exercise Restrictions as to alienation by judgment-debtor or his representative, and prosecution of remedies by decree-holders. or perform in respect of the judgment-debtor's immoveable property, or any part thereof, any of the powers or duties conferred or imposed on him by sections 322 to 325 (both inclusive), the judgment-debtor or his representative in interest shall be incompetent to mortgage, charge, lease or alienate such property or part except with the written permission of the Collector, nor shall any Civil Court issue any process against such property or part in execution of a decree for money.

During the same period no Civil Court shall issue any process of execution either against the judgment-debtor or his property in respect of any decree for the satisfaction whereof provision has been made by the Collector under section 323.

The same period shall be excluded in calculating the period of limitation applicable to the execution of any decree affected by the provisions of this section in respect of any remedy of which the decree-holder has thereby been temporarily deprived.

"325B. When the property of which the sale Provision where property is in several districts. has been ordered is situate in more districts than one, the powers and duties conferred and imposed on the Collector by sections 321 to 325 (both inclusive) shall from time to time be exercised and performed by such one of the Collectors of the said districts as the Local Government may by general rule or special order direct.

"325C. In exercising the powers conferred Powers of Collector to compel attendance of parties and witnesses and production of documents. on him by sections 322 to 325 (both inclusive), the Collector shall have the powers of a Civil Court to compel the attendance of parties and witnesses and the production of documents."

Amendment of section 326. 51. In section 326, for the last sentence, the following shall be substituted (namely) :—

“In such case the provisions of sections 320, paragraph two, to 325C (both inclusive) shall apply, as far as they are applicable.”

Amendment of section 331. 52. In section 331, paragraph two, for the words and figures “the Specific Relief Act, 1877, section 9,” the word and figure “Chapter V” shall be substituted; and to the same section the following paragraph shall be added (namely), “Every such order shall have the same force as a decree and shall be subject to the same conditions as to appeal or otherwise.”

Amendment of section 332. 53. In section 332, first paragraph, for the word “defendant,” the word “judgment-debtor” shall be substituted; and for the other paragraphs, the following shall be substituted (namely), “If after examining the applicant it appears to the Court that there is probable cause for making the application, the Court shall proceed to investigate the matter in dispute; and if it finds that the ground mentioned in the first paragraph of this section exists, it shall make an order that the applicant recover possession of the property, and if it does not find as aforesaid, it shall dismiss the application.”

“In hearing applications under this section, the Court shall confine itself to the grounds of dispute above specified.

“The party against whom an order is passed under this section may institute a suit to establish the right which he claims to the present possession of the property; but, subject to the result of such suit, if any, the order shall be final.”

Amendment of section 333. 54. For section 333 the following shall be substituted (namely) :—

“333. Nothing in section 331 or 332 applies to a person to whom the judgment-debtor has transferred the property after the institution of the suit in which the decree is made.”

Amendment of section 335. 55. In section 335, for the first paragraph the following shall be substituted (namely) :—

“335. If the purchaser of any such property is resisted or obstructed by any person, other than the judgment-debtor, claiming in good faith a right to the present possession thereof, or, if, in delivering possession thereof, any such person is dispossessed, the Court on the complaint of the purchaser or the person so dispossessed, shall enquire into the matter of the resistance, obstruction or dispossession, as the case may be, and pass such order thereon as it thinks fit;”

and in the second paragraph of the same section, for the word “conclusive,” the word “final” shall be substituted.

Amendment of section 336. 56. In section 336, for the first proviso, the following shall be substituted :—

“Provided that for the purpose of making an arrest under this section no dwelling-house shall be entered after sunset or before sunrise, and no outer door of a dwelling-house shall be broken open :

“But when the officer authorized to make the arrest has duly gained access to any dwelling-house, he may unfasten and open the door of any room in which he has reason to believe the judgment-debtor is to be found : provided that, if the room be in the actual occupancy of a woman who is not the judgment-debtor, and who according to the customs of the country does not appear in public, the officer shall give notice to her that she is at liberty to withdraw; and, after allowing a reasonable time for her to withdraw and giving her every reasonable facility for withdrawing, he may enter such room for the purpose of making the arrest.”

Amendment of section 339. 57. In section 339, paragraph four, after the word “made,” the words “to the proper officer of the Court” shall be inserted; and to the same paragraph, the following words shall be added (namely), “and the subsequent payments (if any) shall be made to the officer in charge of the jail.”

Amendment of section 341. 58. In section 341, for clauses (a), (b), (c), (d) and (e) and the proviso, the following shall be substituted (namely) :—

“(a) on the amount mentioned in the warrant of committal being paid to the officer in charge of the jail; or

(b) on the decree being otherwise fully satisfied; or

(c) at the request of the person on whose application he has been imprisoned; or

(d) on such person omitting to pay the allowance as hereinbefore directed; or

(e) if the judgment-debtor be declared an insolvent, as hereinafter provided; or

(f) when the term of his imprisonment, as limited by section 342, is fulfilled :”

Provided that in the second, third and fifth cases mentioned in this section the judgment-debtor shall not be discharged without the order of the Court.”

Amendment of sections 344, 345, 347, 349, 350, 351, 356, 357, 358, 359 and 360. 59. For section 344, the following shall be substituted :—

“344. Any judgment-debtor arrested or imprisoned in execution of a decree for money, or against whose property an order of attachment has been made in execution of such a decree, may apply in writing to be declared an insolvent.

Power to apply for declaration of insolvency. “Any holder of a decree for money may apply in writing that the judgment-debtor may be declared an insolvent.

“Every such application shall be made to the District Court within the local limits of whose jurisdiction the judgment-debtor resides or is in custody.”

In section 345, for the first line and clause (a), the following shall be substituted (namely) :—

Contents of application. "345. The application, when made by the judgment-debtor, shall set forth—

"(a) the fact of his arrest or imprisonment, or that an order for the attachment of his property has been made, the Court by whose order he was arrested or imprisoned, or by which the order of attachment was made, and, where he has been arrested or imprisoned, the place in which he is in custody."

And to the same section the following paragraph shall be added:—

"The application, when made by the holder of a decree for money, shall set forth the date of the decree, the Court by which it was passed, the amount remaining due thereunder, and the place where the judgment-debtor resides or is in custody."

In section 347, for the first paragraph, the following shall be inserted (namely):—

"347. The Court shall fix a day for hearing the application, and shall cause a copy thereof, with a notice in writing of the time and place at which it will be heard, to be stuck up in Court and served at the applicant's expense—

"where the applicant is the judgment-debtor on the holder of the decree in execution of which he was arrested or imprisoned or the order of attachment was made, or on the pleader of such decree-holder, and on the other creditors (if any) mentioned in the application:

"where the applicant is the decree-holder on the judgment-debtor or his pleader."

44. To section 349 the following words shall be added (namely), "or release him on his furnishing sufficient security that he will appear when called upon."

In sections 349, 350 and 351, for the word "applicant" wherever it occurs, the word "judgment-debtor" shall be substituted.

In section 351, clause (b), after the word "imprisoned" the words "or the order of attachment was made" shall be inserted.

In section 356 for clause (d), the following clauses shall be substituted:—

"(d) to discharge according to their respective priorities all debts secured by mortgage of the insolvent's property:

(e) to distribute the balance among the scheduled creditors rateably according to the amounts of their respective debts and without any preference."

And to the same section the following shall be added (namely):—

"Provided that in any local area in which a declaration has been made under section 320, and is in force, no sale of immoveable property paying revenue to Government or held or let for agricultural purposes shall be made by the Receiver; but after he has sold the other property of the insolvent, the Court shall ascertain (a) the amount required to satisfy the claims of the scheduled creditors after deducting the monies already received, (b) the immoveable property of the

insolvent remaining unsold, and (c) the incumbrances, if any, existing thereon; and shall forward a statement to the Collector containing the particulars aforesaid; and thereupon the Collector shall proceed to raise the amount so required by the exercise of such of the powers conferred on him by sections 322 to 325 both inclusive, as he thinks fit, and subject to the provisions of those sections so far as they may be applicable; and shall hold at the disposal of the Court all sums that may come to his hands by such exercise."

In section 357, for the figures "355," the figures and word "351 or 355" shall be substituted.

And for the words "decrees against him held by the scheduled creditors are fully satisfied or become capable of being executed," the following shall be substituted (namely): "debts due to the scheduled creditors are satisfied to the extent of one-third, or until the expiry of twelve years from the date of the order of discharge under section 351 or 355."

For section 358 the following shall be substituted:—

"358. If the aggregate amount of the scheduled debts is two hundred rupees or a less sum, the Court may, and in any case after the scheduled debts have been satisfied to the extent of one-third, or after the expiry of twelve years from the order of discharge, the Court shall declare the insolvent discharged as aforesaid absolved from further liability in respect of such debts."

In section 359, after the words "sentence him" the words "by order in writing" shall be inserted.

To section 360 the following paragraph shall be added (namely):—

"Nothing in this chapter shall apply to any Court having jurisdiction in the towns of Rangoon, Maulmain, Akyab and Bassein where the property of the judgment-debtor exceeds in value two thousand five hundred rupees, or the amount of the pecuniary claims against him exceeds five thousand rupees, or such property or any part thereof is situate outside British-Burma."

60. In sections 361, 362, 363, 365 and 368, for the words "cause of action" wherever they occur, the words "right to sue" shall be substituted; and to section 368 the following clause shall be added (namely): "When the plaintiff fails to make such application within the period prescribed therefor, the suit shall abate."

61. In section 364, paragraph one, and section 366, paragraph one, after the word "If," the words "within the time limited by law" shall be inserted; and in the latter section, paragraph one, before the word "award" the words "shall, on the application of the defendant," shall be inserted.

62. In section 371, paragraph two, after the word "deceased" the word "or" shall be inserted.



63. In section 373, paragraph one, for the words "for the part," the words "in respect of the part" shall be substituted; and to paragraph two, the words "or in respect of the same part" shall be added.

64. In section 375, after the word "adjusted" the words "wholly or in part" shall be inserted: after the words "respect to," the words "the whole or any part of" shall be inserted; and to the same section shall be added the words "so far as relates to so much of the subject-matter of the suit as is dealt with by the agreement, compromise or satisfaction."

65. In section 377, for the first seven words, the following shall be substituted (namely): "Notice in writing of the deposit shall be given through the Court."

66. In sections 384, 477 and 483, after the word "affidavit," the words "or otherwise" shall be inserted.

67. In section 386, for the second paragraph and the two provisos the following shall be substituted (namely): "Such commission may be issued to any Court, not being a High Court or the Court of the Recorder of Rangoon, within the local limits of whose jurisdiction such person resides, or to any pleader of a High Court whom the Court issuing the commission thinks fit to appoint."

68. In section 406, for the word "shall" the words "may, if he thinks fit," shall be substituted.

69. In section 412, after the word "disappeared" the words and figures "or if the suit is dismissed under section 97 or 98" shall be inserted.

70. In section 413, for the word "Refusal" the words and figures "An order of refusal made under section 409" shall be substituted.

71. In section 424, after the words "against a public officer," the words "in respect of an act purporting to be done by him in his official capacity" shall be inserted; and in sections 428 and 429, after the words "public officer" the words "in respect of such act as aforesaid" shall be inserted.

72. In section 437, for the first sentence, the following shall be substituted (namely): "In all suits concerning property vested in a trustee, executor or administrator, when the contention is between the persons beneficially interested in such property and a third person, the trustee, executor or administrator shall represent the persons so interested, and it shall not ordinarily be necessary to make them parties to the suit."

73. In section 456, for the words "in the name of the minor" the words "in the name and on behalf of the minor or by the plaintiff" shall be substituted; and to the same section the following paragraph shall be added (namely): "Where there is no other person fit and willing to act as guardian for the suit, the Court may appoint any of its officers to be such guardian; provided that he has no interest adverse to that of the minor."

74. In section 469, after the word "arrest," and after the word "warrant" (in each of the places where it occurs) the words "or other process" shall be inserted; and in the second paragraph, after the words "signature, and" the words "in the case of a warrant of arrest" shall be inserted.

75. To section 473, the words "and shall adjudicate on such claim" shall be added.

76. In the last paragraph of section 478, for the words "an order for bringing the defendant" the words "a warrant to arrest the defendant and bring him" shall be substituted.

77. To section 481, the following words shall be added (namely): "provided that no person shall be detained in prison under this section after he has complied with such order."

78. In section 483, after the words "portion of his property" the words "within the jurisdiction of the Court" shall be inserted.

79. In section 484, after the word "suit" the words "or that he has with such intent quitted the jurisdiction of the Court, leaving therein property belonging to him" shall be inserted.

80. In section 497, clause one, for the words "the injunction," the words "an injunction which it has granted" shall be substituted.

81. In section 523, paragraph three, for the words "any of" the word "all" shall be substituted.

82. In the last clause of section 539, for the words "(where there is no Advocate General), he exercised by the Government Advocate, or (where there is no Government Advocate)" the following words shall be substituted (namely): "outside the Presidency-towns be exercised also by the Collector or."

83. In section 544, for the words "decree and," the words "decree, and thereupon" shall be substituted.

84. For section 555 the following shall be substituted (namely):—

“ 555. On the day so fixed, or on any other day to which the hearing may be adjourned, the appellant shall be heard in support of the appeal. The Court shall then, if it does not dismiss the appeal at once, hear the respondent against the appeal, and in such case the appellant shall be entitled to reply.”

85. In section 560, for the words “ it be proved that the respondent,” the words “ he satisfies the Court that the notice was not duly served, or that he ” shall be substituted.

86. In section 561, for the words “ given to the appellant or his pleader seven days’ notice of such objection,” the words “ filed a notice of such objection not less than seven days before the date fixed for the hearing of the appeal ” shall be substituted.

87. In section 566, paragraph two, for the word “ issue,” the word “ issues ” shall be substituted.

88. For the first paragraph of section 582, the following shall be substituted (namely) :—

“ 582. The Appellate Court shall have, in appeals under this chapter, the same powers, and shall perform as nearly as may be the same duties, as are conferred and imposed by this Code on Courts of original jurisdiction in respect of suits instituted under chapter V; and in sections 363 and 365, the word ‘ plaintiff ’ shall be held to include an appellant.”

89. In section 584, clause (c), after the word “ may ” the word “ possibly ” shall be inserted.

90. In section 588, for clauses (a) to (v), the following shall be substituted (namely) :—

“(1) orders under section 20, staying proceeding in a suit ;

(2) orders under section 32, striking out or adding the name of any person as plaintiff or defendant ;

(3) orders under section 36 or section 66, directing that a party shall appear in person ;

(4) orders under section 44, adding a cause of action ;

(5) orders under section 47, excluding a cause of action ;

(6) orders returning plaints for amendment or to be presented to the proper Court ;

(7) orders under section 111, setting-off, or refusing to set-off, one debt against another ;

(8) orders rejecting applications under section 103 (in cases open to appeal) for an order to set aside the dismissal of a suit ;

(9) orders rejecting applications under section 108 for an order to set aside a decree *ex parte* ;

(10) orders under sections 113, 120 and 177 ;

(11) orders under section 116 or section 245, rejecting, or returning for amendment, written statements or applications for execution of decrees ;

(12) orders under sections 143 and 145, directing anything to be impounded ;

(13) orders under section 162 for the attachment and sale of moveable property ;

(14) orders under section 168 for attachment of property, and orders under section 170 for the sale of attached property ;

(15) orders under section 261 as to objections to draft conveyances or draft endorsements ;

(16) orders under section 294, the first paragraph of section 312, or section 313, for confirming, or setting aside, or refusing to set aside, a sale of immovable property ;

(17) orders in insolvency-matters, under section 351, 352, 353 or 357 ;

(18) orders under section 366, paragraph two, section 367 or 368 ;

(19) orders rejecting applications under section 370 for dismissal of a suit ;

(20) orders under section 371, refusing to set aside the abatement or dismissal of a suit ;

(21) orders disallowing objections, under section 372 ;

(22) orders under section 454, 455 or 458, directing a next friend or guardian for the suit to pay costs ;

(23) orders in interpleader suits under section 473, clause (a), (b) or (d), section 475 or section 476 ;

(24) orders under section 479, 480, 485, 492, 493, 496, 497, 502 or 503 ;

(25) orders under section 514, superseding an arbitration ;

(26) orders under section 518, modifying an award ;

(27) orders of refusal under section 558 to re-admit, or under section 560 to re-hear, an appeal ;

(28) orders under section 562, remanding a case :

(29) orders under any of the provisions of this Code, imposing fines, or for the arrest or imprisonment of any person, except when such imprisonment is in execution of a decree.”

91. For the first paragraph of section 589 the following shall be substituted :—

“ 589. An appeal from any order specified in section 588, clauses (15), (16) and (17), shall lie to the High Court.”

92. In section 622, after the words “ so vested,” the words “ or to have acted in the exercise of its jurisdiction illegally or with material irregularity ” shall be inserted.

93. In section 638, for the figures and word “ 16 and 17 ” the figures and word “ 16, 17 and 19 ” shall be substituted ; and in the last paragraph, after the word “ any ” the words “ Judge of a ” shall be inserted ; and the word “ its ” shall be omitted.

94. In section 642, for the second paragraph the following shall be substituted (namely) :—

“ And except as provided in sections 256 and 643, where any matter is

pending before a tribunal having jurisdiction therein, or believing in good faith that it has such jurisdiction, the parties thereto, their pleaders, Mukhtyárs, revenue-agents and recognized agents, and their witnesses acting in obedience to a summons, shall be exempt from arrest under this Code while going to or attending such tribunal for the purpose of such matter, and while returning from such tribunal."

Amendment of section 648. 95. For section 648, the following shall be substituted (namely) :—

" 648. Where any Court desires that any person shall be arrested or any property shall be attached under any provision of this Code not relating to the execution of decrees, and such person resides or property is situate outside the local limits of its jurisdiction, the Court may, in its discretion, issue a warrant of arrest or make an order of attachment, and send to the District Court within the local limits of whose jurisdiction such person or property resides or is situate a copy of the warrant or order, together with the probable amount of the costs of the arrest or attachment.

Procedure when person to be arrested or property to be attached is outside the district.

"The District Court shall, on receipt of such copy and amount, cause the arrest or attachment to be made by its own officers, or by a Court subordinate to itself, and shall inform the Court which issued or made such warrant or order of the arrest or attachment ;

"and the Court making any arrest under this section shall send the person arrested to the Court by which the warrant of arrest was issued, unless he furnishes sufficient security for his appearance before that Court, or (where the case is one under chapter XXXIV) for satisfying any decree that may be passed against him by such Court, in either of which cases the Court making the arrest shall release him."

Amendment of section 649. 96. To section 649 the following paragraph shall be added (namely) :—

"In the same chapter, the expression ' Court which passed a decree ' or words to that effect, shall, unless there be something repugnant in the context, be deemed to include, where the decree to be executed is passed in appeal, the Court which passed the decree against which the appeal was preferred, and, where the Court which passed the decree to be executed has ceased to exist, or to have jurisdiction to execute it, the Court which, if the suit wherein the decree was passed were instituted at the time of making application for execution of the decree, would have jurisdiction to try such suit."

97. After section 650 the following shall be inserted (namely) :—

" 650A. Summonses issued by any Court situate beyond the limits of British India may be sent to the Courts in British India and served as if they had been issued by such Courts: provided that the Courts issuing such summonses have been established by the authority

Service of foreign summonses.

of the Governor General in Council, or that the Governor General in Council has, by notification in the *Gazette of India*, declared the provisions of this section to apply to such Courts."

98. In section 652, after the words " connected with," the words " its own procedure or " shall be inserted.

Amendment of section 652.

99. In the first schedule, column third, opposite " XI of 1865," for the figures and word " 11, paragraph 2," the figures and words " 11, the last nineteen words of section 13, section 19," shall be substituted ; and opposite " V. of 1866," after the word " inclusive," the words " and the schedule " shall be inserted.

Amendment of schedule I.

100. In the second schedule—

Amendment of schedule II.

for the figures " 230," the figures " 223 " shall be substituted :

before the word and figures " Chapter XXI " the words and figures " Chapter XX. section 360 —Power to invest certain Courts with insolvency-jurisdiction " shall be inserted :

after the words and figures " Chapter XXXIV—Of arrest and attachment before judgment," the words and figures " except as regards immovable property, Chapter XXXVI—Appointment of receivers " shall be inserted : and

for the figures " 522 " the figures " 526 " shall be substituted.

101. In the fourth schedule, to the note to form No. 145 the following words shall be added (namely) : " and as fairly and accurately as possible the other particulars required by section 287 to be specified " ; in form No. 149, for the word " thirty " the word " sixty " shall be substituted ; and in form No. 172, for the word " seven " in each of the places where it occurs, the word " ten " shall be substituted.

Amendments of schedule IV.

102. Every appeal now pending which would have lain if this Act had been in force on the date of its institution shall be heard and determined as if the Act had been in force on such date ; and every order heretofore passed purporting to transfer a case to a Collector under section 320 and every notification heretofore published purporting to be issued under section 360, shall be deemed to have been respectively passed and issued in accordance with law.

Pending appeals.

Orders and notifications under sections 320 and 360.

103. In the preceding sections of this Act, the words " section " and " schedule " respectively mean section of, and schedule annexed to, the said Code.

Interpretation-clause.

AND whereas it is also expedient to amend the Indian Registration Act, 1877, in manner herein-after appearing ; It is hereby further enacted as follows :—

104. In section 35 of the same Act, after the words "person appears," the words "to the registering officer" shall be inserted; and after the words "refuse to register the document," the words "as to the person so denying, appearing or dead" shall be inserted.

105. In section 51 of the same Act, for the figures "87," the figures "89" shall be substituted.

106. In section 83 of the same Act, for the words "Subordinate Magistrate of the first" the words "Magistrate of the second" shall be substituted.

107. In section 89 of the same Act, for the words "the certificate," the words "the copy" shall be substituted, and to the same section the following paragraph shall be added (namely) :—

"Every Court granting a certificate under section 316 of the Code of Civil Procedure shall send a copy of such certificate to the registering officer within the local limits of whose jurisdiction the whole or any part of the immoveable property comprised in such certificate is situate, and such officer shall file the copy in his Book No. 1."

AND whereas it is also expedient to amend the Indian Limitation Act, 1877, in manner hereinafter appearing; It is hereby further enacted as follows :—

108. In the second schedule to the said Indian Limitation Act, 1877,—

for No. 161, the following shall be substituted, namely :—

"161.—For the issue of a notice under section 258 of the same Code to show cause why the payment or adjustment therein mentioned should not be recorded as certified.	Twenty days.	When the payment or adjustment is made."
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to No. 166, column one, the following words shall be added (namely) : "or on the ground that the decree-holder has purchased without the permission of the Court";

to No. 171, column one, the words "or appellant" shall be added; and in column three, after the word "plaintiff's," the words "or appellant's" shall be inserted;

after No. 171, the following shall be inserted, (namely) :—

"171A.—Under section 366 of the same Code, by the defendant.	Sixty days...	The date of the plaintiff's death.
"171B.—Under section 368 of the same Code, to have the representative of a deceased defendant made a defendant.	Ditto ...	The date of the defendant's death.
"171C.—Under section 371 of the same Code, for an order to set aside an order for abatement or dismissal.	Ditto ...	The date of the order for abatement or dismissal."

and in No. 179, column three, paragraph 6, for the words "specified date) the date so specified" the words "certain date) such date" shall be substituted.

D. FITZPATRICK,  
Secy. to the Govt. of India,  
Legislative Department.

[Published with the "Bombay Government Gazette" on the 28th August 1879.]

## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 29th July 1879, and was promulgated for general information in the *Gazette of India* of the 2nd August 1879:—

#### Act No. XII. of 1879.

*An Act to amend the Code of Civil Procedure, the Registration Act, 1877, and the Limitation Act, 1877.*

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

Preamble.

1. The following portions of the said Code shall be repealed (namely):—

Repeal of certain portions of Act X. of 1877.

In section 4, the words and figures "The Panjáb Courts Act, 1865," and "The Panjáb Appeals Act, 1873":

In section 5, the third sentence:

In section 51, the words "with the permission of the Court":

In section 52, from and including the words "and when he makes it out of Court" to the end:

In section 61, the words "bill of exchange or other":

In section 64, the words "or as soon thereafter as may be practicable":

In section 80, the words "or to receive the copy of the summons":

In section 97, the words "a duly authorized":

In sections 113 and 177 the word "other":

In section 115, the second paragraph:

In section 131, the words "in whose plaint, written statement or affidavits reference is made to any document"; and the words "in the presence of such officer as the Court appoints in this behalf":

In section 199, the words from and including "and in" to the end:

In section 221, the second paragraph:

In section 224, the word "therewith":

In section 230, paragraphs three and four, the words "unless the Court is satisfied that on the last preceding application due diligence was used to procure complete satisfaction of the decree; and the order of the Court granting any such subsequent application shall be conclusive evidence that due diligence was used to procure such satisfaction. And no such subsequent application shall be granted":

In section 246, clause (e) and the letters (f) and (g):

In section 259, the words "and keeping the same under attachment until the further order of the Court":

In section 339, paragraph three, the words "to the proper officer of the Court":

In section 353, the words "within three months from its publication", and "within three months from the publication of the schedule":

In section 355, paragraph two, the words "from arrest or imprisonment, as the case may be":

In sections 407 and 408, the words "upon such examination":

In section 638, the figures "261":

In the second schedule, the words and figures "section 648 (so far as relates to arrest)."

In the fourth schedule, No. 152, the words "ON SECURITIES BEING GIVEN," and "on security to the amount of Rs. decreed to the in the above suit, being given to your satisfaction."

2. In section 2, for the definitions of "judgment" and "decree," the Amendment of section 2 following shall be substituted (namely):

"'decree' means the formal expression of an adjudication upon any right claimed, or defence set up, in a Civil Court when such adjudication, so far as regards the Court expressing it, decides the suit or appeal. An order rejecting a plaint, or directing accounts to be taken, or determining any question mentioned or referred to in section 244 but not specified in section 588, is within this definition: an order specified in section 588, is not within this definition:

“order” means the formal expression of any decision of a Civil Court which is not a decree as above defined:

“judgment” means the statement given by the Judge of the grounds of a decree or order.”

In the same section, to the definition of “signed,” the following words shall be added (namely), “it also includes stamped with the name of the person referred to.”

3. In section 3, for the last paragraph the following shall be substituted (namely) :—

Amendment of section 3. “Save as provided by section 99A, nothing herein contained shall affect any proceedings prior to decree in any suit instituted or appeal presented before the first day of October 1877, or any proceedings after decree that may have been commenced and were still pending at that date.”

4. In section 4, for the words “local law” in each of the places where they occur, the words “law heretofore or hereafter passed under the Indian Councils Act, 1861, by a Governor or a Lieutenant-Governor in Council” shall be substituted; and for the words “landlord and tenant” the words “landholders and their tenants or agents” shall be substituted.

Act No. XVIII. of 1878 (to amend the Code of Civil Procedure, section 4), is hereby repealed.

5. In section 5, to the first sentence, the following shall be added (namely): “and to all other Courts (other than the Courts of Small Causes in the towns of Calcutta, Madras and Bombay) exercising the jurisdiction of a Court of Small Causes.”

6. In section 13, for the first paragraph, the following shall be substituted (namely) :—

Amendment of section 13. “13. No Court shall try any suit or issue in which the matter directly and substantially in issue, having been directly and substantially in issue in a former suit in a Court of competent jurisdiction, between the same parties, or between parties under whom they or any of them claim, litigating under the same title, has been heard and finally decided by such Court,”

and in the same section, explanation I, for the word “confessed” the word “admitted” shall be substituted.

7. In section 43, paragraph one, for the words “arising out of” the words “which the plaintiff is entitled to make in respect of” shall be substituted: in the same section, paragraph two, for the word “for” (in each of the places where it occurs) the words “in respect of” shall be substituted; and in the same section, paragraph three, for the word “claim” the words “cause of action” shall be substituted;

and to the same section the following paragraph shall be added: “For the purpose of this section, an obligation and a collateral security for its performance shall be deemed to constitute but one cause of action.”

8. To section 44 the following words shall be added (namely): “or are such as he was entitled to; or liable for, jointly with the deceased person whom he represents.”

9. In section 45, for paragraph one, the following shall be substituted (namely): “subject to the rules contained in chapter II and in section 44, the plaintiff may unite in the same suit several causes of action against the same defendant or the same defendants jointly; and any plaintiffs having causes of action in which they are jointly interested against the same defendant or the same defendants jointly may unite such causes of action in the same suit”:

Amendment of section 45. in the same section, paragraph two, for the words “the defendant” the words “any defendant, or at any subsequent stage of the suit, if the parties agree” shall be substituted.

10. In section 50, for the word “abode” in each of the places where it occurs, the word “residence” shall be substituted.

Amendment of section 50. 11. To section 51 the following proviso shall be added (namely) :—

Amendment of section 51. “Provided that, if the plaintiff, by reason of absence or for other good cause, is unable to sign the plaint, it may be signed by any person duly authorized by him in this behalf.”

12. In sections 51, 53, 115, 346, 393 and 403, for the word “subscribed” (wherever it occurs) the word “signed” shall be substituted: in sections 115 and 346, for the word “subscribing” the word “signing” shall be substituted; and in section 403, for the word “subscription” the word “signing” shall be substituted.

Amendment of sundry sections. 13. In section 58, for the word “filed” the word “produced” shall be substituted.

Amendment of section 58. 14. In section 68, for the word “cognizable” the word “heard” shall be substituted.

Amendment of sections 93, 95, and 397. 15. In section 93, after the word “levied” and in section 95, after the word “paid,” and in section 397, after the word “be,” the words “within a time to be fixed by the Court” shall be inserted.

Addition to section 99. 16. After section 99, the following shall be inserted (namely) :—

“99A. If, after a summons has, whether before or after the first day of October 1877, been issued to the defendant, or to one of several defendants and returned unserved, the plaintiff fails for a period of one year from such return to apply for the issue of a fresh summons and to satisfy the Court that he has used his best endeavours to discover the residence of the defendant who has not been served, or that

Dismissal of suit where plaintiff after summons returned unserved fails for a year to apply for fresh summons.

such defendant is avoiding service of process, the Court may dismiss the suit as against such defendant.

"In such case the plaintiff may (subject to the law of limitation) bring a fresh suit."

17. In section 108, paragraph one, the words and figures "under section 100" shall be omitted; and in the same section, paragraph two, for the words "it be proved to the satisfaction of the Court that the defendant," the words "he satisfies the Court that the summons was not duly served, or that he" shall be substituted.

18. In section 131, paragraph one, for the word "Every" the word "Any" shall be substituted, and for the words "such document" the words "any specified document" shall be substituted.

19. In section 136, after the word "discovery" (in each of the places in which it occurs) the word "production" shall be inserted.

20. In section 139, for the words and figures "the production of which has been called for under section 138 and which has not been produced" the words and figures "which should have been, but has not been, produced in accordance with the requirements of section 138" shall be substituted.

21. In section 207, for the words "or numbers" to the end the following words shall be substituted (namely): "or by numbers in a record of settlement or survey, the decree shall specify such boundaries or numbers."

22. In section 211, for the words "land or other," the words "therecovery of possession of immoveable" shall be substituted: to the same section the words "together with interest on such profits" shall be added; and in section 212, before the word "immoveable" the words "the recovery of possession of" shall be inserted.

23. After section 215 the following section shall be inserted (namely):—

"215A. When a suit is for an account of pecuniary transactions between a principal and agent, and in all other suits not hereinbefore provided for, where it is necessary, in order to ascertain the amount of money due to or from any party, that an account should be taken, the Court shall, before making its decree, pass an order directing such accounts to be taken as it thinks fit."

24. To section 220 the following words shall be added (namely): "Every order relating to costs made under this

Code and not forming part of a decree may be executed as if it were a decree for money."

25. In section 223, clause (c), for the words "district within which" the words "local limits of the jurisdiction of" shall be substituted; and in the penultimate paragraph of the same section, for the words "local Court of Small Causes" the words "Court of Small Causes in Calcutta, Madras, Bombay or Rangoon, as the case may be," shall be substituted.

26. In section 229, for the words "Native Prince or State in India" the words "Foreign Prince or State" shall be substituted.

27. In section 230, clause (b), for the words "the payment of money or the delivery of property by instalments—the date of the default in paying or delivering the instalment" the following words shall be substituted (namely): "any payment of money, or the delivery of any property, to be made at a certain date—the date of the default in making the payment or delivering the property."

28. In the second proviso to section 232, after the word "decree" the words "for money" shall be inserted.

29. In section 235, for the words "in manner hereinbefore provided for the verification of plaints," the following words shall be substituted (namely), "by the applicant or by some other person proved to the satisfaction of the Court, to be acquainted with the facts of the case."

30. In sections 236 and 237, for the words "If the application be," the words "Whenever an application is made" shall be substituted.

31. In section 244, clause (c), after the word "execution," the words "discharge or satisfaction" shall be inserted.

32. In section 245, for the first sentence, the following shall be substituted (namely): "The Court on receiving an application for the execution of a decree shall ascertain whether such of the requirements of sections 235, 236, 237 and 238 as may be applicable to the case have been complied with; and if they have not been complied with, the Court may reject the application, or may allow it to be amended then and there, or within a time fixed by the Court. If the application be not so amended, it shall be rejected."

33. In section 246, for Explanation I, the following shall be substituted (namely):—

"Explanation I.—The decrees contemplated by this section are decrees capable of execution at the same time and by the same Court."

In Explanation II, after the words "assignor as" the words "in respect of judgment-debts due" shall be inserted.

34. In section 252, for the words "If no such property can be found and the judgment-debtor," the words "If no such property remains in the possession of the judgment-debtor, and he" shall be substituted.

Amendment of section 252. 35. After section 257 the following shall be inserted:—

"257A. Every agreement to give time for the satisfaction of a judgment-debt shall be void unless it is made for consideration and with the sanction of the Court which passed the decree, and such Court deems the consideration to be under the circumstances reasonable.

Agreement to give time to judgment-debtor. "Every agreement for the satisfaction of a judgment-debt, which provides for the payment, directly or indirectly, of any sum in excess of the sum due, or to accrue due under the decree, shall be void unless it is made with the like sanction.

Agreement for satisfaction of judgment-debt. "Any sum paid in contravention of the provisions of this section shall be applied to the satisfaction of the judgment-debt; and the surplus, if any, shall be recoverable by the judgment-debtor."

Amendment of section 258. 36. For section 258 the following shall be substituted:—

"258. If any money payable under a decree is paid out of Court, or the decree is otherwise adjusted in whole or in part to the satisfaction of the decree-holder, or if any payment is made in pursuance of an agreement of the nature mentioned in section 257A, the decree-holder shall certify such payment or adjustment to the Court whose duty it is to execute the decree.

"The judgment-debtor also may inform the Court of such payment or adjustment, and apply to the Court to issue a notice to the decree-holder to show cause, on a day to be fixed by the Court, why such payment or adjustment should not be recorded as certified; and if, after due service of such notice, the decree-holder fails to appear on the day fixed, or having appeared fails to show cause why the payment or adjustment should not be recorded as certified, the Court shall record the same accordingly.

"No such payment or adjustment shall be recognized by any Court unless it has been certified as aforesaid."

37. For the second paragraph of section 259, the following shall be substituted:—

Amendment of section 259. "When any attachment under this section has remained in force for six months, if the judgment-debtor has not obeyed the decree, and the decree-

holder has applied to have the attached property sold, such property may be sold; and out of the proceeds the Court may award to the decree-holder, in cases where any amount has been fixed under section 208, such amount, and, in other cases, such compensation as it thinks fit, and shall pay the balance, if any, to the judgment-debtor on his application.

"If the judgment-debtor has obeyed the decree and paid all costs of executing the same which he is bound to pay, or if, at the end of six months from the date of the attachment, no application to have the property sold has been made, or, if made, has been refused, the attachment shall cease to exist."

38. In section 260, in the first paragraph, after the words "the performance of," the words "or abstention from" shall be inserted; and for the second paragraph the following paragraphs shall be substituted (namely):—

Amendment of section 260. "When any attachment under this section has remained in force for one year, if the judgment-debtor has not obeyed the decree and the decree-holder has applied to have the attached property sold, the property may be sold; and out of the proceeds the Court may award to the decree-holder such compensation as it thinks fit, and may pay the balance, if any, to the judgment-debtor on his application.

"If the judgment-debtor has obeyed the decree and paid all costs of executing the same which he is bound to pay, or if, at the end of one year from the date of the attachment, no application to have the property sold has been made and granted, the attachment shall cease to exist."

39. In section 264, after the words "the same" the words "and not bound by the decree to relinquish such occupancy" shall be inserted.

40. To section 265 the following words shall be added (namely), "and according to the law, if any, for the time being in force for the partition, or the separate possession of shares, of such estates."

41. For the last paragraph of section 268, the following shall be substituted (namely):—

Amendment of section 268. "In the case of the salary of a public officer or the servant of a Railway Company, the attachment shall be made by a written order requiring the officer whose duty it is to disburse the salary to withhold every month such portion as the Court may direct, until the further orders of the Court.

"A copy of every such order shall be fixed up in a conspicuous part of the court-house, and shall be served on the officer so required.

"Every such officer may from time to time pay into Court any portion so withheld, and such payment shall discharge the Government or the Railway Company, as the case may be, as effectually as payment to the judgment-debtor."



42. For the first paragraph of section 271 the following shall be substituted:—

Amendment of section 271. "271. No person executing any process under this Code, directing or authorizing seizure of moveable property, shall enter any dwelling-house after sunset and before sunrise, or shall break open any outer door of a dwelling-house. But when any such person has duly gained access to any dwelling-house, he may unfasten and open the door of any room in which he has reason to believe any such property to be."

43. To section 289, paragraph one, the following words shall be added (namely): "and a copy thereof shall be fixed up in the court-house and, in the case of land paying revenue to Government, also in the Collector's office"; and in section 290, for the words "notification has been affixed," the words "copy of the proclamation has been fixed up" shall be substituted.

44. In section 291, for the first eight words the following shall be substituted (namely): "The Court may in its discretion adjourn any sale under this chapter (other than a sale by the Collector) to a specified day and hour, and the officer conducting any such sale;" and in the same section, after the proviso, the following sentence shall be inserted, (namely): "whenever a sale is adjourned under this section for a longer period than seven days, a fresh proclamation under section 289 shall be made, unless the judgment-debtor consents to waive it."

Amendment of section 294. 45. To section 294 the following paragraph shall be added (namely):—

"When a decree-holder purchases, by himself or through another person, without such permission, the Court may, if it thinks fit, on the application of the judgment-debtor or any other person interested in the sale, by order set aside the sale; and the costs of such application and order, and any deficiency of price which may happen on the re-sale, and all expenses attending it, shall be paid by the decree-holder."

46. In section 295, first proviso, after the words "shall not," the words "as such" shall be inserted.

and after the second proviso the following shall be inserted:—

"Provided also that, when immoveable property is sold in execution of a decree ordering its sale for the discharge of an incumbrance thereon, the proceeds of sale shall be applied—

*first*, in defraying the expenses of the sale;

*secondly*, in discharging the interest and principal money due on the incumbrance;

*thirdly*, in discharging the interest and principal moneys due on subsequent incumbrances (if any); and

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*fourthly*, rateably among the holders of decrees for money against the judgment-debtor, who have, prior to the sale of the said property, applied to the Court which made the decree, ordering such sale for execution of such decrees and have not obtained satisfaction thereof."

47. In section 305, paragraph two, after the word "therein," the words and figures "and notwithstanding anything contained in section 276," shall be inserted; and for the last paragraph, the following shall be substituted (namely):—

"Provided also that no mortgage, lease or sale under this section shall become absolute until it has been confirmed by the Court."

48. In section 314, after the word "party" the words "in execution of a decree" shall be inserted.

49. For section 316 the following shall be substituted (namely):—

"316. When a sale of immoveable property has become absolute in manner aforesaid, the Court shall grant a certificate stating the property sold and the name of the person who at the time of sale is declared to be the purchaser. Such certificate shall bear the date of the confirmation of the sale; and, so far as regards the parties to the suit and persons claiming through or under them, the title to the property sold shall vest in the purchaser from the date of such certificate and not before: provided that the decree under which the sale took place was still subsisting at that date."

50. In section 320, paragraph two, after the word "also" the words "notwithstanding anything hereinbefore contained" shall be inserted; and for sections 321 to 325, both inclusive, the following shall be substituted (namely):—

"321. When the execution of a decree has been so transferred, the Collector may—

(a) proceed as the Court would proceed under section 305; or

(b) raise the amount of the decree by letting in perpetuity, or for a term, on payment of a premium, or by mortgaging, the whole or any part of the property ordered to be sold; or

(c) sell the property ordered to be sold or so much thereof as may be necessary.

"322. When the execution of a decree, not being a decree ordering the sale of immoveable property in pursuance of a contract specifically affecting the same, but being a decree for money in satisfaction of which the Court has ordered the sale of immoveable property, has been so transferred, the Collec-

tor, if, after such enquiry as he thinks necessary, he has reason to believe that all the liabilities of the judgment-debtor can be discharged without a sale of the whole of his available immoveable property, may proceed as hereinafter provided.

Notice to be given to decree-holders and to persons having claims on the property.

"322A. In the case mentioned in section 322, the Collector shall publish a notice calling upon—

(a) every person holding a decree for money against the judgment-debtor capable of execution by sale of his immoveable property, and which such decree-holder desires to have so executed, and every holder of a decree for money in execution of which proceedings for the sale of such property are pending, to produce before the Collector a copy of the decree, and a certificate from the Court which passed or is executing the same, declaring the amount recoverable thereunder.

(b) every person having any claim on the said property, to submit to the Collector a statement of such claim, and to produce the documents, if any, by which it is evidenced.

Such notice shall be in the language of the district, and shall allow a period of sixty days from the date of its publication for compliance therewith. It shall be published by being posted in the court-house of the Court which made the original order under section 304, and at such other places (if any) as the Collector thinks fit. Where the address of any such decree-holder or claimant is known, a copy of the notice shall be sent to him by post or otherwise.

"322B. Upon the expiration of the said period the Collector shall appoint a day for hearing any representations which the judgment-debtor and the decree-holders or claimants (if any) may desire to make, and for holding such enquiry as he may deem necessary for informing himself as to the nature and extent of such decrees and claims and of the judgment-debtor's immoveable property, and may from time to time adjourn such hearing and enquiry.

If there be no dispute as to the fact or extent of the liability of the judgment-debtor to any of the decrees or claims of which the Collector is informed, or as to the relative priorities of such decrees or claims, or as to the liability of any such property for the satisfaction of such decrees or claims, the Collector shall draw up a statement specifying the amount to be recovered for the discharge of such decrees, the order in which such decrees and claims are to be satisfied, and the immoveable property available for that purpose.

If any such dispute arises, the Collector shall refer the same, with a statement thereof and his own opinion thereon, to the Court which made the original order under section 304, and shall, pending the reference, stay proceedings relating to the subject thereof. The Court shall dispose of the dispute if the matter thereof be within its jurisdiction, or transmit the case to a competent Court for disposal, and the final decision shall be communicated to the Collector. The Collector

shall then draw up a statement as above provided in accordance with such decision.

"322C. The Collector may, instead of himself issuing the notices and holding the enquiry required by sections 322A and 322B, draw up a statement specifying the circumstances of the judgment-debtor and of his immoveable property so far as they are known to the Collector or appear in the records of his office, and forward such statement to the District Court; and such Court shall thereupon issue the notices, hold the inquiry and draw up the statement required by sections 322A and 322B, and transmit such statement to the Collector.

"322D. The decision by the Court of any dispute arising under section 322B or section 322C shall, as between the parties thereto, have the force of, and be appealable as, a decree.

"323. Whenever the amount to be recovered and the property available have been determined as provided in section 322B or 322C, the Collector may—

(1) if it appears that the amount cannot be recovered without the sale of the whole of the property available, proceed to sell such property; or if it appears that the amount with interest (if any) in accordance with the decree, and when not decreed, with interest (if any) at such rate as he thinks reasonable, may be recovered without such sale,

(2) raise such amount and interest (notwithstanding any order under section 304);

"(a) by letting in perpetuity, or for a term, on payment of a premium the whole or any part of the said property; or

"(b) by mortgaging the whole or any part of such property: or

"(c) by selling part of such property: or

"(d) by letting on farm, or managing by himself or another, the whole or any part of such property for any term not exceeding twenty years from the date of the order of sale: or

"(e) partly by one of such modes and partly by another or others of such modes.

(3) For the purpose of managing under this section the whole or any part of such property, the Collector may exercise all the powers of its owner.

(4) For the purpose of improving the saleable value of the property available or any part thereof, or rendering it more suitable for letting or managing, or for preserving the property from sale in satisfaction of an incumbrance, the Collector may discharge the claim of any incumbrancer which has become payable or compound the claim of any incumbrancer whether it has become payable or not, and, for the purpose of providing funds to effect such discharge or composition, may mortgage, let or sell any portion of the property which he deems sufficient. If any dispute arises as to the amount due on any incum-

branch with which the Collector purposes to deal under this paragraph, he may institute a suit in the proper Court, either in his own name or the name of the judgment-debtor, to have an account taken, or he may agree to refer such dispute to the decision of two arbitrators, one to be chosen by each party, or of an umpire to be named by such arbitrators.

In proceeding under paragraphs (2), (3) and (4) of this section, the Collector shall be subject to such rules consistent with this Act as may from time to time be made in this behalf by the Chief Controlling Revenue-Authority.

**“324.** If, on the expiration of the letting Recovery of balance, or management under if any, after letting or management. or management under section 323, the amount to be recovered has not been realized, the Collector shall notify the fact in writing to the judgment-debtor or his representative in interest, stating at the same time that, if the balance necessary to make up the said amount is not paid to the Collector within six weeks of the date of such notice, he will proceed to sell the whole or a sufficient part of the said property; and if on the expiration of the said six weeks the said balance is not so paid, the Collector shall sell such property or part accordingly.

**“324A.** The Collector shall from time to time Collector to render accounts to the Civil Court. render to the Court which made the original order under section 304 an account of all monies which come to his hands and of all charges incurred by him in the exercise and performance of the powers and duties conferred and imposed on him under the provisions of this chapter, and shall hold the balance at the disposal of the Court.

Such charges shall include all debts and liabilities from time to time due to the Government in respect of the property or any part thereof, the rent (if any) from time to time due to a superior holder in respect of such property or part, and (if the Collector so directs) the expenses of witnesses summoned by him.

Application of Balance. Such balance shall be applied by the Court as follows:—

*firstly*, in providing for the maintenance of such members of the judgment-debtor's family (if any) as are entitled to be maintained out of the income of the property to such amount in the case of each member as the Court thinks fit; and

*secondly*, where the Collector has proceeded under section 321, in satisfaction of the original decree in execution of which the Court ordered the sale of immoveable property, or otherwise as the Court may under section 295 direct; or

*thirdly*, where the Collector has proceeded under section 322, in keeping down the interest on incumbrances on the property, and (when the judgment-debtor has no other sufficient means of subsistence) in providing for his subsistence to such amount as the Court thinks fit; and in discharging rateably the claims of the original decree-holder and any other decree-holders who have complied with the said notice, and whose

claims were included in the amount ordered to be recovered;

and no other holder of a decree for money shall be entitled to be paid out of such property or balance until the decree-holders who have obtained such order have been satisfied;

and the residue, if any, shall be paid to the judgment-debtor or such other person, if any, as the Court directs.

**“325.** When the Collector sells any property under this chapter, he Sales how to be conducted. shall put it up to public auction, in one or more lots as he thinks fit, and may—

(a) fix a reasonable reserved price for each lot;

(b) adjourn the sale for a reasonable time, whenever he deems the adjournment necessary for the purpose of obtaining a fair price for the property, recording his reasons for such adjournment;

(c) buy in the property offered for sale, and re-sell the same by public auction or private contract, as he thinks fit.

**“325A.** So long as the Collector can exercise Restrictions as to alienation by judgment-debtor or his representative, and prosecution of remedies by decree-holders. or perform in respect of the judgment-debtor's immoveable property, or any part thereof, any of the powers or duties conferred or imposed on him by sections 322 to 325 (both inclusive), the judgment-debtor or his representative in interest shall be incompetent to mortgage, charge, lease or alienate such property or part except with the written permission of the Collector, nor shall any Civil Court issue any process against such property or part in execution of a decree for money.

During the same period no Civil Court shall issue any process of execution either against the judgment-debtor or his property in respect of any decree for the satisfaction whereof provision has been made by the Collector under section 323.

The same period shall be excluded in calculating the period of limitation applicable to the execution of any decree affected by the provisions of this section in respect of any remedy of which the decree-holder has thereby been temporarily deprived.

**“325B.** When the property of which the sale Provision where property is in several districts. has been ordered is situate in more districts than one, the powers and duties conferred and imposed on the Collector by sections 321 to 325 (both inclusive) shall from time to time be exercised and performed by such one of the Collectors of the said districts as the Local Government may by general rule or special order direct.

**“325C.** In exercising the powers conferred Powers of Collector to compel attendance of parties and witnesses and production of documents. on him by sections 322 to 325 (both inclusive), the Collector shall have the powers of a Civil Court to compel the attendance of parties and witnesses and the production of documents.”

Amendment of section 326. 51. In section 326, for the last sentence, the following shall be substituted (namely) :—

“In such case the provisions of sections 320, paragraph two, to 325C (both inclusive) shall apply, as far as they are applicable.”

Amendment of section 331. 52. In section 331, paragraph two, for the words and figures “the Specific Relief Act, 1877, section 9,” the word and figure “Chapter V” shall be substituted; and to the same section the following paragraph shall be added (namely), “Every such order shall have the same force as a decree and shall be subject to the same conditions as to appeal or otherwise.”

Amendment of section 332. 53. In section 332, first paragraph, for the word “defendant,” the word “judgment-debtor” shall be substituted; and for the other paragraphs, the following shall be substituted (namely), “If after examining the applicant it appears to the Court that there is probable cause for making the application, the Court shall proceed to investigate the matter in dispute; and if it finds that the ground mentioned in the first paragraph of this section exists, it shall make an order that the applicant recover possession of the property, and if it does not find as aforesaid, it shall dismiss the application.”

“In hearing applications under this section, the Court shall confine itself to the grounds of dispute above specified.

“The party against whom an order is passed under this section may institute a suit to establish the right which he claims to the present possession of the property; but, subject to the result of such suit, if any, the order shall be final.”

Amendment of section 333. 54. For section 333 the following shall be substituted (namely) :—

“333. Nothing in section 331 or 332 applies to a person to whom the judgment-debtor has transferred the property after the institution of the suit in which the decree is made.”

Amendment of section 335. 55. In section 335, for the first paragraph the following shall be substituted (namely) :—

“335. If the purchaser of any such property is resisted or obstructed by any person, other than the judgment-debtor, claiming in good faith a right to the present possession thereof, or, if, in delivering possession thereof, any such person is dispossessed, the Court on the complaint of the purchaser or the person so dispossessed, shall enquire into the matter of the resistance, obstruction or dispossession, as the case may be, and pass such order thereon as it thinks fit;”

and in the second paragraph of the same section, for the word “conclusive,” the word “final” shall be substituted.

Amendment of section 336. 56. In section 336, for the first proviso, the following shall be substituted :—

“Provided that for the purpose of making an arrest under this section no dwelling-house shall be entered after sunset or before sunrise, and no outer door of a dwelling-house shall be broken open :

“But when the officer authorized to make the arrest has duly gained access to any dwelling-house, he may unfasten and open the door of any room in which he has reason to believe the judgment-debtor is to be found : provided that, if the room be in the actual occupancy of a woman who is not the judgment-debtor, and who according to the customs of the country does not appear in public, the officer shall give notice to her that she is at liberty to withdraw; and, after allowing a reasonable time for her to withdraw and giving her every reasonable facility for withdrawing, he may enter such room for the purpose of making the arrest.”

Amendment of section 339. 57. In section 339, paragraph four, after the word “made,” the words “to the proper officer of the Court” shall be inserted; and to the same paragraph, the following words shall be added (namely), “and the subsequent payments (if any) shall be made to the officer in charge of the jail.”

Amendment of section 341. 58. In section 341, for clauses (a), (b), (c), (d) and (e) and the proviso, the following shall be substituted (namely) :—

“(a) on the amount mentioned in the warrant of committal being paid to the officer in charge of the jail; or

(b) on the decree being otherwise fully satisfied; or

(c) at the request of the person on whose application he has been imprisoned; or

(d) on such person omitting to pay the allowance as hereinbefore directed; or

(e) if the judgment-debtor be declared an insolvent, as hereinafter provided; or

(f) when the term of his imprisonment, as limited by section 342, is fulfilled;

Provided that in the second, third and fifth cases mentioned in this section the judgment-debtor shall not be discharged without the order of the Court.”

Amendment of sections 344, 345, 347, 349, 350, 351, 356, 357, 358, 359 and 360. 59. For section 344, the following shall be substituted :—

“344. Any judgment-debtor arrested or imprisoned in execution of a decree for money, or against whose property an order of attachment has been made in execution of such a decree, may apply in writing to be declared an insolvent,

“Any holder of a decree for money may apply in writing that the judgment-debtor may be declared an insolvent.

“Every such application shall be made to the District Court within the local limits of whose jurisdiction the judgment-debtor resides or is in custody.”

In section 345, for the first line and clause (a), the following shall be substituted (namely) :—

Contents of application.

"345. The application, when made by the judgment-debtor, shall set forth—

"(a) the fact of his arrest or imprisonment, or that an order for the attachment of his property has been made, the Court by whose order he was arrested or imprisoned, or by which the order of attachment was made, and, where he has been arrested or imprisoned, the place in which he is in custody."

And to the same section the following paragraph shall be added:—

"The application, when made by the holder of a decree for money, shall set forth the date of the decree, the Court by which it was passed, the amount remaining due thereunder, and the place where the judgment-debtor resides or is in custody."

In section 347, for the first paragraph, the following shall be inserted (namely):—

"347. The Court shall fix a day for hearing the application, and shall cause a copy thereof, with a notice in writing of the time and place at which it will be heard, to be stuck up in Court and served at the applicant's expense—

"where the applicant is the judgment-debtor on the holder of the decree in execution of which he was arrested or imprisoned or the order of attachment was made, or on the pleader of such decree-holder, and on the other creditors (if any) mentioned in the application:

"where the applicant is the decree-holder on the judgment-debtor or his pleader."

44. To section 349 the following words shall be added (namely), "or release him on his furnishing sufficient security that he will appear when called upon."

In sections 349, 350 and 351, for the word "applicant" wherever it occurs, the word "judgment-debtor" shall be substituted.

In section 351, clause (b), after the word "imprisoned" the words "or the order of attachment was made" shall be inserted.

In section 356 for clause (d), the following clauses shall be substituted:—

"(d) to discharge according to their respective priorities all debts secured by mortgage of the insolvent's property;

(e) to distribute the balance among the scheduled creditors rateably according to the amounts of their respective debts and without any preference."

And to the same section the following shall be added (namely):—

"Provided that in any local area in which a declaration has been made under section 320, and is in force, no sale of immoveable property paying revenue to Government or held or let for agricultural purposes shall be made by the Receiver; but after he has sold the other property of the insolvent, the Court shall ascertain (a) the amount required to satisfy the claims of the scheduled creditors after deducting the monies already received, (b) the immoveable property of the

insolvent remaining unsold, and (c) the incumbrances, if any, existing thereon; and shall forward a statement to the Collector containing the particulars aforesaid; and thereupon the Collector shall proceed to raise the amount so required by the exercise of such of the powers conferred on him by sections 322 to 325 both inclusive, as he thinks fit, and subject to the provisions of those sections so far as they may be applicable; and shall hold at the disposal of the Court all sums that may come to his hands by such exercise."

In section 357, for the figures "355," the figures and word "351 or 355" shall be substituted.

And for the words "decrees against him held by the scheduled creditors are fully satisfied or become capable of being executed," the following shall be substituted (namely): "debts due to the scheduled creditors are satisfied to the extent of one-third, or until the expiry of twelve years from the date of the order of discharge under section 351 or 355."

For section 358 the following shall be substituted:—

"358. If the aggregate amount of the scheduled debts is two hundred rupees or a less sum, the insolvent is discharged from liability. Court may, and in any case after the scheduled debts have been satisfied to the extent of one-third, or after the expiry of twelve years from the order of discharge, the Court shall declare the insolvent discharged as aforesaid absolved from further liability in respect of such debts."

In section 359, after the words "sentence him" the words "by order in writing" shall be inserted.

To section 360 the following paragraph shall be added (namely):—

"Nothing in this chapter shall apply to any Court having jurisdiction in the towns of Rangoon, Maulmain, Akyab and Bassein where the property of the judgment-debtor exceeds in value two thousand five hundred rupees, or the amount of the pecuniary claims against him exceeds five thousand rupees, or such property or any part thereof is situate outside British Burma."

60. In sections 361, 362, 363, 365 and 368, for the words "cause of action" wherever they occur, the words "right to sue" shall be substituted; and to section 368 the following clause shall be added (namely): "When the plaintiff fails to make such application within the period prescribed therefor, the suit shall abate."

61. In section 364, paragraph one, and section 366, paragraph one, after the word "If," the words "within the time limited by law" shall be inserted; and in the latter section, paragraph one, before the word "award" the words "shall, on the application of the defendant," shall be inserted.

62. In section 371, paragraph two, after the word "deceased" the word "or" shall be inserted.

63. In section 373, paragraph one, for the words "for the part," the words "in respect of the part" shall be substituted; and to paragraph two, the words "or in respect of the same part" shall be added.

Amendment of section 373.

64. In section 375, after the word "adjusted" the words "wholly or in part" shall be inserted: after the words "respect to," the words "the whole or any part of" shall be inserted; and to the same section shall be added the words "so far as relates to so much of the subject-matter of the suit as is dealt with by the agreement, compromise or satisfaction."

Amendment of section 377.

65. In section 377, for the first seven words, the following shall be substituted (namely): "Notice in writing of the deposit shall be given through the Court."

Amendment of sections 384, 477 and 483.

66. In sections 384, 477 and 483, after the word "affidavit," the words "or otherwise" shall be inserted.

Amendment of section 386.

67. In section 386, for the second paragraph and the two provisoes, the following shall be substituted (namely): "Such commission may be issued to any Court, not being a High Court or the Court of the Recorder of Rangoon, within the local limits of whose jurisdiction such person resides, or to any pleader of a High Court whom the Court issuing the commission thinks fit to appoint."

Amendment of section 406.

68. In section 406, for the word "shall" the words "may, if he thinks fit," shall be substituted.

Amendment of section 412.

69. In section 412, after the word "disappeared" the words and figures "or if the suit is dismissed under section 97 or 98" shall be inserted.

Amendment of section 413.

70. In section 413, for the word "Refusal" the words and figures "An order of refusal made under section 409" shall be substituted.

Amendment of sections 424, 428 and 429.

71. In section 424, after the words "against a public officer" the words "in respect of an act purporting to be done by him in his official capacity" shall be inserted; and in sections 428 and 429, after the words "public officer" the words "in respect of such act as aforesaid" shall be inserted.

Amendment of section 437.

72. In section 437, for the first sentence, the following shall be substituted (namely): "In all suits concerning property vested in a trustee, executor or administrator, when the contention is between the persons beneficially interested in such property and a third person, the trustee, executor or administrator shall represent the persons so interested, and it shall not ordinarily be necessary to make them parties to the suit."

Amendment of section 456.

73. In section 456, for the words "in the name of the minor" the words "in the name and on behalf of the minor or by the plaintiff" shall be substituted; and to the same section the following paragraph shall be added (namely): "Where there is no other person fit and willing to act as guardian for the suit, the Court may appoint any of its officers to be such guardian; provided that he has no interest adverse to that of the minor."

Amendment of section 469.

74. In section 469, after the word "arrest" and after the word "warrant" (in each of the places where it occurs) the words "or other process" shall be inserted; and in the second paragraph, after the words "signature, and" the words "in the case of a warrant of arrest" shall be inserted.

Amendment of section 473.

75. To section 473, the words "and shall adjudicate on such claim" shall be added.

Amendment of section 478.

76. In the last paragraph of section 478, for the words "an order for bringing the defendant" the words "a warrant to arrest the defendant and bring him" shall be substituted.

Amendment of section 481.

77. To section 481, the following words shall be added (namely): "provided that no person shall be detained in prison under this section after he has complied with such order."

Amendment of section 483.

78. In section 483, after the words "portion of his property" the words "within the jurisdiction of the Court" shall be inserted.

Amendment of section 484.

79. In section 484, after the word "suit" the words "or that he has with such intent quitted the jurisdiction of the Court, leaving therein property belonging to him" shall be inserted.

Amendment of section 497.

80. In section 497, clause one, for the words "the injunction," the words "an injunction which it has granted" shall be substituted.

Amendment of section 523.

81. In section 523, paragraph three, for the words "any of" the word "all" shall be substituted.

Amendment of section 539.

82. In the last clause of section 539, for the words "(where there is no Advocate General), be exercised by the Government Advocate, or (where there is no Government Advocate)" the following words shall be substituted (namely): "outside the Presidency-towns be exercised also by the Collector or."

Amendment of section 544.

83. In section 544, for the words "decree and," the words "decree, and thereupon" shall be substituted.

Amendment of section 555.

84. For section 555 the following shall be substituted (namely):—

“ 555. On the day so fixed, or on any other day to which the hearing may be adjourned, the appellant shall be heard in support of the appeal. The Court shall then, if it does not dismiss the appeal at once, hear the respondent against the appeal, and in such case the appellant shall be entitled to reply.”

85. In section 560, for the words “it be proved that the respondent,” the words “he satisfies the Court that the notice was not duly served, or that he” shall be substituted.

86. In section 561, for the words “given to the appellant or his pleader seven days’ notice of such objection,” the words “filed a notice of such objection not less than seven days before the date fixed for the hearing of the appeal” shall be substituted.

87. In section 566, paragraph two, for the word “issue,” the word “issues” shall be substituted.

88. For the first paragraph of section 582, the following shall be substituted (namely):—

“ 582. The Appellate Court shall have, in appeals under this chapter, the same powers, and shall perform as nearly as may be the same duties, as are conferred and imposed by this Code on Courts of original jurisdiction in respect of suits instituted under chapter V; and in sections 363 and 365, the word ‘plaintiff’ shall be held to include an appellant.”

89. In section 584, clause (c), after the word “may” the word “possibly” shall be inserted.

90. In section 588, for clauses (a) to (w), the following shall be substituted (namely):—

“(1) orders under section 20, staying proceedings in a suit;

(2) orders under section 32, striking out or adding the name of any person as plaintiff or defendant;

(3) orders under section 36 or section 66, directing that a party shall appear in person;

(4) orders under section 44, adding a cause of action;

(5) orders under section 47, excluding a cause of action;

(6) orders returning plaints for amendment or to be presented to the proper Court;

(7) orders under section 111, setting-off, or refusing to set-off, one debt against another;

(8) orders rejecting applications under section 103 (in cases open to appeal) for an order to set aside the dismissal of a suit;

(9) orders rejecting applications under section 108 for an order to set aside a decree *ex parte*;

(10) orders under sections 113, 120 and 177;

(11) orders under section 116 or section 245, rejecting, or returning for amendment, written statements or applications for execution of decrees;

(12) orders under sections 143 and 145, directing anything to be impounded;

(13) orders under section 162 for the attachment and sale of moveable property;

(14) orders under section 168 for attachment of property, and orders under section 170 for the sale of attached property;

(15) orders under section 261 as to objections to draft conveyances or draft endorsements;

(16) orders under section 294, the first paragraph of section 312, or section 313, for confirming, or setting aside, or refusing to set aside, a sale of immovable property;

(17) orders in insolvency-matters, under section 351, 352, 353 or 357;

(18) orders under section 366, paragraph two, section 367 or 368;

(19) orders rejecting applications under section 370 for dismissal of a suit;

(20) orders under section 371, refusing to set aside the abatement or dismissal of a suit;

(21) orders disallowing objections, under section 372;

(22) orders under section 454, 455 or 458, directing a next friend or guardian for the suit to pay costs;

(23) orders in interpleader suits under section 473, clause (a), (b) or (d), section 475 or section 476;

(24) orders under section 479, 480, 485, 492, 493, 496, 497, 502 or 503;

(25) orders under section 514, superseding an arbitration;

(26) orders under section 518, modifying an award;

(27) orders of refusal under section 558 to re-admit, or under section 560 to re-hear, an appeal;

(28) orders under section 562, remanding a case;

(29) orders under any of the provisions of this Code, imposing fines, or for the arrest or imprisonment of any person, except when such imprisonment is in execution of a decree.”

91. For the first paragraph of section 589 the following shall be substituted:—

“ 589. An appeal from any order specified in section 588, clauses (15), (16) and (17), shall lie to the High Court.”

92. In section 622, after the words “so vested,” the words “or to have acted in the exercise of its jurisdiction

illegally or with material irregularity” shall be inserted.

93. In section 638, for the figures and word “16 and 17” the figures and word “16, 17 and 19” shall be substituted;

and in the last paragraph, after the word “any” the words “Judge of a” shall be inserted; and the word “its” shall be omitted.

94. In section 642, for the second paragraph the following shall be substituted (namely):—

“ And except as provided in sections 256 and 643, where any matter is

pending before a tribunal having jurisdiction therein, or believing in good faith that it has such jurisdiction, the parties thereto, their pleaders, Mukhtyars, revenue-agents and recognized agents, and their witnesses acting in obedience to a summons, shall be exempt from arrest under this Code while going to or attending such tribunal for the purpose of such matter, and while returning from such tribunal."

Amendment of section 648. 95. For section 648, the following shall be substituted (namely):—

"648. Where any Court desires that any person shall be arrested or any property shall be attached under any provision of this Code not relating to the execution of decrees, and such person resides or property is situate outside the local limits of its jurisdiction, the Court may, in its discretion, issue a warrant of arrest or make an order of attachment, and send to the District Court within the local limits of whose jurisdiction such person or property resides or is situate a copy of the warrant or order, together with the probable amount of the costs of the arrest or attachment.

"The District Court shall, on receipt of such copy and amount, cause the arrest or attachment to be made by its own officers, or by a Court subordinate to itself, and shall inform the Court which issued or made such warrant or order of the arrest or attachment;

"and the Court making any arrest under this section shall send the person arrested to the Court by which the warrant of arrest was issued, unless he furnishes sufficient security for his appearance before that Court, or (where the case is one under chapter XXXIV) for satisfying any decree that may be passed against him by such Court, in either of which cases the Court making the arrest shall release him."

Amendment of section 649. 96. To section 649 the following paragraph shall be added (namely):—

"In the same chapter, the expression 'Court which passed a decree' or words to that effect, shall, unless there be something repugnant in the context, be deemed to include, where the decree to be executed is passed in appeal, the Court which passed the decree against which the appeal was preferred, and, where the Court which passed the decree to be executed has ceased to exist, or to have jurisdiction to execute it, the Court which, if the suit wherein the decree was passed were instituted at the time of making application for execution of the decree, would have jurisdiction to try such suit."

97. After section 650 the following shall be inserted (namely):—

"650A. Summonses issued by any Court situate beyond the limits of British India may be sent to the Courts in British India and served as if they had been issued by such Courts: provided that the Courts issuing such summonses have been established by the authority

of the Governor General in Council, or that the Governor General in Council has, by notification in the *Gazette of India*, declared the provisions of this section to apply to such Courts."

98. In section 652, after the words "connected with," the words "its own procedure or" shall be inserted.

Amendment of schedule I. 99. In the first schedule, column third, opposite "XI of 1865," for the figures and word "11, paragraph 2," the figures and words "11, the last nineteen words of section 13, section 19," shall be substituted; and opposite "V. of 1866," after the word "inclusive," the words "and the schedule" shall be inserted.

Amendment of schedule II. 100. In the second schedule—

for the figures "230," the figures "223" shall be substituted:

before the word and figures "Chapter XXI" the words and figures "Chapter XX. section 360—Power to invest certain Courts with insolvency-jurisdiction" shall be inserted:

after the words and figures "Chapter XXXIV—Of arrest and attachment before judgment," the words and figures "except as regards immovable property, Chapter XXXVI—Appointment of receivers" shall be inserted: and

for the figures "522" the figures "526" shall be substituted.

101. In the fourth schedule, to the note to form No. 145 the following words shall be added (namely): "and as fairly and accurately as possible the other particulars required by section 287 to be specified"; in form No. 149, for the word "thirty" the word "sixty" shall be substituted; and in form No. 172, for the word "seven" in each of the places where it occurs, the word "ten" shall be substituted.

102. Every appeal now pending which would have lain if this Act had been in force on the date of its institution shall be heard and determined as if the Act had been in force on such date; and every order heretofore passed purporting to transfer a case to a Collector under section 320 and every notification heretofore published purporting to be issued under section 360, shall be deemed to have been respectively passed and issued in accordance with law.

103. In the preceding sections of this Act, the words "section" and "schedule" respectively mean section of, and schedule annexed to, the said Code.

AND whereas it is also expedient to amend the Indian Registration Act, 1877, in manner herein-after appearing; It is hereby further enacted as follows:—



104. In section 35 of the same Act, after the words "person appears," the words "to the registering officer" shall be inserted; and after the words "refuse to register the document," the words "as to the person so denying, appearing or dead" shall be inserted.

Amendment of Act III of 1877, section 35.

105. In section 51 of the same Act, for the figures "87," the figures "89" shall be substituted.

Amendment of section 51.

106. In section 83 of the same Act, for the words "Subordinate Magistrate of the first" the words "Magistrate of the second" shall be substituted.

Amendment of section 83.

107. In section 89 of the same Act, for the words "the certificate," the words "the copy" shall be substituted, and to the same section the following paragraph shall be added (namely):—

"Every Court granting a certificate under section 316 of the Code of Civil Procedure shall send a copy of such certificate to the registering officer within the local limits of whose jurisdiction the whole or any part of the immovable property comprised in such certificate is situate, and such officer shall file the copy in his Book No. 1."

AND whereas it is also expedient to amend the Indian Limitation Act, 1877, in manner herein-after appearing; It is hereby further enacted as follows:—

Amendment of Act XV. of 1877, Schedule II.

108. In the second schedule to the said Indian Limitation Act, 1877,—

for No. 161, the following shall be substituted, namely:—

"161.—For the issue of a notice under section 258 of the same Code to show cause why the payment or adjustment therein mentioned should not be recorded as certified.	Twenty days.	When the payment or adjustment is made."
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to No. 166, column one, the following words shall be added (namely): "or on the ground that the decree-holder has purchased without the permission of the Court";

to No. 171, column one, the words "or appellant" shall be added; and in column three, after the word "plaintiff's," the words "or appellant's" shall be inserted;

after No. 171, the following shall be inserted, (namely):—

"171A.—Under section 366 of the same Code, by the defendant.	Sixty days	The date of the plaintiff's death.
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"171B.—Under section 368 of the same Code, to have the representative of a deceased defendant made a defendant.	Ditto	The date of the defendant's death.
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"171C.—Under section 371 of the same Code, for an order to set aside an order for abatement or dismissal.	Ditto	The date of the order for abatement or dismissal.
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and in No. 179, column three, paragraph 6, for the words "specified date) the date so specified" the words "certain date) such date" shall be substituted.

D. FITZPATRICK,  
Secy. to the Govt. of India,  
Legislative Department.



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

## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 31st July 1879, and the assent of His Excellency the Viceroy and Governor General on the 27th August 1879, and is published for general information:—

#### Bombay Act No. VI. of 1879.

*An Act to consolidate the immoveable and other property vesting in the Trustees of the Port of Bombay and certain other property on, or connected with, the foreshore of the Island of Bombay into one estate, and to vest the control and management of the same in one Public Trust; and for other purposes.*

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*An Act to consolidate the immoveable and other property vesting in the Trustees of the Port of Bombay and certain other property on, or connected with, the foreshore of the Island of Bombay into one estate, and to vest the control and management of the same in one Public Trust; and for other purposes.*

WHEREAS it is expedient that the immoveable and other property vesting in the Trustees of the Port of Bombay should be consolidated with certain other property on, or connected with, the foreshore of the Island of Bombay into one estate, and that such consolidated estate should, together with the rights and powers now exercisable by the said Trustees, be vested, subject to the provisions hereinafter appearing, in a new Trust; It is enacted as follows:—

I.—PRELIMINARY.

1. This Act may be called "The Bombay Port Trust Act, 1879."  
Short title.
2. From the date which shall be notified by the Governor in Council under Section 8, Bombay Act I. of 1873 (The Bombay Port Trust Act, 1873,) shall be repealed:  
Repeal of Bombay Act I. of 1873.

Provided that all debts and obligations incurred, all contracts entered into, and all matters and things engaged to be done by, with or for the Trustees appointed under the said Act, shall be deemed to have been incurred, entered into, or engaged to be done by, with or for the Board constituted by this Act;

and all rates and sums of money due to the said Trustees shall be deemed to be due to the said Board;

and all suits or other legal proceedings, civil or criminal, instituted, or which might, but for the passing of this Act, have been instituted by or against the said Trustees, may be continued or instituted by or against the said Board.

3. In this Act, unless there be something repugnant in the subject or context,  
Interpretation Section.

- (1) the word "rates" includes any toll, due, rent, rate, or charge, leviable under section 43 ;  
 "Rates."
- (2) "Port" means the Port of Bombay within such limits as may from time to time be defined by Government for the purposes of this Act by notification in the *Bombay Government Gazette*, and until a notification is so issued, within such limits as may have been defined by Government under section 73 of the Bombay Port Trust Act, 1873, for the purposes of that Act ;  
 "Port."
- (3) "Vessel" denotes any thing made for the conveyance by water of human beings or of property ;  
 "Vessel."
- (4) "Master," when used in relation to any vessel, means any person having for the time being the charge or control of such vessel ;  
 "Master."
- (5) "Owner," when used in relation to goods, includes any consignor, consignee, shipper or agent for the sale or custody of such goods; and when used in relation to any vessel, includes any part owner, charterer, consignee, or mortgagee in possession thereof ;  
 "Owner."
- (6) "Land" includes the bed of the sea below high-water mark ;  
 "Land."
- (7) "Wharf" includes a bandar and any part of the foreshore used for loading or unloading goods, and any wall enclosing or adjoining the same ;  
 "Wharf."
- (8) "Dock" includes basins, locks, cuts, entrances, graving docks, graving blocks, inclined planes, patent slips, grid-irons, quays, warehouses, and other works and things appertaining to any dock ;  
 "Dock."
- (9) "Pier" includes any stage, stairs, landing-place, hard, jetty, landing-stage, floating barge, or pontoon, and any bridges or other works connected therewith ;  
 "Pier."
- (10) the word "Goods" includes wares and merchandise of every description ;  
 "Goods."
- (11) "Immoveable Property" includes wharfage rights and all other

rights exerciseable on, over, or in respect of any land, wharf, dock or pier ;

- (12) the words "Public Securities" mean securities of the Government of India, Bombay Municipal Debentures and securities and debentures issued under sections 30 and 41, respectively, of this Act.  
 "Public Securities."

## II.—OF THE BOARD OF TRUSTEES.

### *Constitution of Board.*

4. The duty of carrying out the provisions of this Act shall, subject to such conditions and limitations as are hereinafter contained, be vested in a Board, to be called "the Trustees of the Port of Bombay"; and such Board, hereinafter referred to as "the Board," shall be a body corporate and have perpetual succession and a common seal, and shall sue and be sued by the name first aforesaid.  
 Act to be carried out by Trustees.
5. The Board shall consist of thirteen members, that is to say, of  
 Constitution of Board. five Elective Trustees, seven Nominee Trustees, and a Chairman ;  
 and not less than three of the Trustees shall be natives of India residing in the City of Bombay.
6. The elective Trustees shall be elected by the members for the time being of the Bombay Chamber of Commerce in such manner as shall from time to time be determined at a meeting of the members of the said Chamber convened in accordance with the rules at the time in force in this behalf. The Secretary to the said Chamber shall make a return to the Government of the name of every person so elected by the Chamber, and his return shall be published in the *Bombay Government Gazette*.  
 Elective Trustees to be elected by the Bombay Chamber of Commerce ;
- In the event of default being made by the Chamber in electing any Trustee under the foregoing provisions within the period hereinafter prescribed in this behalf, it shall be lawful for Government by notification in the *Bombay Government Gazette* to nominate a person, and the person so nominated shall be deemed to be a Trustee as if he had been duly elected by the Chamber.  
 or in default of such election shall be nominated by Government.

7. The nominee Trustees and the Chairman shall be appointed by Government by notification in the *Bombay Government Gazette*.

8. The term of office of the first nominee and elective Trustees shall commence on such date as shall be notified in this behalf by the Governor in Council.

9. Three of the first nominee Trustees and three of the first elective Trustees shall, unless they become in the meantime disqualified, hold office up to and inclusive of the 31st day of March next succeeding the date on which their term of office shall commence, the selection of the said six Trustees being made by lot at such time and in such manner as the Chairman shall determine. The remaining four of the first nominee Trustees and the remaining two of the first elective Trustees shall hold office until and inclusive of the 31st day of March next following the 31st day of March aforesaid.

In every other case the nominee and elective Trustees shall, unless they become in the meantime disqualified, hold office for a term of two years.

10. The first elective Trustees shall be elected on some day not later than a fortnight previous to the date which shall be notified by the Governor in Council under section 8, and the first nominee Trustees shall be appointed on some day during the said fortnight; in every other case elective Trustees shall be elected on some day not earlier than the first and not later than the fifteenth day of the month of March next preceding the 1st of April from which their term of office is to commence; and nominee Trustees shall be appointed on some day in the remainder of the said month of March.

11. The Chairman shall hold office during the pleasure of Government, provided that he does not in the meantime cease, through disqualification, to be a Trustee,

12. Any person on ceasing to be a Trustee, shall, unless disqualified under section 14, be re-eligible.

13. Any casual vacancy in the office of a Trustee other than the Chairman occasioned by the death, resignation, or disqualification of such Trustee shall be filled up within one month by Government, if the office vacated was that of a nominee Trustee, or by the Chamber of Commerce, if it was that of an elective Trustee, in the same manner and subject, so far as may be, to the same provisions as are applicable in the case of original appointments and elections of Trustees: Provided that the Trustee so chosen shall retain his office so long only as the vacating Trustee would have retained the same, if such vacancy had not occurred.

If a Trustee departs from Bombay with an intention of being absent for a longer period than three months, or if a Trustee shall have been absent for such period, a person shall be elected or appointed as aforesaid to act for such Trustee during his absence or until he shall cease to be a Trustee, and the person so acting shall be deemed for all the purposes of this Act to be a Trustee.

#### *Disqualifications of Trustees.*

14. No person shall be qualified to be a Trustee during such time as he

(a) is an uncertificated bankrupt or insolvent, or

(b) holds any office or place of profit under the Board, or

(c) has, directly or indirectly, any share or interest in any work done by order of the Board, or in any contract, or employment with, by, or on behalf of, the Board;

and any Trustee who

(d) becomes disqualified for any of the aforesaid reasons, or

(e) is absent from the meetings of the Board for a period exceeding twelve consecutive months, or, without the permission of the Board, from six consecutive meetings of the Board, or

(f) is sentenced to imprisonment, shall cease to be a Trustee, and his office shall thereupon become vacant :

Provided always that no Trustee shall vacate his office by reason only of his

Proviso.

(g) having a share in any Joint Stock Company which shall contract with or be employed by, or on behalf of, the Board, or

(h) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Board may be inserted, or

(i) being interested in any loan of money to the Board.

#### *Salaries of Trustees.*

15. The Chairman shall receive such salary as Government shall from time to time determine.

Every Trustee other than the Chairman shall be entitled to a fee of thirty rupees for each meeting of the Board at which a quorum is present and business is transacted and which he attends from the beginning to the end thereof: Provided that if more than one such meeting is held in any one week, no more than thirty rupees shall be paid to any Trustee for his attendance at all such meetings during that one week.

#### *Proceedings of Board.*

16. The following provisions shall be observed with respect to the proceedings of the Board (namely):—

(1) During any vacancy in the Board the continuing Trustees may act as if no vacancy had occurred.

(2) The Board shall meet together and shall from time to time make such arrangements, not inconsistent with this Act, with respect to the place, day, hour, notice, management, and adjournment of such meetings, and generally with respect to the transaction of business, as they think fit, subject to the following conditions (namely):—

(a) that a meeting shall be held once at least in every fortnight, or

(b) that the Chairman may, whenever necessary upon an emergency, and whenever he thinks fit, and shall, upon the written request of not less than three Trustees, call a special meeting;

(c) that no business shall be transacted at any meeting unless at least five Trustees are present from the beginning to the end of such meeting;

(d) that every meeting shall be presided over by the Chairman, if he is present at the time appointed for holding the same, and if he is absent, by such one of the Trustees present as may be chosen by the meeting;

(e) that all questions shall be decided by a majority of votes of the Trustees present, the president having a second or casting vote in all cases of equality of votes;

(f) that if a poll be demanded, the names of the Trustees voting and the nature of their votes shall be recorded by the president;

(g) that minutes shall be kept of the names of the Trustees present and of the proceedings at each meeting in a book to be provided for this purpose, which shall be signed, as soon as practicable, by the president of such meeting, and shall be open to inspection by any Trustee during office hours;

(3) The Board may delegate any of their powers to committees consisting of such Trustees as they think fit; any committee so formed shall conform to any instructions that may from time to time be given to them by the Board, and the Board may at any time discontinue or alter the constitution of any committee so formed;

(4) A committee may elect a chairman of their meetings, and if no such chairman is selected, or, if he is not present at the time appointed for holding the same, the



members present shall choose one of their number to be chairman of such meeting ;

(5) Committees may meet and adjourn as they think proper, but the Chairman of the Board may, whenever he thinks fit and shall, upon the written request of not less than two members of a committee, call a special meeting of such committee ;

*Committees when to meet.*

(6) Questions at any meeting of a committee shall be decided by a majority of votes of the members present, and in case of an equal division of votes the chairman of the meeting shall have a second or casting vote, but no business shall be transacted at any such meeting unless at least two-thirds of the members of the committee are present from the beginning to the end thereof ;

*Questions how to be decided at Committees' meetings.*

(7) No act of the Board, or of any Committee, or of any person acting as Trustee, shall be deemed to be invalid by reason only of some defect in the appointment of such Board, Committee or Trustee or on the ground that they, or any of them, were disqualified for the office of Trustee.

*Acts of Board, &c., not to be invalidated by informalities.*

17. The Chairman may, on behalf of the Board, enter into any contract or agreement, whereof the value or amount shall not exceed one thousand rupees, in such manner and form as, according to the law for the time being in force, would bind him if such contract or agreement were on his own behalf ; but every other contract and agreement, on behalf of the Board, shall be in writing, and shall be signed by the Chairman, and by two other Trustees, and shall be sealed with the common seal of the Board. No contract or agreement not executed as is in this section provided shall be binding on the Board.

*Mode of executing contracts.*

18. The Board may compound or compromise for, or in respect of, any claim or demand arising out of any contract entered into by them under this Act, or in respect of any action or suit instituted by or against them, for such sum of money, or other compensation, as they shall deem sufficient.

*The Board may compound for breach of contract.*

### *The Chairman.*

19. The Chairman shall :

(1) attend every meeting of the Board unless prevented by sickness or other reasonable cause ;

*Duties of Chairman.*

(2) exercise supervision and control over the acts and proceedings of all officers and servants of the Board in matters of executive administration, and in matters concerning the accounts and records of the Board ; and, subject to the regulations at the time being in force framed by the Board under section 22, dispose of all questions relating to the service of the said officers and servants, and their pay, privileges, and allowances ;

(3) furnish to the Government a copy of the minutes of any of the Board's proceedings, and any returns or other information which Government may from time to time call for.

20. Government may from time to time grant to the Chairman such leave of absence as they may deem fit, and any person whom Government appoint to act for the Chairman during any such absence on leave shall, while so acting, be deemed for all the purposes of this Act to be the Chairman.

*Leave of absence may be granted to the Chairman.*

The allowance, if any, which Government direct to be paid to the Chairman during his absence on leave, and the salary which Government direct to be paid to the person appointed to act for him, shall be a charge on the General Account of the Board.

*Leave and acting allowances to be defrayed out of the General Account.*

### III.—OF THE OFFICERS AND SERVANTS OF THE BOARD.

#### *Strength of Staff.*

21. The Board shall from time to time prepare and sanction a schedule of the staff of officers and servants whom they shall deem it necessary and proper to maintain for the purposes of this Act. Such schedule shall also set forth the amount and nature of the salaries, fees, and allowances which the Board sanctions for each such officer or servant.

*Schedule of officers and servants and of their pay and allowances to be prepared and sanctioned by the Board.*

Until a schedule is prepared and sanctioned under this section, the schedule in force under section 23 of the Bombay

Port Trust Act, 1873, on the day previous to the date notified by the Governor in Council under section 8, shall be deemed to be the schedule prepared and sanctioned by the Board under the foregoing provisions :

Provided always that artisans, porters and labourers, and muccadums of porters and labourers shall not be deemed to be officers or servants within the meaning of this section or of section 22 or 23 of this Act.

Board to frame regulations :  
22. The Board shall from time to time frame regulations :

(1) for regulating the grant of leave to the officers and servants of the Board ;

(2) for authorizing the payment of allowances to the said officers and servants, or to certain of them, whilst absent on leave ;

(3) for determining the remuneration to be paid to the persons appointed to act for any such officers or servants during their absence on leave ;

(4) for regulating the period of service of all such officers and servants ;

(5) for determining the conditions under which such officers and servants or any of them shall on retirement receive pensions, gratuities, or compassionate allowances, and the amount of such pensions, gratuities, or compassionate allowances ;

(6) for authorizing the payment of contributions at certain prescribed rates and subject to certain prescribed conditions to any Provident Fund which may, with their approval, be established by the officers and servants appointed under this Act :

Provided that officers and servants who were appointed by Government previous to the passing of the Bombay Port Trust Act, 1873, and whose salaries were paid from the fund known as "The Bombay Port Fund," and who have continued

in the service of the Trustees appointed under the Bombay Port Trust Act, 1873, and of the Trust constituted by this Act, shall be entitled to retiring pensions, gratuities, or compassionate allowances at the same rates and subject to the same conditions as may from time to time be applicable to the servants of Government of similar standing and status, and that in the event of any question arising as to the right of any such officer or servant to a retiring pension, gratuity, or compassionate allowance, or as to the amount of retiring pension, gratuity, or compassionate allowance to which he is entitled, it shall be determined by Government.

*Powers of Appointment, &c.*

23. Subject to the provisions of the said regulations and of the schedule for the time being in force framed by the Board under section 22, the power of appointing, promoting, suspending, dismissing, fining, reducing or granting leave to the officers and servants of the Board shall be exercised by the Chairman in the case of officers and servants whose monthly salary does not exceed three hundred rupees, and in every other case by the Board.

The power of dispensing with the services of any officer or servant of the Board, otherwise than by reason of such officer's or servant's own misconduct, or of permitting any such officer or servant to retire on a pension, gratuity, or compassionate allowance, shall, subject to the aforesaid provisions, be exercised by the Board alone.

24. Every order or regulation made by the Board under any of the three last preceding sections shall, so far as the same relates to the Secretary, Engineer, Traffic Manager, or Chief Accountant of the Board, be subject to the previous sanction of Government.

In this section the word "Engineer" means the engineer of highest grade on the Board's ordinary staff, and also any superior officer who may from time to time be employed in the capacity of Consulting Engineer to the Board.

*Continuance of Present Officers and Servants.*

25. All officers and servants holding any office on the day previous to the date notified by the Governor in Council under section 8 under Officers and servants of the late Trustees to be continued under the Board.

the Trustees appointed under the Bombay Port Trust Act, 1873, shall be deemed to have been appointed under this Act, and shall continue to hold the same office and to receive the same remuneration under the Board until an order to the contrary is passed by competent authority under this Act.

#### IV.—OF THE PROPERTY AND LIABILITIES OF THE BOARD.

##### *General Powers as to Property.*

26. The Board shall, for the purposes of this Act, have power to acquire and hold moveable and immoveable property, whether within or without the limits of the Port or City of Bombay; and shall also have power to lease, sell or otherwise convey any moveable or immoveable property which may have become vested in or been acquired by them:

Provided that no sale of immoveable property and no lease of any such property for a term exceeding fifty years shall be valid unless such sale or lease shall have been made with the previous sanction of Government.

27. When the Board are unable to acquire, by agreement, any immoveable property required for the purposes of this Act, Government may, in their discretion, order proceedings to be taken for acquiring the same on behalf of the Board as if such property were land needed for a public purpose within the meaning of the Land Acquisition Act, 1870.

The amount of compensation awarded and all other charges incurred in the acquisition of any such property shall be forthwith defrayed by the Board, and thereupon the said property shall vest in the Board.

##### *Transfer of Property to Board.*

28. All such immoveable and other property as is held by or in trust for the Trustees of the Port of Bombay under or in pursuance or for the purposes of the Bombay Port Trust Act, 1873, shall, upon and after the date notified by the Governor in Council under section 8, vest in the Board, but subject to all charges and liabilities affecting the same.

The property vested by this section in the Board shall be deemed to include

the estate, right, title, and interest of the Secretary of State for India in Council in the rock, stones, shingle, gravel, sand or soil within the Port, and also the right of levying rates on all goods landed at or shipped from any part of the foreshore between Malabár Point and Colába Point.

29. Whereas the Secretary of State for India in Council has initiated measures for the acquisition from the holders thereof, of the properties severally named and generally described in Schedule A, but the arrangements for the said acquisition are not yet complete; and whereas it is expedient that all such estate and interest as may be acquired by the Secretary of State for India in Council in the said properties should vest in the Board; it is hereby enacted that upon and after such date as shall be fixed in this behalf by the Governor in Council, all the estate, right, title, and interest of the Secretary of State for India in Council in the said properties shall, subject to the provisions hereinafter contained, become vested in the Board, subject to all covenants, charges, contracts, and liabilities affecting the same.

30. And whereas it is purposed that the purchase money of the said properties shall be paid in Port Trust securities bearing interest at the rate of four per centum per annum; it is hereby enacted that the Board shall within two months from the date aforesaid execute and deliver to the holders of the said properties securities in the form of Schedule B, under their common seal, for the sums for which their said properties shall be respectively purchased by the Secretary of State for India in Council: Provided that the said sums shall not exceed, in the aggregate, seventy-seven lacs of rupees, and that so long as the said amount is not exceeded it shall be competent to the Secretary of State for India in Council to acquire such estate, right, title and interest in the said properties as he shall deem fit, anything contained in Schedule A notwithstanding.

Every such security shall be for an amount of not less than one hundred rupees, and shall covenant for the payment of interest on the principal sum at

Such securities to be for not less than Rs. 100 each,

the rate of four per centum per annum from the date fixed by the Governor in Council under section 29, and such interest shall be payable half-yearly on or after the 1st April and the 1st October.

and to be transferable.

The said securities shall be transferable by endorsement.

*Application of the Board's Property.*

31. The proceeds of the sale of any portion of the property vested in or acquired by the Board under or by virtue of this Act, and all sums paid to the Board by way of compensation under the next following section, shall be applied as follows and not otherwise (namely):—

Sale-proceeds of Board's property how to be invested.

(a) in liquidation of the principal sum of any debt contracted under paragraph 2 of section 39, if the same or any portion of the same is at the time payable; or

(b) in liquidation of the principal of any debt at the time due to the Secretary of State for India in Council; or

(c) in liquidation of the securities, or of any of them, issued under section 30.

32. Nothing in this Act shall be deemed to affect the power of Government to order proceedings to be taken under the Land

Saving of powers of Government under Land Acquisition Act, 1870.

Acquisition Act of 1870, or any other law for the time being in force for the acquisition of land for public purposes in respect of any land vesting in the Board.

*Liabilities.*

33. The capital debts due by the Board

Capital debts of the Board.

on account of the immoveable and other property vested in it by this Act are as follows (namely):—

(a) to the Secretary of State for India in Council, the amounts mentioned in Schedule C; and the amounts which have been advanced by or on behalf of the Secretary of State for India in Council to the Trustees appointed under the Bombay Port Trust Act, 1873, or applied by or on behalf of the said Secretary of State in Council, with the consent of the said Trustees, for the improvement of the Port of Bombay or otherwise under sections 46 and 50, clause (2) of the said Act,

(b) to the holders of the securities to be issued by the Board under section 30, the amounts of such securities.

34. On the amounts mentioned in column Interest in what three of Schedule C cases to be paid by the Board. no interest shall be payable.

On the amounts mentioned in column two of the said schedule interest shall be payable by the Board to the Secretary of State for India in Council annually on the 1st April at the rate of four per centum per annum until, and inclusive of, the twenty-fifth day of June 1883, and thereafter at the rate of four and one-half per centum per annum.

On the amounts due to the Secretary of State for India in Council under clause (a) of the last preceding section which are not mentioned in the said schedule, interest shall be payable by the Board to the said Secretary of State in Council annually on the 1st April at the rate of four and one-half per centum per annum.

On the amounts, if any, which may hereafter be advanced to the Board by the Governor in Council under section 39 of this Act interest shall be payable by the Board to the Secretary of State in Council on such dates and at such rates as shall be agreed upon between Government and the Board in respect of such advances.

On the amounts of the securities issued by the Board under section 30 interest at the covenanted rate of four per centum per annum shall be payable by the Board half-yearly on the 31st March and the 30th September to the Accountant General of Bombay or other officer for the time being performing the duties of the office of the said Accountant General, who shall pay the same on or after the 1st April and 1st October respectively to the holders of the said securities.

If any sum due by the Board under this section on account of interest, or any portion thereof, is not paid by them on the date on which the same is hereby declared to be payable, they shall continue liable for the payment thereof, and interest shall be paid by them to the Secretary of State for India in Council upon the balance from time to time overdue at the rate of four and one-half per centum per annum, until the whole amount is paid.

35. In the event of default being made

Interest to be paid out of Provincial Revenues if default is made by the Board.

by the Board in any payment of interest due by it under paragraph two, three or four of the last preceding section, the same shall be paid by the Accountant General of Bombay or other officer aforesaid, who shall debit the amount so paid to the

Provincial Revenues of the Presidency of Bombay; and in the event of default being made by the Board in any payment due by it under paragraph five of the said section, the Accountant General or other officer aforesaid shall nevertheless pay to the security-holders the interest due upon their securities, and shall debit the amounts so paid to the Provincial Revenues of the Presidency of Bombay.

36. The Board shall pay annually on the 30th day of Sep-

Lump payment to be made to the Municipality in lieu of consolidated rate.

tember to the Municipal Corporation of the City of Bombay a lump sum which shall

be calculated at the following rates, namely :

(a) for the period commencing on the 1st day of October last preceding the date on which this Act comes into force and ending on the day next previous to the date fixed by the Governor in Council under section 29 at the rate of fifty thousand rupees per annum ;

(b) for the period commencing on the date fixed as aforesaid and ending on the 25th day of June 1883 at the rate of sixty thousand rupees per annum ; and

(c) thereafter at such rate as the Governor in Council shall from time to time determine.

The said payment shall be in lieu of the consolidated rate leviable by the said Corporation, to which the property hereby vested in the Board or some portion of the same would otherwise be liable to be assessed.

37. In consideration of the said pay-

Roads and thoroughfares constructed by the Board to be maintained by the Municipality in consideration of such payment,

ment the Municipal Commissioner shall, on being satisfied that any road or thoroughfare has been duly levelled, paved, metal-

led, flagged, channelled, and sewered by the Board, declare such road or thoroughfare to be a public road or thoroughfare, and the Municipality shall thenceforward maintain, keep in repair, light and cleanse such road or thoroughfare. The Municipality shall also, on requisition by the Board, maintain, keep in repair, light and cleanse the road of any wharf, dock or pier vested in the Board.

The Municipality shall maintain, keep

Such roads and thoroughfares not to be stopped up without the consent of the Board.

in repair, light and cleanse the said roads and thoroughfares in the same manner and with the same liabili-

ties in respect thereof as if the said roads and public thoroughfares were vested in the said Municipality; but it shall not be competent to the Municipal Commissioner or to the Municipality to discontinue or stop up any road or thoroughfare which at any time vested in, or which has been constructed by the Board, or the Trustees of the Port appointed under the Bombay Port Trust Act, 1873, and which has been declared to be a public road or thoroughfare under this section, or under section 9 of the said Act, without the previous consent in writing of the Board; and the land occupied by any road or thoroughfare so discontinued or stopped shall vest in the Board and not in the Municipality.

38. Any dispute which arises between

Disputes under the last section to be settled by Government.

the Board and the Municipality in respect of any of the provisions of the last

preceding section shall be determined by the Government, and their decision shall be final.

#### V.—OF THE BORROWING POWERS OF THE BOARD.

39. The Governor in Council, acting

Governor in Council may advance money to the Board, or

on behalf of the Secretary of State for India in Council, may, with the previous con-

sent of the Governor General of India in Council, from time to time advance money to the Board for the general purposes of this Act ; or

The Board may, with the previous consent of Government, from time to time raise money for the said purposes :

Provided always that no expenditure shall be charged by the Board to capital,

except with the express sanction of Government,

40. Whenever the consent of Govern-

Manner of raising such loans to be determined by Government.

ment has been obtained to the raising of money by the Board under the last preced-

ing section, Government shall, with the previous consent of the Governor General of India in Council, direct and appoint the manner in which such money shall be raised.

41. If such money shall be raised on debentures bearing

Interest on debentures to be a charge on the rates prior to interest due to Secretary of State.

interest, such interest shall be a charge on the rates prior to the charge for interest

payable to the Secretary of State for India in Council, provided for by section 34.

42. All debentures which may be so issued shall be in the form of Schedule D, and shall be transferable by endorsement; and the right to sue in respect of the monies secured by any such debentures shall be vested in the holders thereof for the time being, without any preference by reason of some of such debentures being prior in date to others.

## VI.—OF REVENUE AND EXPENDITURE.

### *Levy of Rates.*

43. The Board shall frame a scale of tolls, dues, rents, rates, and charges, to be levied for each or any of the following matters (namely):

(a) for the landing, shipping, wharfage, crannage, storage, or demurrage of goods at,

(b) for permission for vessels or boats to approach, or be alongside, and

(c) for animals or vehicles carrying goods to or from, or entering upon or plying for hire at or on,

any wharf, dock, or pier in the possession of the Board, and so much of the Wári Bandar and of the Gun Carriage Reclamation as is in the possession of the Great Indian Peninsula and the Bombay Baroda and Central India Railway Companies respectively: Provided that no such toll, due, rent, rate or charge shall be leviable at so much of the said Wári Bandar and Gun Carriage Reclamation as is aforesaid in respect of any goods, vessel, animal or vehicle belonging to the said companies respectively.

The scale so framed shall be submitted to Government for sanction, and when so sanctioned and published in the *Bombay Government Gazette* shall have the force of law, and, subject to the like sanction and publication, may from time to time be amended or added to by the Board.

Until a scale of rates is framed, sanctioned, and published under this section, the scale framed under Section 57, Bombay Act I., 1873, to continue in force until altered, shall be deemed to have been duly framed, sanctioned and published under this section.

The Board may, in special cases, with the previous sanction of Government, remit the whole or any portion of the rates leviable under this section.

44. The said rates shall not be leviable in respect of any vessel employed by Government solely for the transport of troops, nor in respect of the baggage or other effects of any troops landing or embarking at the port. In lieu thereof a toll shall be payable by Government to the Board on all troops and all the families of troops landing or embarking at Bombay at the rate of one rupee per head, and, if such troops and their families shall land or embark at any dock in the possession of the Board, at such additional rate as shall from time to time be determined by Government.

45. Subject to the provisions of any law for the time being in force, the Board may land, ship, or tranship goods between vessels in the harbour and the wharves, piers or docks in their possession, and may make such charges for so doing as they shall think fit.

46. The Board may procure and maintain such number of steam-vessels as they may deem fit to be employed in towing vessels into, out of, or in the harbour, and may make such charges for towage by the said steam-vessels as they shall think fit.

### *Division of Accounts.*

47. In the accounts of the Board a Pilotage Account to be kept separate from the General Account. Pilotage account shall be kept separate from the General account.

48. The rates and charges from time to time levied under sections 43 to 46, together with all rents of lands and buildings, and all fines and penalties levied under this Act, other than fines and penalties levied from pilots or other persons employed in the pilot service, and all miscellaneous items of revenue recovered by the Board, except pilotage-fees, shall be credited to the General Account.

49. The monies credited to the General Account shall be held by the Board in trust, and except as is hereinafter provided shall

be applied by them in payment of the following charges (namely):—

(1) the salaries, fees, allowances, pensions, gratuities, compassionate allowances or other monies due to the Trustees and to the officers and servants appointed under this Act, and the contributions, if any, duly authorized to be made to any Provident Fund established by the said officers and servants;

(2) the cost of repairs and maintenance of the property vested in the Board, and all charges upon the same and all working expenses;

(3) the interest due on any money that may have been raised by the Board under section 39;

(4) the cost, or such portion of the cost, of any new work, plant, vessel or appliance which the Board may determine to charge to revenue;

(5) the interest payable by the Board under section 34;

Provided always that no charge which is debitable under section 50 to the Pilotage account shall be debited to the General account.

50. All fees for pilotage and all fines

Pilotage fees to be credited to Pilotage Account.

and penalties levied under this Act from pilots or other persons employed in the pilot services shall be credited to the Pilotage Account and shall be held by the Board

in trust, and be applied, in such proportions as they shall from time to time direct, to the following purposes only (namely):—

(1) the purchase and maintenance in repair of such vessels, and the supply of such materials, stores, or other things as the Board deem it necessary to maintain or supply for the efficiency of the pilot service;

(2) the payment of the salaries and allowances of pilots and other officers and servants of the Board employed in the pilot service or in the supervision thereof;

(3) the payment of pensions or retiring gratuities or compassionate allowances to pilots and other officers and servants engaged in the pilot service, and of the contributions, if any, duly authorized to be made in their behalf to any Provident Fund.

### Disposal of Balances.

51. The Board may invest any balance remaining on the 31st March of each year to public securities. Balances may be invested by the Board in public securities. the credit of either the General or Pilotage account after meeting all the charges properly debitable to such account, in public securities, and may from time to time sell the said securities and re-invest the proceeds in other public securities, or credit the same to the account to which the balance invested belonged for expenditure on any of the purposes to which the monies credited to such account may lawfully be applied.

But the money so invested by the Board, whether in respect of the General account or of the Pilotage account, shall not exceed such amount annually, or in the aggregate, as shall from time to time be prescribed by Government, and any surplus remaining after deducting the amounts which may be so invested shall be applied:

(a) if such surplus belongs to the General account, in liquidation, on or before the 1st August next following the 31st March on which such surplus accrued, of the principal of any loan raised by the Board under section 39, or of the capital of any debt at any time due by the Board to the Secretary of State for India in Council; or of the money due to the holders of the securities issued by the Board under section 30; and

(b) if such surplus belongs to the Pilotage account, in such manner as Government shall direct:

Provided always that the pilots and other officers and servants employed in the pilot service shall have no claim upon any balance to the credit of the pilotage account or upon the profits or interest arising from any investment thereof, or of any portion thereof except to such extent as payments to them, or in their behalf, may from time to time be sanctioned by the Board under clauses (2) and (3) of section 50.

The interest and profits accruing and the loss, if any, arising from such investments as aforesaid shall be respectively credited and debited to the account to which the balance invested belongs.

*Annual Estimates.*

52. The Chairman shall, at a special meeting to be held in the month of February in each year, lay before the Board an estimate of the income and of the expenditure of the Board for the year commencing on the 1st day of April then next ensuing in such detail and form as the Board shall from time to time direct.

Such estimate shall be completed and printed, and a copy thereof sent by post, or otherwise, to each Trustee, at least ten clear days prior to the meeting before which the estimate is to be laid.

53. The Board shall consider the estimate so submitted to them, and shall sanction the same either unaltered, or subject to such alterations as they shall think fit.

54. The estimate, as sanctioned by the Board, shall be submitted to the Government, which may, if it thinks fit, at any time within one month after receipt of the same, disallow such estimate, or any portion thereof, and return the same for amendment. The Board shall, if the estimate is so returned by Government, forthwith proceed to amend the same, and shall re-submit the estimate so amended to the Government.

55. The Board may, at any time during the year for which any such estimate has been sanctioned, cause a supplementary estimate to be prepared and submitted to them. Every such supplementary estimate shall be considered and sanctioned by the Board and submitted to the Government in the same manner as if it were an original annual estimate.

56. Save in cases of pressing emergency, no sum exceeding five thousand rupees shall be expended by or on behalf of the Board, unless such sum is included in some estimate at the time in force which has been finally approved by Government.

If any sum exceeding five thousand rupees in amount is so expended on a pressing emergency, the circumstances shall be forthwith reported by the Chairman to

the Government, together with an explanation of the way in which it is proposed by the Board to cover such extra expenditure.

57. Any estimate prepared by the Trustees appointed under the Bombay Port Trust Act, 1873, to be accepted for purposes of this Act, and approved by Government under section 53 of that Act, and which but for the passing of this Act would have force and effect, shall be deemed to have been duly prepared, passed and approved under this Act.

*Audit of Accounts.*

58. The accounts of the receipts and expenditure of the Board shall, twice in every year, be laid before Government, and shall be audited and examined by such auditors as shall, from time to time, be appointed by Government.

For the purposes of such audit and examination the auditors may, by summons in writing, require the production before them of all books, deeds, contracts, vouchers, and all other documents and papers which they may deem necessary, and may require any person holding, or accountable for any such books, deeds, contracts, accounts, vouchers, documents, or papers, to appear before them at any such audit and examination, or adjournment thereof, and to make and sign a declaration with respect to the same.

The auditors shall be paid by the Board such remuneration as Government shall determine, the amount being debited to the General account; and within fourteen days after the audit and examination shall have been completed, the auditors shall forward their report upon the accounts to the Board, who shall cause the same to be published, together with an abstract of the accounts, in the *Bombay Government Gazette*.

*Fulfilment of Board's Liabilities.*

59. It shall be incumbent on the Board to make ample provision year by year, either by retrenchment of expenditure



or by increase of rates for the due fulfilment of all their liabilities, and for the efficient administration of this Act; and in the event of any deficiency being at any time anticipated in the income of the Board, they shall forthwith take such measures as shall seem most expedient for preventing such deficiency.

60. If it shall at any time appear to the Governor in Council that sufficient provision is not being made by the Board to meet their liabilities, or if default shall at any time be made by the Board in any payment of interest which they are required to make under section 34, the Governor in Council may require the Board, by an order in writing signed by a Secretary to Government, to increase, subject to his sanction and to the provisions of section 43, to such extent and for such period as shall appear necessary, the rates or any of the rates for the time being in force under the said section.

If within fifteen days after receipt of such order the Board do not comply with the same, the Governor in Council may, by notification in the *Bombay Government Gazette*, increase the said rates or any of them, and such notification shall have the same force as if a new scale of rates to the same effect had been duly framed, sanctioned and published under section 43.

And for the purpose of realizing any interest which has not been paid by the Board when due, in accordance with section 34, the Governor in Council may, by an order published in the *Bombay Government Gazette*, appoint some person to receive the rates, charges, and other income which the Board may be entitled to receive, or any portion thereof, and to apply the same in discharge of the amount due and of all expenses authorized by Government in respect of the appointment of such person and of the recovery by him of the said rates, charges and income; and the person so appointed shall have for the recovery of the said rates, charges, or other income, all and singular the powers and authorities conferred by this Act on the Board for the said purpose.

## VII.—OF THE POWERS AND FUNCTIONS OF THE BOARD.

### *Recovery of Rates.*

61. For the amount of all rates leviable under this Act in respect of any goods, the Board shall have a lien on such goods, and shall be entitled to seize and detain the same until such rates are fully paid. Rates in respect of goods to be landed shall become payable immediately on the landing of such goods. Rates in respect of goods to be removed from the premises of the Board, or to be shipped for export, shall be payable before such goods are removed or shipped. The lien for such rates shall have priority over all other liens and claims, except for general average, for the ship-owner's lien for freight upon the said goods, (where such lien exists and has been preserved in the manner hereinafter provided), for primage and for money payable to Her Majesty or to the Secretary of State for India in Council.

62. If the master or owner of any vessel, or his agent, at or before the time of landing from such vessel any goods at any wharf, dock or pier in the possession of the Board, shall give to the Board notice, in writing, that such goods are to remain subject to a lien for freight or other charges payable to the ship-owner, to an amount to be mentioned in such notice, such goods shall continue liable to the same lien, if any, for such charges as they were subject to before the landing thereof. Such goods shall be retained either in the warehouses and sheds of the Board, or, with the consent of the Chief Customs Authority of the Presidency in the public warehouses, at the risk and expense of the owners of the said goods until the lien is discharged as hereinafter mentioned.

63. Upon production to the proper officer of the Board of a document purporting to be a receipt for the amount claimed as due, or a release of freight from the person by or on whose behalf such notice shall have been given, it shall be lawful for the Board to permit such goods to be removed without regard to such lien, provided they shall have used reasonable care in respect to the authenticity of such document.

64. If the rates payable to the Board in

If rates are not paid, or the lien for freight is not discharged, goods may be sold after the expiration of two months.

respect of any goods are not paid, or if the lien of the ship-owner for freight, when

such notice as aforesaid has been given, is not discharged, the Board may, and in the latter event, if required by or on behalf of the person claiming such lien for freight, shall, at the expiration of two months from the time when the goods were placed in their custody, or if the goods are of a perishable nature, at such earlier period (being not less than twenty-four hours after the landing of the goods), as they shall think fit, sell by public auction the said goods, or so much as may be necessary to satisfy the amounts hereinafter directed to be paid out of the produce of such sale.

Before making such sale, ten days' notice of the same shall be given by publication thereof in the *Bombay Government Gazette*, unless the goods are of so perishable a nature as, in the opinion of the officer aforesaid, to render their immediate sale necessary or advisable, in which event such notice shall be given as the urgency of the case admits of.

If the address of the owner of the goods has been stated on the manifest of the cargo or in any of the documents which have come into the hands of the Board, or is otherwise known, notice shall also be given to the owner of the goods by letter delivered at such address, or sent by post; but the title of a *bonâ fide* purchaser of such goods shall not be invalidated by reason of the omission to send the notice hereinbefore mentioned, nor shall any such purchaser be bound to inquire whether such notice has been sent.

65. In every case of any such sale as

Application of proceeds of sale.

aforesaid, the monies received from the sale shall be applied as follows:—

1stly.—In payment, according to their respective priorities, of the liens and claims excepted in section 61 from the priority of the lien of the Board for rates;

2ndly.—In payment of the expenses of the sale;

3rdly.—In payment of the rates and expenses due to the Board in respect thereof.

The surplus, if any, shall be paid to the owner of the goods or his agent on his applying for the same, provided such appli-

ly.—38

cation be made within one year from the sale of the goods, or good reason be shown why such application was not so made to the satisfaction of the Board; and in case such application shall not be so made, nor reason shown, such surplus shall be applied by the Board to the purposes of this Act.

66. If the master of any vessel in re-

Power to distrain vessels for the non-payment of rates, &c.

spect of which any rates, charges, or penalties shall be payable under this Act, or

any bye-laws made in pursuance hereof, shall refuse or neglect to pay the same, or any part thereof, on demand, it shall be lawful for the Board to distrain or arrest, of their own authority, such vessel, and the tackle, apparel, or furniture belonging thereto, or any part thereof, and detain the same until the amount so due shall be paid; and, in case any part of the said rates or penalties or of the costs of the distress or arrest, or of the keeping of the same, shall remain unpaid for the space of fifteen days next after any such distress or arrest shall have been so made, the Board may cause the vessel, or other thing so distrained or arrested, to be sold, and with the proceeds of such sale may satisfy such tolls, dues, rates, penalties, or charges and costs of sale remaining unpaid, rendering the surplus (if any) to the master of such vessel on demand.

67. If the Board shall give to the offi-

Port Clearance not to be granted till rates, &c., are paid.

cer of Government, whose duty it is to grant the port clear-

ance of any vessel, a notice stating that an amount therein specified is due in respect of rates, charges, or penalties chargeable under this Act, or any bye-laws, or orders made in pursuance hereof, against such vessel, or the owner or master of such vessel, in respect thereof, such officer shall not grant such port clearance until the amount so chargeable shall have been paid.

#### Works.

General nature of works to be executed under this Act.

68. The works to be undertaken by the Board under this Act may include—

(1) wharves, docks, and piers within the Port or on the foreshore of the Port with all necessary and convenient arches, drains, fences, roads, railways, and approaches;

(2) tramways, warehouses, sheds, engines, and other appliances for conveying, receiving, and storing goods landed, or to be shipped, or otherwise;

(3) light-houses, light-ships, beacons, pilot-boats, and other appliances necessary for the safe navigation of the Port and of the approaches thereto within a distance of three miles from the limits of the Port;

(4) laying down moorings, and the erection of cranes, scales, and all means and appliances necessary for berthing, loading and unloading vessels;

(5) reclaiming, excavating, enclosing, and raising any part of the foreshore of the Port vested in the Board, when such reclamation, excavation, enclosure, or raising may be necessary for any of the purposes of this Act;

(6) the construction and application of dredges and other machines for cleaning, deepening, and improving any portion of the Port or foreshore aforesaid;

(7) the construction of such works, without the limits of the Port, as shall be necessary for the protection of works executed by the Board within the Port, and all such other works and appliances as may, in the opinion of the Board, be necessary for carrying out the purposes of this Act:

Provided always that no new work, the

But no new work to be commenced without a plan and estimate, if its cost shall exceed Rs. 2,000;

contract be entered into by the Board in respect of any such new work, until a plan and estimate of such work shall have been submitted to the Board and considered and approved by them, nor shall any new work, the estimated cost of which exceeds two

nor without the sanction of Government to such plan and estimate, if the cost shall exceed two lacs of rupees.

proved by Government.

#### *Regulation of use of Wharves, &c.*

69. Nothing in this Act shall be deemed to affect:

(a) the right of Government to collect customs duties, or of the Municipal Corporation of the City of Bombay to collect town duties,

Reservation of the rights of Government to use the wharves, &c., for collecting customs duties;

at any wharf, pier, or dock in the possession of the Board, or

(b) any power or authority vested in the Customs Authorities of the Presidency under any law for the time being in force for the administration of Sea Customs.

70. Whenever any wharf, pier, or dock, Places to be set apart in the possession of for use of Customs Officers on wharves, &c. the Board shall be appointed, under the provisions of any Act for the time being in force, for the administration of Sea Customs, a wharf or place for the landing and shipping of goods within the meaning of such Act,

and whenever any warehouse, or portion of a warehouse, in the possession of the Board shall be appointed or licensed under the provisions of any such Act as a warehouse for the deposit of dutiable goods on the first importation thereof without payment of duty,

the Board shall set apart, and maintain, such place on or adjoining such wharf, dock, or pier, or in such warehouse, or portion of a warehouse, for the use of the Officers of Customs as Government shall in that behalf approve or appoint;

but all rates payable in respect of any wharf, pier, or warehouse, or portion thereof so set apart, or for the storage of goods thereupon or therein, shall be paid to the Board or to such person or persons as they may appoint to receive the same, notwithstanding that the same has been so set apart;

and if any portion of the Customs Bonded Warehouse shall, with the consent of Government, be appointed a public warehouse for the deposit of dutiable goods as aforesaid, the Board

shall set apart and maintain such portion thereof in good order for the said purpose; but the Chief Customs Authority shall pay to the Board from time to time, as may be determined by Government, all surplus income derived from the use of such portion of the said Customs Bonded Warehouse as a public warehouse as aforesaid after payment of all charges and expenses of management.

71. The Board shall provide such number of public landing-places as shall, in the opinion of Govern-

Board to provide free landing-places.

ment, be sufficient, from and upon which the public shall be permitted to embark and to land free of charge.

#### Control of Pilots.

72. The Board shall have the right and privilege of maintaining pilots for the navigation of vessels at the Port, and all fees for pilotage shall be paid to the Board: Provided that no person shall be appointed to be a pilot by the Board who is not for the time being authorized by Government, under the provisions of the Indian Ports Act, 1875, to pilot vessels.

The Board may also, from time to time, make such bye-laws and regulations as they shall think fit:

(a) for fixing and regulating the wages and allowances for pilotage to be received by pilots, and

(b) for regulating the behaviour and conduct of pilots;

and shall enforce the observance of such bye-laws and regulations, by the imposition of pecuniary penalties not exceeding two hundred rupees for each offence, or by suspension, or deprivation of appointment, or otherwise as to them may appear expedient: Provided that such bye-laws shall first have been approved by Government, and published in the manner directed by section 74.

#### Bye-Laws.

73. The Board may, from time to time, make bye-laws:

(a) for the guidance of persons employed by them under this Act;

(b) for the safe and convenient use of the wharves, docks, piers, warehouses, tramways, and other works constructed or acquired by them under this Act;

(c) for the use of the public landing-places constructed by or belonging to them;

(d) for the reception and removal of goods brought within the premises of the Board;

(e) for keeping clean the harbour and basins and the works of the Board, and for preventing filth or rubbish being thrown therein or thereon;

(f) for settling the mode of the payment of the rates and charges leviable under this Act;

(g) for regulating, declaring, and defining the wharves, docks, and piers vested in the Board on which goods shall be landed from, and shipped on board vessels; and

(h) generally for carrying out the purposes of this Act.

The Board may also, from time to time, vary, alter, or revoke any such bye-laws so made by them.

74. No bye-law, or alteration or revocation of a bye-law, shall have effect until the same shall have been approved by Government, and such approval shall have been published in the *Bombay Government Gazette*; and no bye-law or alteration or revocation of a bye-law shall be approved by Government until the same shall have been published for three weeks successively in the said Gazette.

It shall be lawful for Government at any time by notification in the said Gazette to cancel any bye-law or regulation made and published under the provisions of this and of the last two preceding sections.

75. The Board may, in the bye-laws made under section 73, prescribe such penalties as they shall deem fit for the infringement of the same: Provided that no penalty for any one infringement of a bye-law shall exceed one hundred rupees, nor, in case of a continuing infringement, shall any penalty exceed fifty rupees per diem for every day after notice of such infringement shall have been given by the Board to the person guilty of such infringement.

76. The Board shall cause the said bye-laws and the scales of rates and charges to be exhibited, leviable by the Board, to be printed in the English, Maráthi and Guzeráthi languages, and to be hung up at the several wharves, docks, and piers, and other convenient places on the premises of the Board.

77. Until bye-laws are framed by the Board under section 73, the bye-laws framed by the Trustees appointed under the Bombay Port Trust Act, 1873, under section 85 of that Act, and in force when this Act comes into operation, shall be deemed

to have been framed under the said section 73 of this Act.

#### VIII.—PENALTIES.

78. Any person who being a Trustee, or an officer or servant of the Board, shall acquire, directly or indirectly, any share or interest in any contract or employment with, by, or on behalf of the Board, shall be deemed to have committed the offence made punishable by section 168 of the Indian Penal Code:

Provided that nothing in this section shall apply to a person—

(a) having a share in any Joint Stock Company which shall contract with, or be employed by, or on behalf of the Board, or

(b) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Board may be inserted, or,

(c) interested in any loan of money to the Board.

79. Any person employed under this Act, not being a public servant within the meaning of section 21 of the Indian Penal Code, who shall accept or obtain, or agree to accept or attempt to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a reward for doing, or forbearing to do, any official act, or for showing, or forbearing to show, in the exercise of his official functions, favour or disfavour to any person; or for rendering, or attempting to render, any service or dis-service to any person with the Board or with any public servant as such, or with the Government, shall be liable to the same punishment as is provided by the Indian Penal Code in the case of the like offence committed by a public servant.

80. Any person who shall refuse or neglect to appear before any auditor of accounts, or to produce any books, deeds, contracts, accounts, vouchers, documents, or papers, or to make or sign any declaration when duly required so to do by any auditor of accounts under section 58, shall be punished for every such neglect or refusal with fine which may extend to one hundred rupees.

81. Any person, other than the Board or the Conservator of the Port, who shall, without first obtaining the written consent of Government to his so doing, make, set up, or fix, below high-water mark within the Port, any wharf, quay, pier, mooring, or other erection whatsoever, shall be punished with fine which may extend to one thousand rupees, and to a further fine which may extend to one hundred rupees for every day during which he shall permit such wharf, quay, pier, mooring, or other erection, to remain after notice to remove the same has been given to him.

Any such wharf, quay, pier, mooring, or other erection, may be removed by the Board, and the person who made, set up, or fixed the same, shall also be liable to pay all expenses which may be incurred by the Board in the removal thereof.

82. If it be found when goods are imported at, or exported from, any wharf, dock or pier in the possession of the Board, that the weight or quantity of such goods, or the tonnage of any vessel carrying such goods, has been understated in any document presented to any officer of the Board for the purpose of enabling him to determine the rates or charges payable in respect of the said goods or vessel, the consignee, in the case of goods imported, and the consignor, in the case of goods exported, shall be liable to pay to the Board such sum not exceeding twice the proper rates or charges on the weight or quantity of goods or amount of tonnage so understated as may be determined by the Board, and the said sum shall on the application of the Board be recoverable under a Presidency Magistrate's warrant as if it were a fine inflicted by such Magistrate.

83. Any person who removes, or attempts to remove, or abets within the meaning of the Indian Penal Code the removal of any goods, vessel, animal, or vehicle with the intention of evading payment of the rates or charges lawfully due in respect thereof to the Board shall be punished with fine which may extend to fifty rupees.

84. If, through the negligence of any person having the guidance or command of any vessel, or of any of the mariners

Recovery of value of damage to any property of the Board.

or persons employed on such vessel, damage shall be caused to any wharf, dock, pier, or other work in the possession of the Board, the amount of such damage shall, on the application of the Board, be recoverable, together with the cost of such recovery, by distress and sale, under a Presidency Magistrate's warrant, of a sufficient portion of the boats, masts, spars, ropes, cables, anchors, or stores belonging to such vessel: Provided that no such warrant shall issue until the master of such vessel has been duly summoned to appear, or, if he appears, until he has been heard, and provided also that no such warrant shall issue if the vessel was at the time under the orders of a duly authorized officer in the pilot service of the Port or of the Master Attendant's Department.

85. Except as is otherwise provided in section 82, all offences against this Act or against any bye-law made under section 73 shall be cognizable by a Presidency Magistrate.

All fines and damages recovered from any offender, or by any distress under section 84, shall be paid to the Board.

#### IX.—MISCELLANEOUS.

86. Whenever any day by this Act appointed for any purpose shall happen to be a Sunday or a public holiday, the business appointed to

be done on such day shall be done on the day next after such Sunday or public holiday.

87. No suit or other proceeding shall be commenced against any person for anything done, or purporting to have been done, in pursuance of this Act without giving to such person one month's previous notice in writing of the intended suit or other proceeding, and of the cause thereof, nor after six months from the accrual of the cause of such suit or other proceeding.

The Board shall not be responsible for any mis-feasance, mal-feasance, or non-feasance of any officer or servant appointed under this Act;

nor, if they should be appointed by Government, under the Indian Ports Act, 1875, Conservators of the Port, for any mis-feasance, mal-feasance or non-feasance of any Deputy Conservator, Master Attendant or Harbour-Master, or of any assistant or deputy of any such officer, or of any person acting under the authority or direction of or in subordination to any such officer, assistant or deputy;

nor for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers, or other things belonging to the Board, which may be used by such vessel;

nor shall the Board, or any of the said officers or servants, be liable in damages for any act *bonâ fide* done, or ordered to be done by them in pursuance of this Act.

### SCHEDULE A.

#### Properties referred to in Section 29.

No.	Names of Holders.	General Description of Properties.
1	The Sassoon Dock Company.	All the property at Colába, belonging to the Sassoon Dock Company, known as the Sassoon Dock, together with the land on the west of the Colába road appertaining thereto, and all rights, privileges, and powers enjoyed or claimed by the Sassoon Dock Company in connection therewith.
2	The New Colába Company.	A strip of land, varying from 25 to 50 feet or thereabouts in width, running along the whole foreshore of the estate of the New Colába Company, situated at Colába, commencing from the Colába road at the point where the properties of the New Colába Company and the Sassoon Dock Company adjoin, and thence continuing alongside the Bandar wall of the Victoria Basin and the Harbour Face up to the junction of the New Colába Company's

## SCHEDULE A—continued.

No.	Names of Holders.	General Description of Properties.
3	The Apollo Press Company.	<p>property with the Gun Carriage Reclamation; again commencing at the junction of the New Colába Company's property and the property of the Apollo Press Company and running along the Harbour Face and alongside the Arthur Basin up to the Colába road; together with the whole of the Arthur Bandar and the ground adjacent thereto, situate within Customs limits, together with all rights and privileges enjoyed or claimed by the New Colába Company in respect of the strip of land, Bandar, and ground aforesaid, and of the Victoria and Arthur Basins.</p> <p>All the land at Colába the property of the Apollo Press Company, and known as the Jamsetjee Bandar and Reclamation, including all rights and privileges enjoyed or claimed by the Apollo Press Company in respect of the said land and of the Gun Carriage Basin, together with all rights and privileges enjoyed or claimed by the Apollo Press Company at or in respect of any of the Bandars belonging to the New Colába Company.</p>
4	The Mázgaon Land Company.	All the land at Mázgaon, known as the Powder Works Bandar, the property of the Mázgaon Land Company, lying between the Harbour and the western side of the road running from the Harbour Defences Office to Tank Bandar, together with all rights and privileges enjoyed or claimed by the Mázgaon Land Company in respect of the said land.
5	The Frere Land Company.	All the land north of Tank Bandar the property of the Frere Land Company, bounded towards the west by the Ghorupdavi road and towards the north and west by the Jackaria Bandar road, together with all rights and privileges enjoyed or claimed by the Frere Land Company in respect of the said land.
6	Hajee Ismael Hajee	<p>All the land and fish-ponds bounded by the Harbour on the east and by the Jackaria Bandar road and the Siwri road on the west and north, by the property of the Frere Land Company on the south, and by the property of the Trustees of the Port on the north, known as Siwri Bandar, together with all rights and privileges enjoyed or claimed in respect of the said land by the respective holders thereof.</p>
7	Hajee Hubeeb.	
8	Hajee Jackaria Noor	
9	Mahomed.	
10	Manockjee Adurjee ...	
11	Aitwar Lukdee ...	
12	Muncherjee Framjee	
13	Cama.	
14	Dadabhoj Hormusjee	
15	Hajee Essa Hajee Fuzla	
16	Dorabjee Nusserwanjee	
17	Byramjee Cowasjee ...	
18	Esmail Mahomed	
19	Songaji	

## SCHEDULE B. (SEE SECTION 30.)

*Form of Security.*

## THE TRUSTEES OF THE PORT OF BOMBAY.

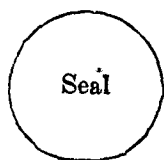
No.

Under the provisions of the Bombay Port Trust Act, 1879, we, the Trustees of the Port of Bombay, do hereby for ourselves and our successors promise and agree to pay to \_\_\_\_\_, or order, the sum of Rupees \_\_\_\_\_ value received; such payment to be made on demand at the office of the Accountant-General, Bombay, after the expiration of three months' notice of payment to be given by the Chairman of the said Trustees in the *Bombay Government Gazette*. We further promise and agree for ourselves and our successors to pay to the said \_\_\_\_\_, or order, interest on the said sum of Rupees \_\_\_\_\_ from the \_\_\_\_\_ day of \_\_\_\_\_ until the expiration of three months after such notice of payment as aforesaid; such interest to be at the rate of four per centum per annum

and to be payable on demand at the office aforesaid half-yearly on the 1st day of April and the 1st day of October in every year until the expiration of three months from the date of such notice of payment as aforesaid, when the amount of interest then due hereunder will be payable with the principal on demand at the office aforesaid and (such notice being considered as equivalent to a tender of payment at the period appointed for the discharge hereof) all further interest shall cease.

Given under our common Seal this                      day of                      187 .

(Signature of the Chairman and two Trustees.)



Seal of the Corporation.

### SCHEDULE C. (SEE SECTION 33.)

#### Statement of Capital Debts of the Board due to the Secretary of State for India in Council.

On account of what Property, &c.	Bearing Interest.			Not bearing Interest.			Total.		
	Rs.	a.	p.	Rs.	a.	p.	Rs.	a.	p.
Elphinstone Estate, purchase price ...	1,85,91,596	12	8	.....	.....	.....	.....	.....	.....
Elphinstone Estate, expended in 11 months to 31st March 1871.	7,47,370	2	10	.....	.....	.....	.....	.....	.....
Elphinstone Estate, expended in 12 months to 31st March 1872.	2,75,090	8	6	.....	.....	.....	.....	.....	.....
Elphinstone Estate, Troop Siding, Carnac Bunder.	39,790	3	2	.....	.....	.....	1,96,53,847	11	2
Moody Bay Reclamation (portion east of Frere Road), expended in year to 31st March 1871.	3,57,596	8	8	.....	.....	.....	.....	.....	.....
Moody Bay Reclamation (portion east of Frere Road), expended in year to 31st March 1872.	2,01,345	6	4	.....	.....	.....	5,58,941	15	0
Apollo Bay Reclamation, expended in year to 31st March 1872.	9,752	11	11	.....	.....	.....	9,752	11	11
Wellington Reclamation, expended in year to 31st March 1872.	934	12	8	.....	.....	.....	934	12	8
Apollo Pier, expended prior to 31st March 1870.	.....	.....	.....	2,23,038	12	2	.....	.....	.....
Apollo Pier, expended in year to 31st March 1871.	1,38,173	7	8	.....	.....	.....	.....	.....	.....
Apollo Pier, expended in year to 31st March 1872.	61,825	9	2	.....	.....	.....	4,23,037	13	0
Tank Bandar, expended in year to 31st March 1871.	182	0	0	.....	.....	.....	182	0	0
Customs } Apollo Bonded Ware- Bonded } house.	.....	.....	.....	5,50,000	0	0	.....	.....	.....
Warehouse } Custom-house Godown...	.....	.....	.....	25,165	0	0	5,75,165	0	0
Kussara Bandar ...	.....	.....	.....	5,285	0	0	5,285	0	0
Saw Mill Property, Tank Bandar ...	.....	.....	.....	41,189	14	4	41,189	14	4
Expended on the above properties between 31st March 1872 and the passing of Bombay Act I. of 1873.	1,45,053	5	4	.....	.....	.....	1,45,053	5	4
Balance of Interest unpaid at 31st March 1871.	2,75,273	4	7	.....	.....	.....	.....	.....	.....
Balance of Interest unpaid at 31st March 1872.	1,50,233	3	2	.....	.....	.....	6,02,042	10	0
Balance of Interest unpaid for the period from 1st April 1872 until the date on which Bombay Act I. of 1873 came into operation.	1,76,536	2	3	.....	.....	.....	.....	.....	.....
<b>Total...Rs.</b>	<b>2,11,70,754</b>	<b>2</b>	<b>11</b>	<b>8,44,678</b>	<b>10</b>	<b>6</b>	<b>2,20,15,432</b>	<b>13</b>	<b>5</b>



## SCHEDULE D. (SEE SECTION 42.)

*Form of Debenture.*

THE TRUSTEES OF THE PORT OF BOMBAY.

*The*

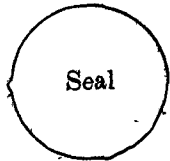
18

No.

By virtue of the Act No.                      of 1879 of the Council of the Governor of Bombay for making Laws and Regulations, entitled "The Bombay Port Trust Act, 1879," we, the Trustees of the Port of Bombay, in consideration of the sum of Rupees                      paid to us by *A. B.*, of                      , or order, the said sum of Rupees                      after the date hereof, together with interest at the rate of                      per centum per annum, payable half-yearly on the                      day of                      and the                      day of

Given under our Corporate Seal this                      day of                      187

*(Signatures of the Chairman and two Trustees.)*



*of the Corporation.*

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

**C. G. W. MACPHERSON,**  
Acting Under Secretary to Government.

*Poona, 1st September 1879.*

[Published with the "Bombay Government Gazette" on the 11th September 1879.]

## 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 July 1879, and the assent of His Excellency the Viceroy and Governor General on the 27th August 1879, and is published for general information:—

#### Bombay Act No. VI. of 1879.

*An Act to consolidate the immoveable and other property vesting in the Trustees of the Port of Bombay and certain other property on, or connected with, the foreshore of the Island of Bombay into one estate, and to vest the control and management of the same in one Public Trust; and for other purposes.*

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*An Act to consolidate the immovable and other property vesting in the Trustees of the Port of Bombay and certain other property on, or connected with, the foreshore of the Island of Bombay into one estate, and to vest the control and management of the same in one Public Trust; and for other purposes.*

WHEREAS it is expedient that the immovable and other property vesting in the Trustees of the Port of Bombay should be consolidated with certain other property on, or connected with, the foreshore of the Island of Bombay into one estate, and that such consolidated estate should, together with the rights and powers now exercisable by the said Trustees, be vested, subject to the provisions hereinafter appearing, in a new Trust; It is enacted as follows:—

I.—PRELIMINARY.

1. This Act may be called "The Short title. Bombay Port Trust Act, 1879."
2. From the date which shall be notified by the Governor in Council under Section 8, Bombay Act I. of 1873 (The Bombay Port Trust Act, 1873,) shall be repealed:

Provided that all debts and obligations incurred, all contracts entered into, and all matters and things engaged to be done by, with or for the Trustees appointed under the said Act, shall be deemed to have been incurred, entered into, or engaged to be done by, with or for the Board constituted by this Act;

and all rates and sums of money due to the said Trustees shall be deemed to be due to the said Board;

and all suits or other legal proceedings, civil or criminal, instituted, or which might, but for the passing of this Act, have been instituted by or against the said Trustees, may be continued or instituted by or against the said Board.

3. In this Act, unless there be something repugnant in the Interpretation Section. subject or context,

- (1) the word "rates" includes any toll, due, rent, rate, or charge, leviable under section 43 ;  
 "Rates."
- (2) "Port" means the Port of Bombay within such limits as may from time to time be defined by Government for the purposes of this Act by notification in the *Bombay Government Gazette*, and until a notification is so issued, within such limits as may have been defined by Government under section 73 of the *Bombay Port Trust Act, 1873*, for the purposes of that Act ;  
 "Port."
- (3) "Vessel" denotes any thing made for the conveyance by water of human beings or of property ;  
 "Vessel."
- (4) "Master," when used in relation to any vessel, means any person having for the time being the charge or control of such vessel ;  
 "Master."
- (5) "Owner," when used in relation to goods, includes any consignor, consignee, shipper or agent for the sale or custody of such goods; and when used in relation to any vessel, includes any part owner, charterer, consignee, or mortgagee in possession thereof ;  
 "Owner."
- (6) "Land" includes the bed of the sea below high-water mark ;  
 "Land."
- (7) "Wharf" includes a bandar and any part of the foreshore used for loading or unloading goods, and any wall enclosing or adjoining the same ;  
 "Wharf."
- (8) "Dock" includes basins, locks, cuts, entrances, graving docks, graving blocks, inclined planes, patent slips, grid-irons, quays, warehouses, and other works and things appertaining to any dock ;  
 "Dock."
- (9) "Pier" includes any stage, stairs, landing-place, hard, jetty, landing-stage, floating barge, or pontoon, and any bridges or other works connected therewith ;  
 "Pier."
- (10) the word "Goods" includes wares and merchandise of every description ;  
 "Goods."
- (11) "Immoveable Property" includes wharfage-rights and all other

rights exercisable on, over, or in respect of any land, wharf, dock or pier ;

- (12) the words "Public Securities" mean securities of the Government of India, *Bombay Municipal Debentures* and securities and debentures issued under sections 30 and 41, respectively, of this Act.  
 "Public Securities."

## II.—OF THE BOARD OF TRUSTEES.

### *Constitution of Board.*

4. The duty of carrying out the provisions of this Act shall, subject to such conditions and limitations as are hereinafter contained, be vested in a Board, to be called "the Trustees of the Port of Bombay"; and such Board, hereinafter referred to as "the Board," shall be a body corporate and have perpetual succession and a common seal, and shall sue and be sued by the name first aforesaid.

5. The Board shall consist of thirteen members, that is to say, of

five Elective Trustees,  
 seven Nominee Trustees, and  
 a Chairman ;

and not less than three of the Trustees shall be natives of India residing in the City of Bombay.

6. The elective Trustees shall be elected by the members for the time being of the *Bombay Chamber of Commerce* in such manner as shall from

time to time be determined at a meeting of the members of the said Chamber convened in accordance with the rules at the time in force in this behalf. The Secretary to the said Chamber shall make a return to the Government of the name of every person so elected by the Chamber, and his return shall be published in the *Bombay Government Gazette*.

In the event of default being made by the Chamber in electing any Trustee under the foregoing provisions within the period hereinafter prescribed in this behalf, it shall be lawful for Government by notification in the *Bombay Government Gazette* to nominate a person, and the person so nominated shall be deemed to be a Trustee as if he had been duly elected by the Chamber.

7. The nominee Trustees and the Chairman shall be appointed by Government by notification in the *Bombay Government Gazette*.

Nominee Trustees and the Chairman to be appointed by Government.

8. The term of office of the first nominee and elective Trustees shall commence on such date as shall be notified in this behalf by the Governor in Council.

Term of office of first Trustees when to commence.

9. Three of the first nominee Trustees and three of the first elective Trustees shall, unless they become in the meantime disqualified, hold office up to and inclusive of the 31st day of March next succeeding the date on which their term of office shall commence, the selection of the said six Trustees being made by lot at such time and in such manner as the Chairman shall determine. The remaining four of the first nominee Trustees and the remaining two of the first elective Trustees shall hold office until and inclusive of the 31st day of March next following the 31st day of March aforesaid.

Nominee and elective Trustees to retire from office by rotation.

In every other case the nominee and elective Trustees shall, unless they become in the meantime disqualified, hold office for a term of two years.

10. The first elective Trustees shall be elected on some day not later than a fortnight previous to the date which shall be notified by the Governor in Council under section 8, and the first nominee Trustees shall be appointed on some day during the said fortnight; in every other case elective Trustees shall be elected on some day not earlier than the first and not later than the fifteenth day of the month of March next preceding the 1st of April from which their term of office is to commence; and nominee Trustees shall be appointed on some day in the remainder of the said month of March.

Election and appointment of first Trustees.

Trustees to be appointed and elected in the month of March.

11. The Chairman shall hold office during the pleasure of Government, provided that he does not in the meantime cease, through disqualification, to be a Trustee.

Chairman to be appointed during pleasure of Government.

12. Any person on ceasing to be a Trustee, shall, unless disqualified under section 14, be re-eligible.

Trustees re-eligible.

13. Any casual vacancy in the office of a Trustee other than the Chairman occasioned by the death, resignation, or disqualification of such Trustee shall be filled up within one month by Government, if the office vacated was that of a nominee Trustee, or by the Chamber of Commerce, if it was that of an elective Trustee, in the same manner and subject, so far as may be, to the same provisions as are applicable in the case of original appointments and elections of Trustees: Provided that the Trustee so chosen shall retain his office so long only as the vacating Trustee would have retained the same, if such vacancy had not occurred.

Casual vacancies.

If a Trustee departs from Bombay with an intention of being absent for a longer period than three months, or if a Trustee shall have been absent for such period, a person shall be elected or appointed as aforesaid to act for such Trustee during his absence or until he shall cease to be a Trustee, and the person so acting shall be deemed for all the purposes of this Act to be a Trustee.

Acting Trustees.

#### *Disqualifications of Trustees.*

14. No person shall be qualified to be a Trustee during such time as he

Disqualifications for office of Trustee.

(a) is an uncertificated bankrupt or insolvent, or

(b) holds any office or place of profit under the Board, or

(c) has, directly or indirectly, any share or interest in any work done by order of the Board, or in any contract, or employment with, by, or on behalf of, the Board;

and any Trustee who

(d) becomes disqualified to cease to be a Trustee.

(d) becomes disqualified for any of the aforesaid reasons, or

(e) is absent from the meetings of the Board for a period exceeding twelve consecutive months, or, without the permission of the Board, from six consecutive meetings of the Board, or

(f) is sentenced to imprisonment, shall cease to be a Trustee, and his office shall thereupon become vacant:

Provided always that no Trustee shall vacate his office by reason only of his

Proviso.

(g) having a share in any Joint Stock Company which shall contract with or be employed by, or on behalf of, the Board, or

(h) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Board may be inserted, or

(i) being interested in any loan of money to the Board.

#### *Salaries of Trustees.*

15. The Chairman shall receive such salary as Government shall from time to time determine.

Every Trustee other than the Chairman shall be entitled to a fee of thirty rupees for each meeting of the Board at which a quorum is present and business is transacted and which he attends from the beginning to the end thereof: Provided that if more than one such meeting is held in any one week, no more than thirty rupees shall be paid to any Trustee for his attendance at all such meetings during that one week.

#### *Proceedings of Board.*

16. The following provisions shall be observed with respect to the proceedings of the Board (namely):—

(1) During any vacancy in the Board the continuing Trustees may act as if no vacancy had occurred.

(2) The Board shall meet together and shall from time to time make such arrangements, not inconsistent with this Act, with respect to the place, day, hour, notice, management, and adjournment of such meetings, and generally with respect to the transaction of business, as they think fit, subject to the following conditions (namely):—

(a) that a meeting shall be held once at least in every fortnight;

(b) that the Chairman may, whenever necessary upon an emergency, and whenever he thinks fit, and shall, upon the written request of not less than three Trustees, call a special meeting;

(c) that no business shall be transacted at any meeting unless at least five Trustees are present from the beginning to the end of such meeting;

(d) that every meeting shall be presided over by the Chairman, if he is present at the time appointed for holding the same, and if he is absent, by such one of the Trustees present as may be chosen by the meeting;

(e) that all questions shall be decided by a majority of votes of the Trustees present, the president having a second or casting vote in all cases of equality of votes;

(f) that if a poll be demanded, the names of the Trustees voting and the nature of their votes shall be recorded by the president;

(g) that minutes shall be kept of the names of the Trustees present and of the proceedings at each meeting in a book to be provided for this purpose, which shall be signed, as soon as practicable, by the president of such meeting, and shall be open to inspection by any Trustee during office hours;

(3) The Board may delegate their powers to committees consisting of such Trustees as they think fit; any committee so formed shall conform to any instructions that may from time to time be given to them by the Board, and the Board may at any time discontinue or alter the constitution of any committee so formed;

(4) A committee may elect a chairman of their meetings, and if no such chairman is selected, or, if he is not present at the time appointed for holding the same, the



members present shall choose one of their number to be chairman of such meeting ;

(5) Committees may meet and adjourn as they think proper, but the Chairman of the Board may, whenever he thinks fit and shall, upon the written request of not less than two members of a committee, call a special meeting of such committee ;

Committees when to meet.

(6) Questions at any meeting of a committee shall be decided by a majority of votes of the members present, and in case of an equal division of votes the chairman of the meeting shall have a second or casting vote, but no business shall be transacted at any such meeting unless at least two-thirds of the members of the committee are present from the beginning to the end thereof ;

Questions how to be decided at Committees' meetings.

(7) No act of the Board, or of any Committee, or of any person acting as Trustee, shall be deemed to be invalid by reason only of some defect in the appointment of such Board, Committee or Trustee or on the ground that they, or any of them, were disqualified for the office of Trustee.

Acts of Board, &c., not to be invalidated by informalities.

17. The Chairman may, on behalf of the Board, enter into any contract or agreement, whereof the value or amount shall not exceed one thousand rupees, in such manner and form as, according to the law for the time being in force, would bind him if such contract or agreement were on his own behalf ; but every other contract and agreement, on behalf of the Board, shall be in writing, and shall be signed by the Chairman, and by two other Trustees, and shall be sealed with the common seal of the Board. No contract or agreement not executed as is in this section provided shall be binding on the Board.

Mode of executing contracts.

18. The Board may compound or compromise for, or in respect of, any claim or demand arising out of any contract entered into by them under this Act, or in respect of any action or suit instituted by or against them, for such sum of money, or other compensation, as they shall deem sufficient.

The Board may compound for breach of contract.

### *The Chairman.*

19. The Chairman shall :

(1) attend every meeting of the Board unless prevented by sickness or other reasonable cause ;

Duties of Chairman.

(2) exercise supervision and control over the acts and proceedings of all officers and servants of the Board in matters of executive administration, and in matters concerning the accounts and records of the Board ; and, subject to the regulations at the time being in force framed by the Board under section 22, dispose of all questions relating to the service of the said officers and servants, and their pay, privileges, and allowances ;

(3) furnish to the Government a copy of the minutes of any of the Board's proceedings, and any returns or other information which Government may from time to time call for.

20. Government may from time to time grant to the Chairman such leave of absence as they may deem fit, and any person whom Government appoint to act for the Chairman during any such absence on leave shall, while so acting, be deemed for all the purposes of this Act to be the Chairman.

Leave of absence may be granted to the Chairman.

The allowance, if any, which Government direct to be paid to the Chairman during his absence on leave, and the salary which Government direct to be paid to the person appointed to act for him, shall be a charge on the General Account of the Board.

Leave and acting allowances to be defrayed out of the General Account.

### III.—OF THE OFFICERS AND SERVANTS OF THE BOARD.

#### *Strength of Staff.*

21. The Board shall from time to time prepare and sanction a schedule of the staff of officers and servants whom they shall deem it necessary and proper to maintain for the purposes of this Act. Such schedule shall also set forth the amount and nature of the salaries, fees, and allowances which the Board sanctions for each such officer or servant.

Schedule of officers and servants and of their pay and allowances to be prepared and sanctioned by the Board.

Until a schedule is prepared and sanctioned under this section, the schedule in force under section 23 of the Bombay

Port Trust Act, 1873, on the day previous to the date notified by the Governor in Council under section 8, shall be deemed to be the schedule prepared and sanctioned by the Board under the foregoing provisions :

Provided always that artisans, porters and labourers, and muccadums of porters and labourers shall not be deemed to be officers or servants within the meaning of this section or of section 22 or 23 of this Act.

Board to frame regulations : 22. The Board shall from time to time frame regulations :

(1) for regulating the grant of leave to the officers and servants of the Board ;

(2) for authorizing the payment of allowances to the said officers and servants, or to certain of them, whilst absent on leave ;

(3) for determining the remuneration to be paid to the persons appointed to act for any such officers or servants during their absence on leave ;

(4) for regulating the period of service of all such officers and servants ;

(5) for determining the conditions under which such officers and servants or any of them shall on retirement receive pensions, gratuities, or compassionate allowances, and the amount of such pensions, gratuities, or compassionate allowances ;

(6) for authorizing the payment of contributions at certain prescribed rates and subject to certain prescribed conditions to any Provident Fund which may, with their approval, be established by the officers and servants appointed under this Act :

Provided that officers and servants who were appointed by Government previous to the passing of the Bombay Port Trust Act, 1873, and whose salaries were paid from the fund known as "The Bombay Port Fund," and who have continued

in the service of the Trustees appointed under the Bombay Port Trust Act, 1873, and of the Trust constituted by this Act, shall be entitled to retiring pensions, gratuities, or compassionate allowances at the same rates and subject to the same conditions as may from time to time be applicable to the servants of Government of similar standing and status, and that in the event of any question arising as to the right of any such officer or servant to a retiring pension, gratuity, or compassionate allowance, or as to the amount of retiring pension, gratuity, or compassionate allowance to which he is entitled, it shall be determined by Government.

*Powers of Appointment, &c.*

23. Subject to the provisions of the said regulations and Appointments, &c., of the schedule for by whom to be made. the time being in force framed by the Board under section 22, the power of appointing, promoting, suspending, dismissing, fining, reducing or granting leave to the officers and servants of the Board shall be exercised by the Chairman in the case of officers and servants whose monthly salary does not exceed three hundred rupees, and in every other case by the Board.

The power of dispensing with the services of any officer or servant of the Board, otherwise than by reason of such officer's or servant's own misconduct, or of permitting any such officer or servant to retire on a pension, gratuity, or compassionate allowance, shall, subject to the aforesaid provisions, be exercised by the Board alone.

24. Every order or regulation made by the Board under any of the three last preceding sections shall, so far as the same relates to the Secretary, Engineer, Traffic Manager, or Chief Accountant of the Board, be subject to the previous sanction of Government.

In this section the word "Engineer" "Engineer" defined. means the engineer of highest grade on the Board's ordinary staff, and also any superior officer who may from time to time be employed in the capacity of Consulting Engineer to the Board.

*Continuance of Present Officers and Servants.*

25. All officers and servants holding any office on the day previous to the date notified by the Governor in Council under section 8 under Officers and servants of the late Trustees to be continued under the Board.

the Trustees appointed under the Bombay Port Trust Act, 1873, shall be deemed to have been appointed under this Act, and shall continue to hold the same office and to receive the same remuneration under the Board until an order to the contrary is passed by competent authority under this Act.

IV.—OF THE PROPERTY AND LIABILITIES OF THE BOARD.

*General Powers as to Property.*

26. The Board shall, for the purposes of this Act, have power to acquire and hold moveable and immoveable property, whether within or without the limits of the Port or City of Bombay; and shall also have power to lease, sell or otherwise convey any moveable or immoveable property which may have become vested in or been acquired by them:

Provided that no sale of immoveable property and no lease of any such property for a term exceeding fifty years shall be valid unless such sale or lease shall have been made with the previous sanction of Government.

27. When the Board are unable to acquire, by agreement, any immoveable property required for the purposes of this Act, Government may, in their discretion, order proceedings to be taken for acquiring the same on behalf of the Board as if such property were land needed for a public purpose within the meaning of the Land Acquisition Act, 1870.

The amount of compensation awarded and all other charges incurred in the acquisition of any such property shall be forthwith defrayed by the Board, and thereupon the said property shall vest in the Board.

*Transfer of Property to Board.*

28. All such immoveable and other property as is held by or in trust for the Trustees of the Port of Bombay under or in pursuance or for the purposes of the Bombay Port Trust Act, 1873, shall, upon and after the date notified by the Governor in Council under section 8, vest in the Board, but subject to all charges and liabilities affecting the same.

The property vested by this section in the Board shall be deemed to include

the estate, right, title, and interest of the Secretary of State for India in Council in the rock, stones, shingle, gravel, sand or soil within the Port, and also the right of levying rates on all goods landed at or shipped from any part of the foreshore between Malabár Point and Colába Point.

29. Whereas the Secretary of State for India in Council has initiated measures for the acquisition from the holders thereof, of the properties severally named and generally described in Schedule A, but the arrangements for the said acquisition are not yet complete; and whereas it is expedient that all such estate and interest as may be acquired by the Secretary of State for India in Council in the said properties should vest in the Board; it is hereby enacted that upon and after such date as shall be fixed in this behalf by the Governor in Council, all the estate, right, title, and interest of the Secretary of State for India in Council in the said properties shall, subject to the provisions hereinafter contained, become vested in the Board, subject to all covenants, charges, contracts, and liabilities affecting the same.

30. And whereas it is purposed that the purchase money of the said properties shall be paid in Port Trust securities bearing interest at the rate of four per centum per annum; it is hereby enacted that the Board shall within two months from the date aforesaid execute and deliver to the holders of the said properties securities in the form of Schedule B, under their common seal, for the sums for which their said properties shall be respectively purchased by the Secretary of State for India in Council: Provided that the said sums shall not exceed, in the aggregate, seventy-seven lacs of rupees, and that so long as the said amount is not exceeded it shall be competent to the Secretary of State for India in Council to acquire such estate, right, title and interest in the said properties as he shall deem fit, anything contained in Schedule A notwithstanding.

Every such security shall be for an amount of not less than one hundred rupees, and shall covenant for the payment of interest on the principal sum at

Such securities to be for not less than Rs. 100 each,

the rate of four per centum per annum from the date fixed by the Governor in Council under section 29, and such interest shall be payable half-yearly on or after the 1st April and the 1st October.

and to be transferable.

The said securities shall be transferable by endorsement.

*Application of the Board's Property.*

31. The proceeds of the sale of any portion of the property vested in or acquired by the Board under or by virtue of this Act, and all sums paid to the Board by way of compensation under the next following section, shall be applied as follows and not otherwise (namely):—

Sale-proceeds of Board's property how to be invested.

(a) in liquidation of the principal sum of any debt contracted under paragraph 2 of section 39, if the same or any portion of the same is at the time payable; or

(b) in liquidation of the principal of any debt at the time due to the Secretary of State for India in Council; or

(c) in liquidation of the securities, or of any of them, issued under section 30.

32. Nothing in this Act shall be deemed to affect the power of Government to order proceedings to be taken under the Land Acquisition Act of 1870, or any other law for the time being in force for the acquisition of land for public purposes in respect of any land vesting in the Board.

Saving of powers of Government under Land Acquisition Act, 1870.

to affect the power of Government to order proceedings to be taken under the Land

*Liabilities.*

33. The capital debts due by the Board on account of the immovable and other property vested in it by this Act are as follows (namely):—

Capital debts of the Board.

(a) to the Secretary of State for India in Council, the amounts mentioned in Schedule C; and the amounts which have been advanced by or on behalf of the Secretary of State for India in Council to the Trustees appointed under the Bombay Port Trust Act, 1873, or applied by or on behalf of the said Secretary of State in Council, with the consent of the said Trustees, for the improvement of the Port of Bombay or otherwise under sections 46 and 50, clause (2) of the said Act,

(b) to the holders of the securities to be issued by the Board under section 30, the amounts of such securities.

34. On the amounts mentioned in column Interest in what cases to be paid by the Board. three of Schedule C no interest shall be payable.

On the amounts mentioned in column two of the said schedule interest shall be payable by the Board to the Secretary of State for India in Council annually on the 1st April at the rate of four per centum per annum until, and inclusive of, the twenty-fifth day of June 1883, and thereafter at the rate of four and one-half per centum per annum.

On the amounts due to the Secretary of State for India in Council under clause (a) of the last preceding section which are not mentioned in the said schedule, interest shall be payable by the Board to the said Secretary of State in Council annually on the 1st April at the rate of four and one-half per centum per annum.

On the amounts, if any, which may hereafter be advanced to the Board by the Governor in Council under section 39 of this Act interest shall be payable by the Board to the Secretary of State in Council on such dates and at such rates as shall be agreed upon between Government and the Board in respect of such advances.

On the amounts of the securities issued by the Board under section 30 interest at the covenanted rate of four per centum per annum shall be payable by the Board half-yearly on the 31st March and the 30th September to the Accountant General of Bombay or other officer for the time being performing the duties of the office of the said Accountant General, who shall pay the same on or after the 1st April and 1st October respectively to the holders of the said securities.

If any sum due by the Board under this section on account of interest, or any portion thereof, is not paid by them on the date on which the same is hereby declared to be payable, they shall continue liable for the payment thereof, and interest shall be paid by them to the Secretary of State for India in Council upon the balance from time to time overdue at the rate of four and one-half per centum per annum, until the whole amount is paid.

35. In the event of default being made Interest to be paid out of Provincial Revenues if default is made by the Board. by the Board in any payment of interest due by it under paragraph two, three or four of the last preceding section, the same shall be paid by the Accountant General of Bombay or other officer aforesaid, who shall debit the amount so paid to the

Provincial Revenues of the Presidency of Bombay; and in the event of default being made by the Board in any payment due by it under paragraph five of the said section, the Accountant General or other officer aforesaid shall nevertheless pay to the security-holders the interest due upon their securities, and shall debit the amounts so paid to the Provincial Revenues of the Presidency of Bombay.

36. The Board shall pay annually on the 30th day of September to the Municipal Corporation of the City of Bombay a lump sum which shall

Lump payment to be made to the Municipality in lieu of consolidated rate.

be calculated at the following rates, namely :

(a) for the period commencing on the 1st day of October last preceding the date on which this Act comes into force and ending on the day next previous to the date fixed by the Governor in Council under section 29 at the rate of fifty thousand rupees per annum ;

(b) for the period commencing on the date fixed as aforesaid and ending on the 25th day of June 1883 at the rate of sixty thousand rupees per annum ; and

(c) thereafter at such rate as the Governor in Council shall from time to time determine.

The said payment shall be in lieu of the consolidated rate leviable by the said Corporation, to which the property hereby vested in the Board or some portion of the same would otherwise be liable to be assessed.

37. In consideration of the said pay-

Roads and thoroughfares constructed by the Board to be maintained by the Municipality in consideration of such payment.

ment the Municipal Commissioner shall, on being satisfied that any road or thoroughfare has been duly levelled, paved, metal-

led, flagged, channelled, and sewered by the Board, declare such road or thoroughfare to be a public road or thoroughfare, and the Municipality shall thenceforward maintain, keep in repair, light and cleanse such road or thoroughfare. The Municipality shall also, on requisition by the Board, maintain, keep in repair, light and cleanse the road of any wharf, dock or pier vested in the Board.

The Municipality shall maintain, keep in repair, light and cleanse the said roads and thoroughfares in the same manner and with the same liabili-

Such roads and thoroughfares not to be stopped up without the consent of the Board.

ties in respect thereof as if the said roads and public thoroughfares were vested in the said Municipality; but it shall not be competent to the Municipal Commissioner or to the Municipality to discontinue or stop up any road or thoroughfare which at any time vested in, or which has been constructed by the Board, or the Trustees of the Port appointed under the Bombay Port Trust Act, 1873, and which has been declared to be a public road or thoroughfare under this section, or under section 9 of the said Act, without the previous consent in writing of the Board; and the land occupied by any road or thoroughfare so discontinued or stopped shall vest in the Board and not in the Municipality.

38. Any dispute which arises between

Disputes under the last section to be settled by Government.

the Board and the Municipality in respect of any of the provisions of the last

preceding section shall be determined by the Government, and their decision shall be final.

#### V.—OF THE BORROWING POWERS OF THE BOARD.

39. The Governor in Council, acting

Governor in Council may advance money to the Board, or

on behalf of the Secretary of State for India in Council, may, with the previous con-

sent of the Governor General of India in Council, from time to time advance money to the Board for the general purposes of this Act; or

The Board may, with the previous con-

with consent of Government the Board may raise loans.

sent of Government, from time to time raise money for the said purposes :

Provided always that no expenditure

Proviso.

shall be charged by the Board to capital,

except with the express sanction of Government.

40. Whenever the consent of Govern-

Manner of raising such loans to be determined by Government.

ment has been obtained to the raising of money by the Board under the last preced-

ing section, Government shall, with the previous consent of the Governor General of India in Council, direct and appoint the manner in which such money shall be raised.

41. If such money shall be raised on

Interest on debentures to be a charge on the rates prior to interest due to Secretary of State.

debentures bearing interest, such interest shall be a charge on the rates prior to the charge for interest

payable to the Secretary of State for India in Council, provided for by section 34.

42. All debentures which may be so issued shall be in the form of Schedule D, and shall be transferable by endorsement; and the right to sue in respect of the monies secured by any such debentures shall be vested in the holders thereof for the time being, without any preference by reason of some of such debentures being prior in date to others.

## VI.—OF REVENUE AND EXPENDITURE.

### *Levy of Rates.*

43. The Board shall frame a scale of tolls, dues, rents, rates, and charges, to be levied for each or any of the following matters (namely):

(a) for the landing, shipping, wharfage, crannage, storage, or demurrage of goods at,

(b) for permission for vessels or boats to approach, or be alongside, and

(c) for animals or vehicles carrying goods to or from, or entering upon or plying for hire at or on,

any wharf, dock, or pier in the possession of the Board, and so much of the Wari Bandar and of the Gun Carriage Reclamation as is in the possession of the Great Indian Peninsula and the Bombay Baroda and Central India Railway Companies respectively: Provided that no such toll, due, rent, rate or charge shall be leviable at so much of the said Wari Bandar and Gun Carriage Reclamation as is aforesaid in respect of any goods, vessel, animal or vehicle belonging to the said companies respectively.

The scale so framed shall be submitted to Government for sanction, and when so sanctioned and published in the *Bombay Government Gazette* shall have the force of law, and, subject to the like sanction and publication, may from time to time be amended or added to by the Board.

Until a scale of rates is framed, sanctioned, and published under this section, the scale in force when this Act comes into operation under section 57 of the Bombay Port Trust Act, 1873, shall be deemed to have been duly framed, sanctioned and published under this section.

iv.—39 d

The Board may, in special cases, with the previous sanction of Government, remit the whole or any portion of the rates leviable under this section.

44. The said rates shall not be leviable in respect of any vessel employed by Government solely for the transport of troops, nor in respect of the baggage or other effects of any troops landing or embarking at the port. In lieu thereof a toll shall be payable by Government to the Board on all troops and all the families of troops landing or embarking at Bombay at the rate of one rupee per head, and, if such troops and their families shall land or embark at any dock in the possession of the Board, at such additional rate as shall from time to time be determined by Government.

45. Subject to the provisions of any law for the time being in force, the Board may land, ship, or tranship goods between vessels in the harbour and the wharves, piers or docks in their possession, and may make such charges for so doing as they shall think fit.

46. The Board may procure and maintain such number of steam-vessels as they may deem fit to be employed in towing vessels into, out of, or in the harbour, and may make such charges for towage by the said steam-vessels as they shall think fit.

### *Division of Accounts.*

47. In the accounts of the Board a Pilotage Account to be kept separate from the General Account, Pilotage account shall be kept separate from the General account.

48. The rates and charges from time to time levied under sections 43 to 46, together with all rents of lands and buildings, and all fines and penalties levied under this Act, other than fines and penalties levied from pilots or other persons employed in the pilot service, and all miscellaneous items of revenue recovered by the Board, except pilotage-fees, shall be credited to the General Account.

49. The monies credited to the General Account shall be held by the Board in trust, and except as is hereinafter provided shall

be applied by them in payment of the following charges (namely):—

(1) the salaries, fees, allowances, pensions, gratuities, compassionate allowances or other monies due to the Trustees and to the officers and servants appointed under this Act, and the contributions, if any, duly authorized to be made to any Provident Fund established by the said officers and servants;

(2) the cost of repairs and maintenance of the property vested in the Board, and all charges upon the same and all working expenses;

(3) the interest due on any money that may have been raised by the Board under section 39;

(4) the cost, or such portion of the cost, of any new work, plant, vessel or appliance which the Board may determine to charge to revenue;

(5) the interest payable by the Board under section 34:

Provided always that no charge which is debitable under section 50 to the Pilotage account shall be debited to the General account,

50. All fees for pilotage and all fines and penalties levied under this Act from pilots or other persons employed in the pilot service shall be credited to the Pilotage Account and shall be held by the Board in trust, and be applied, in such proportions as they shall from time to time direct, to the following purposes only (namely):—

(1) the purchase and maintenance in repair of such vessels, and the supply of such materials, stores, or other things as the Board deem it necessary to maintain or supply for the efficiency of the pilot service;

(2) the payment of the salaries and allowances of pilots and other officers and servants of the Board employed in the pilot service or in the supervision thereof;

(3) the payment of pensions or retiring gratuities or compassionate allowances to pilots and other officers and servants engaged in the pilot service, and of the contributions, if any, duly authorized to be made in their behalf to any Provident Fund.

### Disposal of Balances.

51. The Board may invest any balance remaining on the 31st March of each year to the credit of either the General or Pilotage account after meeting all the charges properly debitable to such account, in public securities, and may from time to time sell the said securities and re-invest the proceeds in other public securities, or credit the same to the account to which the balance invested belonged for expenditure on any of the purposes to which the monies credited to such account may lawfully be applied.

But the money so invested by the Board, whether in respect of the General account or of the Pilotage account, shall not exceed such amount annually, or in the aggregate, as shall from time to time be prescribed by Government, and any surplus remaining after deducting the amounts which may be so invested shall be applied:

- (a) if such surplus belongs to the General account, in liquidation, on or before the 1st August next following the 31st March on which such surplus accrued, of the principal of any loan raised by the Board under section 39, or of the capital of any debt at any time due by the Board to the Secretary of State for India in Council; or of the money due to the holders of the securities issued by the Board under section 30; and
- (b) if such surplus belongs to the Pilotage account, in such manner as Government shall direct:

Provided always that the pilots and other officers and servants employed in the pilot service shall have no claim upon any balance to the credit of the pilotage account or upon the profits or interest arising from any investment thereof, or of any portion thereof except to such extent as payments to them, or in their behalf, may from time to time be sanctioned by the Board under clauses (2) and (3) of section 50.

The interest and profits accruing and the loss, if any, arising from such investments as aforesaid shall be respectively credited and debited to the account to which the balance invested belongs.

*Annual Estimates.*

52. The Chairman shall, at a special

Chairman to submit an annual estimate of income and expenditure to the Board. meeting to be held in the month of February in each year, lay before the Board an estimate of the income and of the expenditure of the Board for the year commencing on the 1st day of April then next ensuing in such detail and form as the Board shall from time to time direct.

Such estimate shall be completed and printed, and a copy thereof sent by post, or otherwise, to each Trustee, at least ten clear days prior to the meeting before which the estimate is to be laid.

53. The Board shall consider the

Board to revise and sanction the estimate. estimate so submitted to them, and shall sanction the same either unaltered, or subject to such alterations as they shall think fit.

54. The estimate, as sanctioned by the

Estimate to be submitted to Governor in Council. Board, shall be submitted to the Government, which may, if it thinks fit, at any time within one month after receipt of the same, disallow such estimate, or any portion thereof, and return the same for amendment. The Board shall, if the estimate is so returned by Government, forthwith proceed to amend the same, and shall re-submit the estimate so amended to the Government.

55. The Board may, at any time during the year for which

Supplementary estimates may be made when necessary. any such estimate has been sanctioned, cause a supplementary estimate to be prepared and submitted to them. Every such supplementary estimate shall be considered and sanctioned by the Board and submitted to the Government in the same manner as if it were an original annual estimate.

56. Save in cases of pressing emergency,

No expenditure above Rs. 5,000 to be incurred unless sanctioned in the estimate. no sum exceeding five thousand rupees shall be expended by or on behalf of the Board, unless such sum is included in some estimate at the time in force which has been finally approved by Government.

If any sum exceeding five thousand rupees in amount is so expended on a pressing emergency, the circumstances shall be forthwith reported by the Chairman to

the Government; together with an explanation of the way in which it is proposed by the Board to cover such extra expenditure.

57. Any estimate prepared by the

Estimate prepared under Bombay Act I., 1873, to be accepted for purposes of this Act. Trustees appointed under the Bombay Port Trust Act, 1873, and approved by Government under section 53 of that Act, and which but for the passing of this Act would have force and effect, shall be deemed to have been duly prepared, passed and approved under this Act.

*Audit of Accounts.*

58. The accounts of the receipts and

Accounts to be audited and examined. expenditure of the Board shall, twice in every year, be laid before Government, and shall be audited and examined by such auditors as shall, from time to time, be appointed by Government.

For the purposes of such audit and examination the auditors

Auditors to have power to call for books, &c. may, by summons in writing, require the production before them of all books, deeds, contracts, vouchers, and all other documents and papers which they may deem necessary, and may require any person holding, or accountable for any such books, deeds, contracts, accounts, vouchers, documents, or papers, to appear before them at any such audit and examination, or adjournment thereof, and to make and sign a declaration with respect to the same.

The auditors shall be paid by the Board

Their remuneration to be fixed by Government. such remuneration as Government shall determine, the amount being debited to the General account; and within fourteen days after the audit and examination shall have been completed, the auditors shall forward

Their report to be published. their report upon the accounts to the Board, who shall cause the same to be published, together with an abstract of the accounts, in the *Bombay Government Gazette*.

*Fulfilment of Board's Liabilities.*

59. It shall be incumbent on the Board

Board bound to provide for fulfilment of all their liabilities. to make ample provision year by year, either by retrenchment of expenditure



or by increase of rates for the due fulfilment of all their liabilities, and for the efficient administration of this Act; and in the event of any deficiency being at any time anticipated in the income of the Board, they shall forthwith take such measures as shall seem most expedient for preventing such deficiency.

60. If it shall at any time appear to the Governor in Council that sufficient provision is not being made by the Board to meet their liabilities, or if default shall at any time be made by the Board in any payment of interest which they are required to make under section 34, the Governor in Council may require the Board, by an order in writing signed by a Secretary to Government, to increase, subject to his sanction and to the provisions of section 43, to such extent and for such period as shall appear necessary, the rates or any of the rates for the time being in force under the said section.

If within fifteen days after receipt of such order the Board do not comply with the same, the Governor in Council may, by notification in the *Bombay Government Gazette*, increase the said rates or any of them, and such notification shall have the same force as if a new scale of rates to the same effect had been duly framed, sanctioned and published under section 43.

And for the purpose of realizing any interest which has not been paid by the Board when due, in accordance with section 34, the Governor in Council may, by an order published in the *Bombay Government Gazette*, appoint some person to receive the rates, charges, and other income which the Board may be entitled to receive, or any portion thereof, and to apply the same in discharge of the amount due and of all expenses authorized by Government in respect of the appointment of such person and of the recovery by him of the said rates, charges and income; and the person so appointed shall have for the recovery of the said rates, charges, or other income, all and singular the powers and authorities conferred by this Act on the Board for the said purpose.

## VII.—OF THE POWERS AND FUNCTIONS OF THE BOARD.

### *Recovery of Rates.*

61. For the amount of all rates leviable under this Act in respect of any goods, the Board shall have a lien on such goods, and shall be entitled to seize and detain the same until such rates are fully paid. Rates in respect of goods to be landed shall become payable immediately on the landing of such goods. Rates in respect of goods to be removed from the premises of the Board, or to be shipped for export, shall be payable before such goods are removed or shipped. The lien for such rates shall have priority over all other liens and claims, except for general average, for the ship-owner's lien for freight upon the said goods, (where such lien exists and has been preserved in the manner hereinafter provided), for primage and for money payable to Her Majesty or to the Secretary of State for India in Council.

62. If the master or owner of any vessel, or his agent, at or before the time of landing from such vessel any goods at any wharf, dock or pier in the possession of the Board, shall give to the Board notice, in writing, that such goods are to remain subject to a lien for freight or other charges payable to the ship-owner, to an amount to be mentioned in such notice, such goods shall continue liable to the same lien, if any, for such charges as they were subject to before the landing thereof. Such goods shall be retained either in the warehouses and sheds of the Board, or, with the consent of the Chief Customs Authority of the Presidency in the public warehouses, at the risk and expense of the owners of the said goods until the lien is discharged as hereinafter mentioned.

63. Upon production to the proper officer of the Board of a document purporting to be a receipt for the amount claimed as due, or a release of freight from the person by or on whose behalf such notice shall have been given, it shall be lawful for the Board to permit such goods to be removed without regard to such lien, provided they shall have used reasonable care in respect to the authenticity of such document.

64. If the rates payable to the Board in

If rates are not paid, or the lien for freight is not discharged, goods may be sold after the expiration of two months.

respect of any goods are not paid, or if the lien of the ship-owner for freight, when

such notice as aforesaid has been given, is not discharged, the Board may, and in the latter event, if required by or on behalf of the person claiming such lien for freight, shall, at the expiration of two months from the time when the goods were placed in their custody, or if the goods are of a perishable nature, at such earlier period (being not less than twenty-four hours after the landing of the goods), as they shall think fit, sell by public auction the said goods, or so much as may be necessary to satisfy the amounts hereinafter directed to be paid out of the produce of such sale.

Before making such sale, ten days' notice of the same shall be given by publication thereof in the *Bombay Government Gazette*, unless the goods are of so perishable a nature as, in the opinion of the officer aforesaid, to render their immediate sale necessary or advisable, in which event such notice shall be given as the urgency of the case admits of.

If the address of the owner of the goods has been stated on the manifest of the cargo or in any of the documents which have come into the hands of the Board, or is otherwise known, notice shall also be given to the owner of the goods by letter delivered at such address, or sent by post; but the title of a *bonâ fide* purchaser of such goods shall not be invalidated by reason of the omission to send the notice hereinbefore mentioned, nor shall any such purchaser be bound to inquire whether such notice has been sent.

65. In every case of any such sale as

Application of proceeds of sale.

aforesaid, the monies received from the sale shall be applied as follows:—

1stly.—In payment, according to their respective priorities, of the liens and claims excepted in section 61 from the priority of the lien of the Board for rates;

2ndly.—In payment of the expenses of the sale;

3rdly.—In payment of the rates and expenses due to the Board in respect thereof.

The surplus, if any, shall be paid to the owner of the goods or his agent on his applying for the same, provided such appli-

cation be made within one year from the sale of the goods, or good reason be shown why such application was not so made to the satisfaction of the Board; and in case such application shall not be so made, nor reason shown, such surplus shall be applied by the Board to the purposes of this Act.

66. If the master of any vessel in re-

Power to distrain vessels for the non-payment of rates, &c.

spect of which any rates, charges, or penalties shall be payable under this Act, or

any bye-laws made in pursuance hereof, shall refuse or neglect to pay the same, or any part thereof, on demand, it shall be lawful for the Board to distrain or arrest, of their own authority, such vessel, and the tackle, apparel, or furniture belonging thereto, or any part thereof, and detain the same until the amount so due shall be paid; and, in case any part of the said rates or penalties or of the costs of the distress or arrest, or of the keeping of the same, shall remain unpaid for the space of fifteen days next after any such distress or arrest shall have been so made, the Board may cause the vessel, or other thing so distrained or arrested, to be sold, and with the proceeds of such sale may satisfy such tolls, dues, rates, penalties, or charges and costs of sale remaining unpaid, rendering the surplus (if any) to the master of such vessel on demand.

67. If the Board shall give to the offi-

Port Clearance not to be granted till rates, &c., are paid.

cer of Government, whose duty it is to grant the port clear-

ance of any vessel, a notice stating that an amount therein specified is due in respect of rates, charges, or penalties chargeable under this Act, or any bye-laws, or orders made in pursuance hereof, against such vessel, or the owner or master of such vessel, in respect thereof, such officer shall not grant such port clearance until the amount so chargeable shall have been paid.

*Works.*

68. The works to be undertaken by the Board under this Act may include—

(1) wharves, docks, and piers within the Port or on the foreshore of the Port with all necessary and convenient arches, drains, fences, roads, railways, and approaches;

(2) tramways, warehouses, sheds, engines, and other appliances for conveying, receiving, and storing goods landed, or to be shipped, or otherwise;

(3) light-houses, light-ships, beacons, pilot-boats, and other appliances necessary for the safe navigation of the Port and of the approaches thereto within a distance of three miles from the limits of the Port;

(4) laying down moorings, and the erection of cranes, scales, and all means and appliances necessary for berthing, loading and unloading vessels;

(5) reclaiming, excavating, enclosing, and raising any part of the foreshore of the Port vested in the Board, when such reclamation, excavation, enclosure, or raising may be necessary for any of the purposes of this Act;

(6) the construction and application of dredges and other machines for cleaning, deepening, and improving any portion of the Port or foreshore aforesaid;

(7) the construction of such works, without the limits of the Port, as shall be necessary for the protection of works executed by the Board within the Port, and all such other works and appliances as may, in the opinion of the Board, be necessary for carrying out the purposes of this Act:

Provided always that no new work, the

But no new work to be commenced without a plan and estimate, if its cost shall exceed Rs. 2,000;

estimated cost of which exceeds two thousand rupees, shall be commenced by the Board, nor shall any contract be entered into by the Board in respect of any such new work, until a plan and estimate of such work shall have been submitted to the Board and considered and approved by them, nor shall any new work, the estimated cost of which exceeds two

lacs of rupees, be commenced until, such plan and estimate shall have been submitted to, and approved by Government.

#### *Regulation of use of Wharves, &c.*

69. Nothing in this Act shall be deemed to affect:

(a) the right of Government to collect customs duties,

Reservation of the rights of Government to use the wharves, &c., for collecting customs duties;

or of the Municipal Corporation of the City of Bombay to collect town duties, at any wharf, pier, or dock in the possession of the Board, or

(b) any power or authority vested in the Customs Authorities of the Presidency under any law and of powers of Customs Officers. for the time being in force for the administration of Sea Customs.

70. Whenever any wharf, pier, or dock, Places to be set apart in the possession of for use of Customs Officers on wharves, &c. the Board shall be appointed, under the provisions of any Act for the time being in force, for the administration of Sea Customs, a wharf or place for the landing and shipping of goods within the meaning of such Act,

and whenever any warehouse, or portion of a warehouse, in the possession of the Board shall be appointed or licensed under the provisions of any such Act as a warehouse for the deposit of dutiable goods on the first importation thereof without payment of duty,

the Board shall set apart, and maintain, such place on or adjoining such wharf, dock, or pier, or in such warehouse, or portion of a warehouse, for the use of the Officers of Customs as Government shall in that behalf approve or appoint;

but all rates payable in respect of any wharf, pier, or warehouse, or portion thereof so set apart, or for the storage of goods thereupon or therein, shall be paid to the Board or to such person or persons as they may appoint to receive the same, notwithstanding that the same has been so set apart;

and if any portion of the Customs Bonded Warehouse shall, with the consent of Government, be appointed a public warehouse for the deposit of dutiable goods as aforesaid, the Board and the surplus income derived from any portion of the Customs Bonded Warehouse used as a public warehouse to be paid to the Board.

shall set apart and maintain such portion thereof in good order for the said purpose; but the Chief Customs Authority shall pay, to the Board from time to time, as may be determined by Government, all surplus income derived from the use of such portion of the said Customs Bonded Warehouse as a public warehouse as aforesaid after payment of all charges and expenses of management.

71. The Board shall provide such number of public landing-places as shall, in the opinion of Govern- Board to provide free landing-places.

ment, be sufficient, from and upon which the public shall be permitted to embark and to land free of charge.

#### *Control of Pilots.*

72. The Board shall have the right and privilege of maintaining pilots for the navigation of vessels at the Port, and all fees for pilotage shall be paid to the Board: Trustees to be vested with the right and privilege of maintaining pilots. Provided that no person shall be appointed to be a pilot by the Board who is not for the time being authorized by Government, under the provisions of the Indian Ports Act, 1875, to pilot vessels.

The Board may also, from time to time, make such bye-laws and regulations as they shall think fit:

(a) for fixing and regulating the wages and allowances for pilotage to be received by pilots, and

(b) for regulating the behaviour and conduct of pilots;

and shall enforce the observance of such bye-laws and regulations, by the imposition of pecuniary penalties not exceeding two hundred rupees for each offence, or by suspension, or deprivation of appointment, or otherwise as to them may appear expedient: Provided that such bye-laws shall first have been approved by Government, and published in the manner directed by section 74.

#### *Bye-Laws.*

73. The Board Trustees empowered to make bye-laws. may, from time to time, make bye-laws:

(a) for the guidance of persons employed by them under this Act;

(b) for the safe and convenient use of the wharves, docks, piers, warehouses, tramways, and other works constructed or acquired by them under this Act;

(c) for the use of the public landing-places constructed by or belonging to them;

(d) for the reception and removal of goods brought within the premises of the Board;

(e) for keeping clean the harbour and basins and the works of the Board, and for preventing filth or rubbish being thrown therein or thereon;

(f) for settling the mode of the payment of the rates and charges leviable under this Act;

(g) for regulating, declaring, and defining the wharves, docks, and piers vested in the Board on which goods shall be landed from, and shipped on board vessels; and

(h) generally for carrying out the purposes of this Act.

The Board may also, from time to time, vary, alter, or revoke any such bye-laws so made by them.

74. No bye-law, or alteration or revocation of a bye-law, shall have effect until the same shall have been approved by Government, and such approval shall have been published in the *Bombay Government Gazette*; and no bye-law or alteration or revocation of a bye-law shall be approved by Government until the same shall have been published for three weeks successively in the said Gazette.

It shall be lawful for Government at any time by notification in the said Gazette to cancel any bye-law or regulation made and published under the provisions of this and of the last two preceding sections.

75. The Board may, in the bye-laws made under section 73, Penalties for infringement of bye-laws. prescribe such penalties as they shall deem fit for the infringement of the same: Provided that no penalty for any one infringement of a bye-law shall exceed one hundred rupees, nor, in case of a continuing infringement, shall any penalty exceed fifty rupees per diem for every day after notice of such infringement shall have been given by the Board to the person guilty of such infringement.

76. The Board shall cause the said bye-laws and the scales of rates and charges to be exhibited. Bye-laws and scales of rates and charges to be exhibited. laws and the scales of rates and charges leviable by the Board, to be printed in the English, Maráthi and Guzeráthi languages, and to be hung up at the several wharves, docks, and piers, and other convenient places on the premises of the Board.

77. Until bye-laws are framed by the Board under section 73, the bye-laws framed by the Trustees appointed under the Bombay Port Trust Act, 1873, under section 85 of that Act, and in force when this Act comes into operation, shall be deemed

to have been framed under the said section 73 of this Act.

#### VIII.—PENALTIES.

78. Any person who being a Trustee, or an officer or servant of the Board, shall acquire, directly or indirectly, any share or interest in any contract or employment with, by, or on behalf of the Board, shall be deemed to have committed the offence made punishable by section 168 of the Indian Penal Code:

Provided that nothing in this section shall apply to a person—

(a) having a share in any Joint Stock Company which shall contract with, or be employed by, or on behalf of the Board, or

(b) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Board may be inserted, or,

(c) interested in any loan of money to the Board.

79. Any person employed under this Act, not being a public servant within the meaning of section 21 of the Indian Penal Code, who shall accept or obtain, or agree to accept or attempt to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a reward for doing, or forbearing to do, any official act, or for showing, or forbearing to show, in the exercise of his official functions, favour or disfavour to any person; or for rendering, or attempting to render, any service or dis-service to any person with the Board or with any public servant as such, or with the Government, shall be liable to the same punishment as is provided by the Indian Penal Code in the case of the like offence committed by a public servant.

80. Any person who shall refuse or neglect to appear before any auditor of accounts, or to produce any books, deeds, contracts, accounts, vouchers, documents, or papers, or to make or sign any declaration when duly required so to do by any auditor of accounts under section 58, shall be punished for every such neglect or refusal with fine which may extend to one hundred rupees,

81. Any person, other than the Board or the Conservator of the Port, who shall, without first obtaining the written consent of Government to his so doing, make, set up, or fix, below high-water mark within the Port, any wharf, quay, pier, mooring, or other erection whatsoever, shall be punished with fine which may extend to one thousand rupees, and to a further fine which may extend to one hundred rupees for every day during which he shall permit such wharf, quay, pier, mooring, or other erection, to remain after notice to remove the same has been given to him.

Any such wharf, quay, pier, mooring, or other erection, may be removed by the Board, and the person who made, set up, or fixed the same, shall also be liable to pay all expenses which may be incurred by the Board in the removal thereof.

82. If it be found when goods are imported at, or exported from, any wharf, dock or pier in the possession of the Board, that the weight or quantity of such goods, or the tonnage of any vessel carrying such goods, has been understated in any document presented to any officer of the Board for the purpose of enabling him to determine the rates or charges payable in respect of the said goods or vessel, the consignee, in the case of goods imported, and the consignor, in the case of goods exported, shall be liable to pay to the Board such sum not exceeding twice the proper rates or charges on the weight or quantity of goods or amount of tonnage so understated as may be determined by the Board, and the said sum shall on the application of the Board be recoverable under a Presidency Magistrate's warrant as if it were a fine inflicted by such Magistrate.

83. Any person who removes, or attempts to remove, or abets within the meaning of the Indian Penal Code the removal of any goods, vessel, animal, or vehicle with the intention of evading payment of the rates or charges lawfully due in respect thereof to the Board shall be punished with fine which may extend to fifty rupees.

84. If, through the negligence of any person having the guidance or command of any vessel, or of any of the mariners

Recovery of value of damage to any property of the Board.

or persons employed on such vessel, damage shall be caused to any wharf, dock, pier, or other work in the possession of the Board, the amount of such damage shall, on the application of the Board, be recoverable, together with the cost of such recovery, by distress and sale, under a Presidency Magistrate's warrant, of a sufficient portion of the boats, masts, spars, ropes, cables, anchors, or stores belonging to such vessel: Provided that no such warrant shall issue until the master of such vessel has been duly summoned to appear, or, if he appears, until he has been heard, and provided also that no such warrant shall issue if the vessel was at the time under the orders of a duly authorized officer in the pilot service of the Port or of the Master Attendant's Department.

85. Except as is otherwise provided in section 82, all offences against this Act or against any bye-law made under section 73 shall be cognizable by a Presidency Magistrate.

All fines and damages recovered from any offender, or by any distress under section 84, shall be paid to the Board.

#### IX.—MISCELLANEOUS.

86. Whenever any day by this Act appointed for any purpose shall happen to be a Sunday or a public holiday, the business appointed to

be done on such day shall be done on the day next after such Sunday or public holiday.

87. No suit or other proceeding shall be commenced against any person for anything done, or purporting to have been done, in pursuance of this Act without giving to such person one month's previous notice in writing of the intended suit or other proceeding, and of the cause thereof, nor after six months from the accrual of the cause of such suit or other proceeding.

The Board shall not be responsible for any mis-feasance, mal-feasance, or non-feasance of any officer or servant appointed under this Act;

nor, if they should be appointed by Government, under the Indian Ports Act, 1875, Conservators of the Port, for any mis-feasance, mal-feasance or non-feasance of any Deputy Conservator, Master Attendant or Harbour-Master, or of any assistant or deputy of any such officer, or of any person acting under the authority or direction of or in subordination to any such officer, assistant or deputy;

nor for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers, or other things belonging to the Board, which may be used by such vessel;

nor shall the Board, or any of the said officers or servants, be liable in damages for any act *bonâ fide* done, or ordered to be done by them in pursuance of this Act.

### SCHEDULE A.

#### *Properties referred to in Section 29.*

No.	Names of Holders.	General Description of Properties.
1	The Sassoon Dock Company.	All the property at Colába, belonging to the Sassoon Dock Company, known as the Sassoon Dock, together with the land on the west of the Colába road appertaining thereto, and all rights, privileges, and powers enjoyed or claimed by the Sassoon Dock Company in connection therewith.
2	The New Colába Company.	A strip of land, varying from 25 to 50 feet or thereabouts in width, running along the whole foreshore of the estate of the New Colába Company, situated at Colába, commencing from the Colába road at the point where the properties of the New Colába Company and the Sassoon Dock Company adjoin, and thence continuing alongside the Bandar wall of the Victoria Basin and the Harbour Face up to the junction of the New Colába Company's

## SCHEDULE A—continued.

No.	Names of Holders.	General Description of Properties.
		property with the Gun Carriage Reclamation; again commencing at the junction of the New Colába Company's property and the property of the Apollo Press Company and running along the Harbour Face and alongside the Arthur Basin up to the Colába road; together with the whole of the Arthur Bandar and the ground adjacent thereto, situate within Customs limits, together with all rights and privileges enjoyed or claimed by the New Colába Company in respect of the strip of land, Bandar, and ground aforesaid, and of the Victoria and Arthur Basins.
3	The Apollo Press Company.	All the land at Colába the property of the Apollo Press Company, and known as the Jamsetjee Bandar and Reclamation, including all rights and privileges enjoyed or claimed by the Apollo Press Company in respect of the said land and of the Gun Carriage Basin, together with all rights and privileges enjoyed or claimed by the Apollo Press Company at or in respect of any of the Bandars belonging to the New Colába Company.
4	The Mázgaon Land Company.	All the land at Mázgaon, known as the Powder Works Bandar, the property of the Mázgaon Land Company, lying between the Harbour and the western side of the road running from the Harbour Defences Office to Tank Bandar, together with all rights and privileges enjoyed or claimed by the Mázgaon Land Company in respect of the said land.
5	The Frere Land Company.	All the land north of Tank Bandar the property of the Frere Land Company, bounded towards the west by the Ghorupdavi road and towards the north and west by the Jackaria Bandar road, together with all rights and privileges enjoyed or claimed by the Frere Land Company in respect of the said land.
6	Hajee Ismael Hajee Hubeeb.	
7	Hajee Jackaria Noor Mahomed.	
8	Manockjee Adurjee ...	
9	Aitwar Lukdee ...	
10	Muncherjee Framjee Cama.	
11	Dadabhoy Hormusjee .	
12	Hajee Essa Hajee Fuzla	
13	Dorabjee Nusserwanjee	
14	Byramjee Cowasjee ...	
15	Esmail Mahomed Songaji.	
		All the land and fish-ponds bounded by the Harbour on the east and by the Jackaria Bandar road and the Siwri road on the west and north, by the property of the Frere Land Company on the south, and by the property of the Trustees of the Port on the north, known as Siwri Bandar, together with all rights and privileges enjoyed or claimed in respect of the said land by the respective holders thereof.

## SCHEDULE B. (SEE SECTION 30.)

## Form of Security.

## THE TRUSTEES OF THE PORT OF BOMBAY.

No.

Under the provisions of the Bombay Port Trust Act, 1879, we, the Trustees of the Port of Bombay, do hereby for ourselves and our successors promise and agree to pay to \_\_\_\_\_, or order, the sum of Rupees \_\_\_\_\_ value received; such payment to be made on demand at the office of the Accountant General, Bombay, after the expiration of three months' notice of payment to be given by the Chairman of the said Trustees in the *Bombay Government Gazette*. We further promise and agree for ourselves and our successors to pay to the said \_\_\_\_\_, or order, interest on the said sum of Rupees \_\_\_\_\_ from the \_\_\_\_\_ day of \_\_\_\_\_ until the expiration of three months after such notice of payment as aforesaid; such interest to be at the rate of four per centum per annum

and to be payable on demand at the office aforesaid half-yearly on the 1st day of April and the 1st day of October in every year until the expiration of three months from the date of such notice of payment as aforesaid, when the amount of interest then due hereunder will be payable with the principal on demand at the office aforesaid and (such notice being considered as equivalent to a tender of payment at the period appointed for the discharge hereof) all further interest shall cease.

Given under our common Seal this            day of            187 .

(Signature of the Chairman and two Trustees.)



Seal of the Corporation.

### SCHEDULE C. (SEE SECTION 33.)

#### Statement of Capital Debts of the Board due to the Secretary of State for India in Council.

On account of what Property, &c.	Bearing Interest.			Not bearing Interest.			Total.		
	Rs.	a.	p.	Rs.	a.	p.	Rs.	a.	p.
Elphinstone Estate, purchase price ...	1,85,91,596	12	8	.....					
Elphinstone Estate, expended in 11 months to 31st March 1871.	7,47,370	2	10	.....					
Elphinstone Estate, expended in 12 months to 31st March 1872.	2,75,090	8	6	.....					
Elphinstone Estate, Troop Siding, Carnac Bunder.	39,790	3	2	.....			1,96,53,847	11	2
Moody Bay Reclamation (portion east of Frere Road), expended in year to 31st March 1871.	3,57,596	8	8	.....					
Moody Bay Reclamation (portion east of Frere Road), expended in year to 31st March 1872.	2,01,345	6	4	.....			5,58,941	15	0
Apollo Bay Reclamation, expended in year to 31st March 1872.	9,752	11	11	.....			9,752	11	11
Wellington Reclamation, expended in year to 31st March 1872.	934	12	8	.....			934	12	8
Apollo Pier, expended prior to 31st March 1870.	.....			2,23,038	12	2			
Apollo Pier, expended in year to 31st March 1871.	1,38,173	7	8	.....					
Apollo Pier, expended in year to 31st March 1872.	61,825	9	2	.....			4,23,037	13	0
Tank Bandar, expended in year to 31st March 1871.	182	0	0	.....			182	0	0
Customs } Apollo Bonded Ware- Bonded } house.	.....			5,50,000	0	0			
Warehouse } Custom-house Godown...	.....			25,165	0	0	5,75,165	0	0
Kussara Bandar ... ..	.....			5,285	0	0	5,285	0	0
Saw Mill Property, Tank Bandar ...	.....			41,189	14	4	41,189	14	4
Expended on the above properties between 31st March 1872 and the passing of Bombay Act I. of 1873.	1,45,053	5	4	.....			1,45,053	5	4
Balance of Interest unpaid at 31st March 1871.	2,75,273	4	7						
Balance of Interest unpaid at 31st March 1872.	1,50,233	3	2	.....			6,02,042	10	0
Balance of Interest unpaid for the period from 1st April 1872 until the date on which Bombay Act I. of 1873 came into operation.	1,76,536	2	3						
<b>Total...Rs.</b>	<b>2,11,70,754</b>	<b>2</b>	<b>11</b>	<b>8,44,678</b>	<b>10</b>	<b>6</b>	<b>2,20,15,432</b>	<b>13</b>	<b>5</b>



## SCHEDULE D. (SEE SECTION 42.)

*Form of Debenture.*

THE TRUSTEES OF THE PORT OF BOMBAY.

*The*

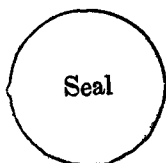
18

*No.*

By virtue of the Act No.                      of 1879 of the Council of the Governor of Bombay for making Laws and Regulations, entitled "The Bombay Port Trust Act, 1879," we, the Trustees of the Port of Bombay, in consideration of the sum of Rupees                      paid to us by *A. B.*, of                      , or order, the said sum of Rupees                      after the date hereof, together with interest at the rate of                      per centum per annum, payable half-yearly on the                      day of                      and the                      day of

Given under our Corporate Seal this                      day of                      187

*(Signatures of the Chairman and two Trustees.)*



of the Corporation.

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

**C. G. W. MACPHERSON,**  
Acting Under Secretary to Government.

*Poona, 1st September 1879,*

[Published with the "Bombay Government Gazette" on the 18th September 1879.]

## 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 July 1879, and the assent of His Excellency the Viceroy and Governor General on the 27th August 1879, and is published for general information:—

#### Bombay Act No. VI. of 1879.

*An Act to consolidate the immoveable and other property vesting in the Trustees of the Port of Bombay and certain other property on, or connected with, the foreshore of the Island of Bombay into one estate, and to vest the control and management of the same in one Public Trust; and for other purposes.*

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*An Act to consolidate the immovable and other property vesting in the Trustees of the Port of Bombay and certain other property on, or connected with, the foreshore of the Island of Bombay into one estate, and to vest the control and management of the same in one Public Trust; and for other purposes.*

WHEREAS it is expedient that the immovable and other property vesting in the Trustees of the Port of Bombay should be consolidated with certain other property on, or connected with, the foreshore of the Island of Bombay into one estate, and that such consolidated estate should, together with the rights and powers now exercisable by the said Trustees, be vested, subject to the provisions hereinafter appearing, in a new Trust; It is enacted as follows;—

I.—PRELIMINARY.

1. This Act may be called "The Short title. Bombay Port Trust Act, 1879."
2. From the date which shall be notified by the Governor in Council under Section 8, Bombay Act I. of 1873 (The Bombay Port Trust Act, 1873,) shall be repealed;

Provided that all debts and obligations incurred, all contracts entered into, and all matters and things engaged to be done by, with or for the Trustees appointed under the said Act, shall be deemed to have been incurred, entered into, or engaged to be done by, with or for the Board constituted by this Act;

and all rates and sums of money due to the said Trustees shall be deemed to be due to the said Board;

and all suits or other legal proceedings, civil or criminal, instituted, or which might, but for the passing of this Act, have been instituted by or against the said Trustees, may be continued or instituted by or against the said Board.

3. In this Act, unless there be something repugnant in the subject or context, Interpretation Section.

- (1) the word "rates" includes any toll, due, rent, rate, or charge, leviable under section 43 ;  
 "Rates."
- (2) "Port" means the Port of Bombay within such limits as may from time to time be defined by Government for the purposes of this Act by notification in the *Bombay Government Gazette*, and until a notification is so issued, within such limits as may have been defined by Government under section 73 of the *Bombay Port Trust Act, 1873*, for the purposes of that Act ;  
 "Port."
- (3) "Vessel" denotes any thing made for the conveyance by water of human beings or of property ;  
 "Vessel."
- (4) "Master," when used in relation to any vessel, means any person having for the time being the charge or control of such vessel ;  
 "Master."
- (5) "Owner," when used in relation to goods, includes any consignor, consignee, shipper or agent for the sale or custody of such goods; and when used in relation to any vessel, includes any part owner, charterer, consignee, or mortgagee in possession thereof ;  
 "Owner."
- (6) "Land" includes the bed of the sea below high-water mark ;  
 "Land."
- (7) "Wharf" includes a bandar and any part of the fore-shore used for loading or unloading goods, and any wall enclosing or adjoining the same ;  
 "Wharf."
- (8) "Dock" includes basins, locks, cuts, entrances, graving docks, graving blocks, inclined planes, patent slips, grid-irons, quays, warehouses, and other works and things appertaining to any dock ;  
 "Dock."
- (9) "Pier" includes any stage, stairs, landing-place, hard, jetty, landing-stage, floating barge, or pontoon, and any bridges or other works connected therewith ;  
 "Pier."
- (10) the word "Goods" includes wares and merchandise of every description ;  
 "Goods."
- (11) "Immoveable Property" includes wharfage-rights and all other

rights exercisable on, over, or in respect of any land, wharf, dock or pier ;

- (12) the words "Public Securities" mean securities of the Government of India, *Bombay Municipal Debentures* and securities and debentures issued under sections 30 and 41, respectively, of this Act.  
 "Public Securities."

## II.—OF THE BOARD OF TRUSTEES.

### *Constitution of Board.*

4. The duty of carrying out the provisions of this Act shall, subject to such conditions and limitations as are hereinafter contained, be vested in a Board, to be called "the Trustees of the Port of Bombay"; and such Board, hereinafter referred to as "the Board," shall be a body corporate and have perpetual succession and a common seal, and shall sue and be sued by the name first aforesaid.  
 Act to be carried out by Trustees.
5. The Board shall consist of thirteen members, that is to say, of  
 Constitution of Board.  
 five Elective Trustees,  
 seven Nominee Trustees, and  
 a Chairman ;  
 and not less than three of the Trustees shall be natives of India residing in the City of Bombay.
6. The elective Trustees shall be elected by the members for the time being of the Bombay Chamber of Commerce in such manner as shall from time to time be determined at a meeting of the members of the said Chamber convened in accordance with the rules at the time in force in this behalf. The Secretary to the said Chamber shall make a return to the Government of the name of every person so elected by the Chamber, and his return shall be published in the *Bombay Government Gazette*.  
 Elective Trustees to be elected by the Bombay Chamber of Commerce ;
- In the event of default being made by the Chamber in electing any Trustee under the foregoing provisions within the period hereinafter prescribed in this behalf, it shall be lawful for Government by notification in the *Bombay Government Gazette* to nominate a person, and the person so nominated shall be deemed to be a Trustee as if he had been duly elected by the Chamber.  
 or in default of such election shall be nominated by Government.

7. The nominee Trustees and the Chairman shall be appointed by Government by notification in the *Bombay Government Gazette*.

Nominee Trustees and the Chairman to be appointed by Government.

8. The term of office of the first nominee and elective Trustees shall commence on such date as shall be notified in this behalf by the Governor in Council.

Term of office of first Trustees when to commence.

9. Three of the first nominee Trustees and three of the first elective Trustees shall, unless they become in the meantime disqualified, hold office up to and inclusive of the 31st day of March next succeeding the date on which their term of office shall commence, the selection of the said six Trustees being made by lot at such time and in such manner as the Chairman shall determine. The remaining four of the first nominee Trustees and the remaining two of the first elective Trustees shall hold office until and inclusive of the 31st day of March next following the 31st day of March aforesaid.

Nominee and elective Trustees to retire from office by rotation.

In every other case the nominee and elective Trustees shall, unless they become in the meantime disqualified, hold office for a term of two years.

10. The first elective Trustees shall be elected on some day not later than a fortnight previous to the date which shall be notified by the Governor in Council under section 8, and the first nominee Trustees shall be appointed on some day during the said fortnight; in every other case elective Trustees shall be elected on some day not earlier than the first and not later than the fifteenth day of the month of March next preceding the 1st of April from which their term of office is to commence; and nominee Trustees shall be appointed on some day in the remainder of the said month of March.

Election and appointment of first Trustees.

Trustees to be appointed and elected in the month of March.

11. The Chairman shall hold office during the pleasure of Government, provided that he does not in the meantime cease, through disqualification, to be a Trustee;

Chairman to be appointed during pleasure of Government.

12. Any person on ceasing to be a Trustee, shall, unless disqualified under section 14, be re-eligible.

Trustees re-eligible.

13. Any casual vacancy in the office of a Trustee other than the Chairman occasioned by the death, resignation, or disqualification of such Trustee shall be filled up within one month by Government, if the office vacated was that of a nominee Trustee, or by the Chamber of Commerce, if it was that of an elective Trustee, in the same manner and subject, so far as may be, to the same provisions as are applicable in the case of original appointments and elections of Trustees: Provided that the Trustee so chosen shall retain his office so long only as the vacating Trustee would have retained the same, if such vacancy had not occurred.

Casual vacancies.

If a Trustee departs from Bombay with an intention of being absent for a longer period than three months, or if a Trustee shall have been absent for such period, a person shall be elected or appointed as aforesaid to act for such Trustee during his absence or until he shall cease to be a Trustee, and the person so acting shall be deemed for all the purposes of this Act to be a Trustee.

Acting Trustees.

#### *Disqualifications of Trustees.*

14. No person shall be qualified to be a Trustee during such time as he

Disqualifications for office of Trustee.

(a) is an uncertificated bankrupt or insolvent, or

(b) holds any office or place of profit under the Board, or

(c) has, directly or indirectly, any share or interest in any work done by order of the Board, or in any contract, or employment with, by, or on behalf of, the Board;

and any Trustee who

(d) becomes disqualified for any of the aforesaid reasons, or

Trustee who becomes disqualified to cease to be a Trustee.

(e) is absent from the meetings of the Board for a period exceeding twelve consecutive months, or, without the permission of the Board, from six consecutive meetings of the Board, or

(f) is sentenced to imprisonment, shall cease to be a Trustee, and his office shall thereupon become vacant:

Provided always that no Trustee shall vacate his office by reason only of his

Proviso.

(g) having a share in any Joint Stock Company which shall contract with or be employed by, or on behalf of, the Board, or

(h) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Board may be inserted, or

(i) being interested in any loan of money to the Board.

#### *Salaries of Trustees.*

15. The Chairman shall receive such salary as Government shall from time to time determine.

Every Trustee other than the Chairman shall be entitled to a fee of thirty rupees for each meeting of the Board at which a quorum is present and business is transacted and which he attends from the beginning to the end thereof: Provided that if more than one such meeting is held in any one week, no more than thirty rupees shall be paid to any Trustee for his attendance at all such meetings during that one week.

#### *Proceedings of Board.*

16. The following provisions shall be observed with respect to the proceedings of the Board (namely):—

(1) During any vacancy in the Board the continuing Trustees may act as if no vacancy had occurred.

(2) The Board shall meet together and shall from time to time make such arrangements, not inconsistent with this Act, with respect to the place, day, hour, notice, management, and adjournment of such meetings, and generally with respect to the transaction of business, as they think fit, subject to the following conditions (namely):—

(a) that a meeting shall be held once at least in every fortnight;

(b) that the Chairman may, whenever necessary upon an emergency, and call a special meeting;

(c) that no business shall be transacted at any meeting unless at least five Trustees are present from the beginning to the end of such meeting;

(d) that every meeting shall be presided over by the Chairman, if he is present at the time appointed for holding the same, and if he is absent, by such one of the Trustees present as may be chosen by the meeting;

(e) that all questions shall be decided by a majority of votes of the Trustees present, the president having a second or casting vote in all cases of equality of votes;

(f) that if a poll be demanded, the names of the Trustees voting and the nature of their votes shall be recorded by the president;

(g) that minutes shall be kept of the names of the Trustees present and of the proceedings at each meeting in a book to be provided for this purpose, which shall be signed, as soon as practicable, by the president of such meeting, and shall be open to inspection by any Trustee during office hours;

(3) The Board may delegate any of their powers to committees consisting of such Trustees as they think fit; any committee so formed shall conform to any instructions that may from time to time be given to them by the Board, and the Board may at any time discontinue or alter the constitution of any committee so formed;

(4) A committee may elect a chairman of their meetings, and if no such chairman is elected, or, if he is not present at the time appointed for holding the same, the



members present shall choose one of their number to be chairman of such meeting ;

(5) Committees may meet and adjourn as they think proper, but the Chairman of the Board may, whenever he thinks fit and shall, upon the written request of not less than two members of a committee, call a special meeting of such committee ;

(6) Questions at any meeting of a committee shall be decided by a majority of votes of the members present, and in case of an equal division of votes the chairman of the meeting shall have a second or casting vote, but no business shall be transacted at any such meeting unless at least two-thirds of the members of the committee are present from the beginning to the end thereof ;

(7) No act of the Board, or of any Committee, or of any person acting as Trustee, shall be deemed to be invalid by reason only of some defect in the appointment of such Board, Committee or Trustee or on the ground that they, or any of them, were disqualified for the office of Trustee.

17. The Chairman may, on behalf of the Board, enter into any contract or agreement, whereof the value or amount shall not exceed one thousand rupees, in such manner and form as, according to the law for the time being in force, would bind him if such contract or agreement were on his own behalf ; but every other contract and agreement, on behalf of the Board, shall be in writing, and shall be signed by the Chairman, and by two other Trustees, and shall be sealed with the common seal of the Board. No contract or agreement not executed as is in this section provided shall be binding on the Board.

18. The Board may compound or compromise for, or in respect of, any claim or demand arising out of any contract entered into by them under this Act, or in respect of any action or suit instituted by or against them, for such sum of money, or other compensation, as they shall deem sufficient.

### The Chairman.

19. The Chairman shall :

(1) attend every meeting of the Board unless prevented by sickness or other reasonable cause ;

(2) exercise supervision and control over the acts and proceedings of all officers and servants of the Board in matters of executive administration, and in matters concerning the accounts and records of the Board ; and, subject to the regulations at the time being in force framed by the Board under section 22, dispose of all questions relating to the service of the said officers and servants, and their pay, privileges, and allowances ;

(3) furnish to the Government a copy of the minutes of any of the Board's proceedings, and any returns or other information which Government may from time to time call for.

20. Government may from time to time grant to the Chairman such leave of absence as they may deem fit, and any person whom Government appoint to act for the Chairman during any such absence on leave shall, while so acting, be deemed for all the purposes of this Act to be the Chairman.

The allowance, if any, which Government direct to be paid to the Chairman during his absence on leave, and the salary which Government direct to be paid to the person appointed to act for him, shall be a charge on the General Account of the Board.

### III.—OF THE OFFICERS AND SERVANTS OF THE BOARD.

#### Strength of Staff.

21. The Board shall from time to time prepare and sanction a schedule of the staff of officers and servants whom they shall deem it necessary and proper to maintain for the purposes of this Act. Such schedule shall also set forth the amount and nature of the salaries, fees, and allowances which the Board sanctions for each such officer or servant.

Until a schedule is prepared and sanctioned under this section, the schedule in force under section 23 of the Bombay

Port Trust Act, 1873, on the day previous to the date notified by the Governor in Council under section 8, shall be deemed to be the schedule prepared and sanctioned by the Board under the foregoing provisions :

Provided always that artisans, porters and labourers, and muccadums of porters and labourers shall not be deemed to be officers or servants within the meaning of this section or of section 22 or 23 of this Act.

Board to frame regulations : 22. The Board shall from time to time frame regulations :

(1) for regulating the grant of leave to the officers and servants of the Board ;

(2) for authorizing the payment of allowances to the said officers and servants, or to certain of them, whilst absent on leave ;

(3) for determining the remuneration to be paid to the persons appointed to act for any such officers or servants during their absence on leave ;

(4) for regulating the period of service of all such officers and servants ;

(5) for determining the conditions under which such officers and servants or any of them shall on retirement receive pensions, gratuities, or compassionate allowances, and the amount of such pensions, gratuities, or compassionate allowances ;

(5) for authorizing the payment of contributions at certain prescribed rates and subject to certain prescribed conditions to any Provident Fund which may, with their approval, be established by the officers and servants appointed under this Act :

Provided that officers and servants who were appointed by Government previous to the passing of the Bombay Port Trust Act, 1873, and whose salaries were paid from the fund known as "The Bombay Port Fund," and who have continued

in the service of the Trustees appointed under the Bombay Port Trust Act, 1873, and of the Trust constituted by this Act, shall be entitled to retiring pensions, gratuities, or compassionate allowances at the same rates and subject to the same conditions as may from time to time be applicable to the servants of Government of similar standing and status, and that in the event of any question arising as to the right of any such officer or servant to a retiring pension, gratuity, or compassionate allowance, or as to the amount of retiring pension, gratuity, or compassionate allowance to which he is entitled, it shall be determined by Government.

*Powers of Appointment, &c.*

23. Subject to the provisions of the said regulations and Appointments, &c., of the schedule for by whom to be made. the time being in force framed by the Board under section 22, the power of appointing, promoting, suspending, dismissing, fining, reducing or granting leave to the officers and servants of the Board shall be exercised by the Chairman in the case of officers and servants whose monthly salary does not exceed three hundred rupees, and in every other case by the Board.

The power of dispensing with the services of any officer or servant of the Board, otherwise than by reason of such officer's or servant's own misconduct, or of permitting any such officer or servant to retire on a pension, gratuity, or compassionate allowance, shall, subject to the aforesaid provisions, be exercised by the Board alone.

24. Every order or regulation made by the Board under any of the three last preceding sections shall, so far as the same relates to the Secretary, Engineer, Traffic Manager, or Chief Accountant of the Board, be subject to the previous sanction of Government.

In this section the word "Engineer" "Engineer" defined. means the engineer of highest grade on the Board's ordinary staff, and also any superior officer who may from time to time be employed in the capacity of Consulting Engineer to the Board.

*Continuance of Present Officers and Servants.*

25. All officers and servants holding any office on the day previous to the date notified by the Governor in Council under section 8 under Officers and servants of the late Trustees to be continued under the Board.

the Trustees appointed under the Bombay Port Trust Act, 1873, shall be deemed to have been appointed under this Act, and shall continue to hold the same office and to receive the same remuneration under the Board until an order to the contrary is passed by competent authority under this Act.

#### IV.—OF THE PROPERTY AND LIABILITIES OF THE BOARD.

##### *General Powers as to Property.*

26. The Board shall, for the purposes of this Act, have power to acquire and hold moveable and immoveable property, whether within or without the limits of the Port or City of Bombay; and shall also have power to lease, sell or otherwise convey any moveable or immoveable property which may have become vested in or been acquired by them:

Provided that no sale of immoveable property and no lease of any such property for a term exceeding fifty years shall be valid unless such sale or lease shall have been made with the previous sanction of Government.

27. When the Board are unable to acquire, by agreement, any immoveable property required for the purposes of this Act, Government may, in their discretion, order proceedings to be taken for acquiring the same on behalf of the Board as if such property were land needed for a public purpose within the meaning of the Land Acquisition Act, 1870.

The amount of compensation awarded and all other charges incurred in the acquisition of any such property shall be forthwith defrayed by the Board, and thereupon the said property shall vest in the Board.

##### *Transfer of Property to Board.*

28. All such immoveable and other property as is held by or in trust for the Trustees of the Port of Bombay under or in pursuance or for the purposes of the Bombay Port Trust Act, 1873, shall, upon and after the date notified by the Governor in Council under section 8, vest in the Board, but subject to all charges and liabilities affecting the same.

The property vested by this section in the Board shall be deemed to include

the estate, right, title, and interest of the Secretary of State for India in Council in the rock, stones, shingle, gravel, sand or soil within the Port, and also the right of levying rates on all goods landed at or shipped from any part of the foreshore between Malabár Point and Colába Point.

29. Whereas the Secretary of State for India in Council has initiated measures for the acquisition from the holders thereof, of the properties severally named and generally described in Schedule A, but the arrangements for the said acquisition are not yet complete; and whereas it is expedient that all such estate and interest as may be acquired by the Secretary of State for India in Council in the said properties should vest in the Board; it is hereby enacted that upon and after such date as shall be fixed in this behalf by the Governor in Council, all the estate, right, title, and interest of the Secretary of State for India in Council in the said properties shall, subject to the provisions hereinafter contained, become vested in the Board, subject to all covenants, charges, contracts, and liabilities affecting the same.

30. And whereas it is purposed that the purchase money of the said properties shall be paid in Part Trust securities bearing interest at the rate of four per centum per annum; it is hereby enacted that the Board shall within two months from the date aforesaid execute and deliver to the holders of the said properties securities in the form of Schedule B, under their common seal, for the sums for which their said properties shall be respectively purchased by the Secretary of State for India in Council: Provided that the said sums shall not exceed, in the aggregate, seventy-seven lacs of rupees, and that so long as the said amount is not exceeded it shall be competent to the Secretary of State for India in Council to acquire such estate, right, title and interest in the said properties as he shall deem fit, anything contained in Schedule A notwithstanding.

Every such security shall be for an amount of not less than one hundred rupees, and shall covenant for the payment of interest on the principal sum at

the rate of four per centum per annum from the date fixed by the Governor in Council under section 29, and such interest shall be payable half-yearly on or after the 1st April and the 1st October.

The said securities shall be transferable by endorsement.

and to be transferable.

*Application of the Board's Property.*

31. The proceeds of the sale of any portion of the property vested in or acquired by the Board under or by virtue of this Act, and all sums paid to the Board by way of compensation under the next following section, shall be applied as follows and not otherwise (namely) :—

Sale-proceeds of Board's property how to be invested.

(a) in liquidation of the principal sum of any debt contracted under paragraph 2 of section 39, if the same or any portion of the same is at the time payable; or

(b) in liquidation of the principal of any debt at the time due to the Secretary of State for India in Council; or

(c) in liquidation of the securities, or of any of them, issued under section 30.

32. Nothing in this Act shall be deemed to affect the power of Government to order proceedings to be taken under the Land

Saving of powers of Government under Land Acquisition Act, 1870.

Acquisition Act of 1870, or any other law for the time being in force for the acquisition of land for public purposes in respect of any land vesting in the Board.

*Liabilities.*

33. The capital debts due by the Board

on account of the immovable and other property vested in it

by this Act are as follows (namely) :—

(a) to the Secretary of State for India in Council, the amounts mentioned in Schedule C; and the amounts which have been advanced by or on behalf of the Secretary of State for India in Council to the Trustees appointed under the Bombay Port Trust Act, 1873, or applied by or on behalf of the said Secretary of State in Council, with the consent of the said Trustees, for the improvement of the Port of Bombay or otherwise under sections 46 and 50, clause (2) of the said Act,

(b) to the holders of the securities to be issued by the Board under section 30, the amounts of such securities.

34. On the amounts mentioned in column Interest in what three of Schedule C cases to be paid by the Board, no interest shall be payable.

On the amounts mentioned in column two of the said schedule interest shall be payable by the Board to the Secretary of State for India in Council annually on the 1st April at the rate of four per centum per annum until, and inclusive of, the twenty-fifth day of June 1883, and thereafter at the rate of four and one-half per centum per annum.

On the amounts due to the Secretary of State for India in Council under clause (a) of the last preceding section which are not mentioned in the said schedule, interest shall be payable by the Board to the said Secretary of State in Council annually on the 1st April at the rate of four and one-half per centum per annum.

On the amounts, if any, which may hereafter be advanced to the Board by the Governor in Council under section 39 of this Act interest shall be payable by the Board to the Secretary of State in Council on such dates and at such rates as shall be agreed upon between Government and the Board in respect of such advances.

On the amounts of the securities issued by the Board under section 30 interest at the covenanted rate of four per centum per annum shall be payable by the Board half-yearly on the 31st March and the 30th September to the Accountant General of Bombay or other officer for the time being performing the duties of the office of the said Accountant General, who shall pay the same on or after the 1st April and 1st October respectively to the holders of the said securities.

If any sum due by the Board under this section on account of interest, or any portion thereof, is not paid by them on the date on which the same is hereby declared to be payable, they shall continue liable for the payment thereof, and interest shall be paid by them to the Secretary of State for India in Council upon the balance from time to time overdue at the rate of four and one-half per centum per annum, until the whole amount is paid.

35. In the event of default being made Interest to be paid by the Board in any out of Provincial Revenues if default is made by the Board. payment of interest due by it under paragraph two, three or four of the last preceding section, the same shall be paid by the Accountant General of Bombay or other officer aforesaid, who shall debit the amount so paid to the

Provincial Revenues of the Presidency of Bombay; and in the event of default being made by the Board in any payment due by it under paragraph five of the said section, the Accountant General or other officer aforesaid shall nevertheless pay to the security-holders the interest due upon their securities, and shall debit the amounts so paid to the Provincial Revenues of the Presidency of Bombay.

36. The Board shall pay annually on the 30th day of September to the Municipal Corporation of the City of Bombay a lump sum which shall be calculated at the following rates, namely:

Lump payment to be made to the Municipality in lieu of consolidated rate.

(a) for the period commencing on the 1st day of October last preceding the date on which this Act comes into force and ending on the day next previous to the date fixed by the Governor in Council under section 29 at the rate of fifty thousand rupees per annum;

(b) for the period commencing on the date fixed as aforesaid and ending on the 25th day of June 1883 at the rate of sixty thousand rupees per annum; and

(c) thereafter at such rate as the Governor in Council shall from time to time determine.

The said payment shall be in lieu of the consolidated rate leviable by the said Corporation, to which the property hereby vested in the Board or some portion of the same would otherwise be liable to be assessed.

37. In consideration of the said payment the Municipal Commissioner shall,

Roads and thoroughfares constructed by the Board to be maintained by the Municipality in consideration of such payment.

on being satisfied that any road or thoroughfare has been duly levelled, paved, metalled, flagged, channelled, and sewered by the Board, declare such road or thoroughfare to be a public road or thoroughfare, and the Municipality shall thenceforward maintain, keep in repair, light and cleanse such road or thoroughfare. The Municipality shall also, on requisition by the Board, maintain, keep in repair, light and cleanse the road of any wharf, dock or pier vested in the Board.

The Municipality shall maintain, keep in repair, light and cleanse the said roads and thoroughfares in the same manner and with the same liability

Such roads and thoroughfares not to be stopped up without the consent of the Board.

ties in respect thereof as if the said roads and public thoroughfares were vested in the said Municipality; but it shall not be competent to the Municipal Commissioner or to the Municipality to discontinue or stop up any road or thoroughfare which at any time vested in, or which has been constructed by the Board, or the Trustees of the Port appointed under the Bombay Port Trust Act, 1873, and which has been declared to be a public road or thoroughfare under this section, or under section 9 of the said Act, without the previous consent in writing of the Board; and the land occupied by any road or thoroughfare so discontinued or stopped shall vest in the Board and not in the Municipality.

38. Any dispute which arises between the Board and the Municipality in respect of any of the provisions of the last preceding section shall be determined by the Government, and their decision shall be final.

Disputes under the last section to be settled by Government.

#### V.—OF THE BORROWING POWERS OF THE BOARD.

39. The Governor in Council, acting on behalf of the Secretary of State for India in Council, may, with the previous consent of the Governor General of India in Council, from time to time advance money to the Board for the general purposes of this Act; or

The Board may, with the previous consent of Government, from time to time raise money for the said purposes:

Provided always that no expenditure shall be charged by the Board to capital, except with the express sanction of Government.

40. Whenever the consent of Government has been obtained to the raising of money by the Board, under the last preceding section, Government shall, with the previous consent of the Governor General of India in Council, direct and appoint the manner in which such money shall be raised.

41. If such money shall be raised on debentures bearing interest, such interest shall be a charge on the rates prior to the charge for interest

Interest on debentures to be a charge on the rates prior to interest due to Secretary of State.

payable to the Secretary of State for India in Council, provided for by section 34.

42. All debentures which may be so issued shall be in the form of Schedule D, and shall be transferable by endorsement; and the right to sue in respect of the monies secured by any such debentures shall be vested in the holders thereof for the time being, without any preference by reason of some of such debentures being prior in date to others.

## VI.—OF REVENUE AND EXPENDITURE.

### *Levy of Rates.*

43. The Board shall frame a scale of tolls, dues, rents, rates, and charges, to be levied for each or any of the following matters (namely):

(a) for the landing, shipping, wharfage, crannage, storage, or demurrage of goods at,

(b) for permission for vessels or boats to approach, or be alongside, and

(c) for animals or vehicles carrying goods to or from, or entering upon or plying for hire at or on,

any wharf, dock, or pier in the possession of the Board, and so much of the Wári Bandar and of the Gun Carriage Reclamation as is in the possession of the Great Indian Peninsula and the Bombay Baroda and Central India Railway Companies respectively: Provided that no such toll, due, rent, rate or charge shall be leviable at so much of the said Wári Bandar and Gun Carriage Reclamation as is aforesaid in respect of any goods, vessel, animal or vehicle belonging to the said companies respectively.

The scale so framed shall be submitted to Government for sanction, and when so sanctioned and published in the *Bombay Government Gazette* shall have the force of law, and, subject to the like sanction and publication, may from time to time be amended or added to by the Board.

Until a scale of rates is framed, sanctioned, and published under this section, the scale in force when this Act comes into operation under section 57 of the Bombay Port Trust Act, 1873, shall be deemed to have been duly framed, sanctioned, and published under this section.

The Board may, in special cases, with the previous sanction of Government, remit the whole or any portion of the rates leviable under this section.

44. The said rates shall not be leviable in respect of any vessel employed by Government solely for the transport of troops, nor in respect of the baggage or other effects of any troops landing or embarking at the port. In lieu thereof a toll shall be payable by Government to the Board on all troops and all the families of troops landing or embarking at Bombay at the rate of one rupee per head, and, if such troops and their families shall land or embark at any dock in the possession of the Board, at such additional rate as shall from time to time be determined by Government.

45. Subject to the provisions of any law for the time being in force, the Board may land, ship, or tranship goods between vessels in the harbour and the wharves, piers or docks in their possession, and may make such charges for so doing as they shall think fit.

46. The Board may procure and maintain such number of steam-vessels as they may deem fit to be employed in towing vessels into, out of, or in the harbour, and may make such charges for towage by the said steam-vessels as they shall think fit.

### *Division of Accounts.*

47. In the accounts of the Board a Pilotage Account to be kept separate from the General Account, Pilotage account shall be kept separate from the General account.

48. The rates and charges from time to time levied under sections 43 to 46, together with all rents of lands and buildings, and all fines and penalties levied under this Act, other than fines and penalties levied from pilots or other persons employed in the pilot service, and all miscellaneous items of revenue recovered by the Board, except pilotage-fees, shall be credited to the General Account.

49. The monies credited to the General Account shall be held by the Board in trust, and except as is hereinafter provided shall

be applied by them in payment of the following charges (namely):—

(1) the salaries, fees, allowances, pensions, gratuities, compassionate allowances or other monies due to the Trustees and to the officers and servants appointed under this Act, and the contributions, if any, duly authorized to be made to any Provident Fund established by the said officers and servants;

(2) the cost of repairs and maintenance of the property vested in the Board, and all charges upon the same and all working expenses;

(3) the interest due on any money that may have been raised by the Board under section 39;

(4) the cost, or such portion of the cost, of any new work, plant, vessel or appliance which the Board may determine to charge to revenue;

(5) the interest payable by the Board under section 34:

Provided always that no charge which is debitable under section 50 to the Pilotage account shall be debited to the General account.

50. All fees for pilotage and all fines and penalties levied under this Act from pilots or other persons employed in the pilot service shall be credited to the Pilotage Account and shall be held by the Board

Monies credited to the Pilotage Account on what purposes to be expended. in trust, and be applied, in such proportions as they shall from time to time direct, to the following purposes only (namely):—

(1) the purchase and maintenance in repair of such vessels, and the supply of such materials, stores, or other things as the Board deem it necessary to maintain or supply for the efficiency of the pilot service;

(2) the payment of the salaries and allowances of pilots and other officers and servants of the Board employed in the pilot service or in the supervision thereof;

(3) the payment of pensions or retiring gratuities or compassionate allowances to pilots and other officers and servants engaged in the pilot service, and of the contributions, if any, duly authorized to be made in their behalf to any Provident Fund.

### *Disposal of Balances.*

51: The Board may invest any balance remaining on the 31st March of each year to the credit of either the General or Pilotage account after meeting all the charges properly debitable to such account, in public securities, and may from time to time sell the said securities and re-invest the proceeds in other public securities, or credit the same to the account to which the balance invested belonged for expenditure on any of the purposes to which the monies credited to such account may lawfully be applied.

But the money so invested by the Board, whether in respect of the General account or of the Pilotage account, shall not exceed such amount annually, or in the aggregate, as shall from time to time be prescribed by Government, and any surplus remaining after deducting the amounts which may be so invested shall be applied:

- (a) if such surplus belongs to the General account, in liquidation, on or before the 1st August next following the 31st March on which such surplus accrued, of the principal of any loan raised by the Board under section 39, or of the capital of any debt at any time due by the Board to the Secretary of State for India in Council; or of the money due to the holders of the securities issued by the Board under section 30; and
- (b) if such surplus belongs to the Pilotage account, in such manner as Government shall direct:

Provided always that the pilots and other officers and servants employed in the pilot service shall have no claim upon any balance to the credit of the pilotage account or upon the profits or interest arising from any investment thereof, or of any portion thereof except to such extent as payments to them, or in their behalf, may from time to time be sanctioned by the Board under clauses (2) and (3) of section 50.

The interest and profits accruing and the loss, if any, arising from such investments as aforesaid shall be respectively credited and debited to the account to which the balance invested belongs.

*Annual Estimates.*

52. The Chairman shall, at a special meeting to be held in the month of February in each year, lay before the Board an estimate of the income and of the expenditure of the Board for the year commencing on the 1st day of April then next ensuing in such detail and form as the Board shall from time to time direct.

Such estimate shall be completed and printed, and a copy thereof sent by post, or otherwise, to each Trustee, at least ten clear days prior to the meeting before which the estimate is to be laid.

53. The Board shall consider the estimate so submitted to them, and shall sanction the same either unaltered, or subject to such alterations as they shall think fit.

54. The estimate, as sanctioned by the Board, shall be submitted to the Government, which may, if it thinks fit, at any time within one month after receipt of the same, disallow such estimate, or any portion thereof, and return the same for amendment. The Board shall, if the estimate is so returned by Government, forthwith proceed to amend the same, and shall re-submit the estimate so amended to the Government.

55. The Board may, at any time during the year for which any such estimate has been sanctioned, cause a supplementary estimate to be prepared and submitted to them. Every such supplementary estimate shall be considered and sanctioned by the Board and submitted to the Government in the same manner as if it were an original annual estimate.

56. Save in cases of pressing emergency, no sum exceeding five thousand rupees shall be expended by or on behalf of the Board, unless such sum is included in some estimate at the time in force which has been finally approved by Government.

If any sum exceeding five thousand rupees in amount is so expended on a pressing emergency, the circumstances shall be forthwith reported by the Chairman to

the Government, together with an explanation of the way in which it is proposed by the Board to cover such extra expenditure.

57. Any estimate prepared by the Trustees appointed under the Bombay Port Trust Act, 1873, to be accepted for purposes of this Act, and approved by Government under section 53 of that Act, and which but for the passing of this Act would have force and effect, shall be deemed to have been duly prepared, passed and approved under this Act.

*Audit of Accounts.*

58. The accounts of the receipts and expenditure of the Board shall, twice in every year, be laid before Government, and shall be audited and examined by such auditors as shall, from time to time, be appointed by Government.

For the purposes of such audit and examination the auditors may, by summons in writing, require the production before them of all books, deeds, contracts, vouchers, and all other documents and papers which they may deem necessary, and may require any person holding, or accountable for any such books, deeds, contracts, accounts, vouchers, documents, or papers, to appear before them at any such audit and examination, or adjournment thereof, and to make and sign a declaration with respect to the same.

The auditors shall be paid by the Board such remuneration as Government shall determine, the amount being debited to the General account; and within fourteen days after the audit and examination shall have been completed, the auditors shall forward their report upon the accounts to the Board, who shall cause the same to be published, together with an abstract of the accounts, in the *Bombay Government Gazette*.

*Fulfilment of Board's Liabilities.*

59. It shall be incumbent on the Board to make ample provision year by year, either by retrenchment of expenditure



or by increase of rates for the due fulfilment of all their liabilities, and for the efficient administration of this Act; and in the event of any deficiency being at any time anticipated in the income of the Board, they shall forthwith take such measures as shall seem most expedient for preventing such deficiency.

60. If it shall at any time appear to the Governor in Council that sufficient provision is not being made by the Board to meet their liabilities, or if default shall at any time be made by the Board in any payment of interest which they are required to make under section 34, the Governor in Council may require the Board, by an order in writing signed by a Secretary to Government, to increase, subject to his sanction and to the provisions of section 43, to such extent and for such period as shall appear necessary, the rates or any of the rates for the time being in force under the said section.

If within fifteen days after receipt of such order the Board do not comply with the same, the Governor in Council may, by notification in the *Bombay Government Gazette*, increase the said rates or any of them, and such notification shall have the same force as if a new scale of rates to the same effect had been duly framed, sanctioned and published under section 43.

And for the purpose of realizing any interest which has not been paid by the Board when due, in accordance with section 34, the Governor in Council may, by an order published in the *Bombay Government Gazette*, appoint some person to receive the rates, charges, and other income which the Board may be entitled to receive, or any portion thereof, and to apply the same in discharge of the amount due and of all expenses authorized by Government in respect of the appointment of such person and of the recovery by him of the said rates, charges and income; and the person so appointed shall have for the recovery of the said rates, charges, or other income, all and singular the powers and authorities conferred by this Act on the Board for the said purpose.

## VII.—OF THE POWERS AND FUNCTIONS OF THE BOARD.

### *Recovery of Rates.*

61. For the amount of all rates leviable under this Act in respect of any goods, the Board shall have a lien on such goods, and shall be entitled to seize and detain the same until such rates are fully paid. Rates in respect of goods to be landed shall become payable immediately on the landing of such goods. Rates in respect of goods to be removed from the premises of the Board, or to be shipped for export, shall be payable before such goods are removed or shipped. The lien for such rates shall have priority over all other liens and claims, except for general average, for the ship-owner's lien for freight upon the said goods, (where such lien exists and has been preserved in the manner hereinafter provided), for primage and for money payable to Her Majesty or to the Secretary of State for India in Council.

62. If the master or owner of any vessel, or his agent, at or before the time of landing from such vessel any goods at any wharf, dock or pier in the possession of the Board, shall give to the Board notice, in writing, that such goods are to remain subject to a lien for freight or other charges payable to the ship-owner, to an amount to be mentioned in such notice, such goods shall continue liable to the same lien, if any, for such charges as they were subject to before the landing thereof. Such goods shall be retained either in the warehouses and sheds of the Board, or, with the consent of the Chief Customs Authority of the Presidency in the public warehouses, at the risk and expense of the owners of the said goods until the lien is discharged as hereinafter mentioned.

63. Upon production to the proper officer of the Board of a document purporting to be a receipt for the amount claimed as due, or a release of freight from the person by or on whose behalf such notice shall have been given, it shall be lawful for the Board to permit such goods to be removed without regard to such lien, provided they shall have used reasonable care in respect to the authenticity of such document.

## 64. If the rates payable to the Board in

If rates are not paid, or the lien for freight is not discharged, goods may be sold after the expiration of two months. In respect of any goods are not paid, or if the lien of the ship-owner for freight, when such notice as aforesaid has been given, is not discharged, the Board may, and in the latter event, if required by or on behalf of the person claiming such lien for freight, shall, at the expiration of two months from the time when the goods were placed in their custody, or if the goods are of a perishable nature, at such earlier period (being not less than twenty-four hours after the landing of the goods), as they shall think fit, sell by public auction the said goods, or so much as may be necessary to satisfy the amounts hereinafter directed to be paid out of the produce of such sale.

Before making such sale, ten days' notice of the same shall be given by publication thereof in the *Bombay Government Gazette*, unless the goods are of so perishable a nature as, in the opinion of the officer aforesaid, to render their immediate sale necessary or advisable, in which event such notice shall be given as the urgency of the case admits of.

If the address of the owner of the goods has been stated on the manifest of the cargo or in any of the documents which have come into the hands of the Board, or is otherwise known, notice shall also be given to the owner of the goods by letter delivered at such address, or sent by post; but the title of a *bonâ fide* purchaser of such goods shall not be invalidated by reason of the omission to send the notice hereinbefore mentioned, nor shall any such purchaser be bound to inquire whether such notice has been sent.

## 65. In every case of any such sale as aforesaid, the monies

Application of proceeds of sale. received from the sale shall be applied as follows:—

*1stly.*—In payment, according to their respective priorities, of the liens and claims excepted in section 61 from the priority of the lien of the Board for rates;

*2ndly.*—In payment of the expenses of the sale;

*3rdly.*—In payment of the rates and expenses due to the Board in respect thereof.

The surplus, if any, shall be paid to the owner of the goods or his agent on his applying for the same, provided such appli-

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cation be made within one year from the sale of the goods, or good reason be shown why such application was not so made to the satisfaction of the Board; and in case such application shall not be so made, nor reason shown, such surplus shall be applied by the Board to the purposes of this Act.

## 66. If the master of any vessel in re-

Power to distrain vessels for the non-payment of rates, &c. spect of which any rates, charges, or penalties shall be payable under this Act, or

any bye-laws made in pursuance hereof, shall refuse or neglect to pay the same, or any part thereof, on demand, it shall be lawful for the Board to distrain or arrest, of their own authority, such vessel, and the tackle, apparel, or furniture belonging thereto, or any part thereof, and detain the same until the amount so due shall be paid; and, in case any part of the said rates or penalties or of the costs of the distress or arrest, or of the keeping of the same, shall remain unpaid for the space of fifteen days next after any such distress or arrest shall have been so made, the Board may cause the vessel, or other thing so distrained or arrested, to be sold, and with the proceeds of such sale may satisfy such tolls, dues, rates, penalties, or charges and costs of sale remaining unpaid, rendering the surplus (if any) to the master of such vessel on demand.

## 67. If the Board shall give to the offi-

Port Clearance not to be granted till rates, &c., are paid. cer of Government, whose duty it is to grant the port clear-

ance of any vessel, a notice stating that an amount therein specified is due in respect of rates, charges, or penalties chargeable under this Act, or any bye-laws, or orders made in pursuance hereof, against such vessel, or the owner or master of such vessel, in respect thereof, such officer shall not grant such port clearance until the amount so chargeable shall have been paid.

*Works.*

General nature of works to be executed under this Act. 68. The works to be undertaken by the Board under this Act may include—

(1) wharves, docks, and piers within the Port or on the foreshore of the Port with all necessary and convenient arches, drains, fences, roads, railways, and approaches;

(2) tramways, warehouses, sheds, engines, and other appliances for conveying, receiving, and storing goods landed, or to be shipped, or otherwise;

(3) light-houses, light-ships, beacons, pilot-boats, and other appliances necessary for the safe navigation of the Port and of the approaches thereto within a distance of three miles from the limits of the Port;

(4) laying down moorings, and the erection of cranes, scales, and all means and appliances necessary for berthing, loading and unloading vessels;

(5) reclaiming, excavating, enclosing, and raising any part of the foreshore of the Port vested in the Board, when such reclamation, excavation, enclosure, or raising may be necessary for any of the purposes of this Act;

(6) the construction and application of dredges and other machines for cleaning, deepening, and improving any portion of the Port or foreshore aforesaid;

(7) the construction of such works, without the limits of the Port, as shall be necessary for the protection of works executed by the Board within the Port, and all such other works and appliances as may, in the opinion of the Board, be necessary for carrying out the purposes of this Act:

Provided always that no new work, the

But no new work to be commenced without a plan and estimate, if its cost shall exceed Rs. 2,000;

contract be entered into by the Board in respect of any such new work, until a plan and estimate of such work shall have been submitted to the Board and considered and approved by them, nor shall any new work, the estimated cost of which exceeds two

lacs of rupees, be commenced until such plan and estimate shall have been submitted to, and approved by Government.

#### *Regulation of use of Wharves, &c.*

69. Nothing in this Act shall be deemed to affect:

(a) the right of Government to collect customs duties, or of the Municipal Corporation of the City of Bombay to collect town duties, at any wharf, pier, or dock in the possession of the Board, or

(b) any power or authority vested in the Customs Authorities of the Presidency under any law and of powers of Customs Officers. for the time being in force for the administration of Sea Customs.

70. Whenever any wharf, pier, or dock, Places to be set apart for use of Customs Officers on wharves, &c. in the possession of the Board shall be appointed, under the provisions of any Act for the time being in force, for the administration of Sea Customs, a wharf or place for the landing and shipping of goods within the meaning of such Act,

and whenever any warehouse, or portion of a warehouse, in the possession of the Board shall be appointed or licensed under the provisions of any such Act as a warehouse for the deposit of dutiable goods on the first importation thereof without payment of duty,

the Board shall set apart, and maintain, such place on or adjoining such wharf, dock, or pier, or in such warehouse, or portion of a warehouse, for the use of the Officers of Customs as Government shall in that behalf approve or appoint;

but all rates payable in respect of any wharf, pier, or warehouse, or portion thereof so set apart, or for the storage of goods thereupon or therein, shall be paid to the Board or to such person or persons as they may appoint to receive the same, notwithstanding that the same has been so set apart;

and if any portion of the Customs Bonded Warehouse shall, with the consent of Government, be appointed a public warehouse for the deposit of dutiable goods as aforesaid, the Board

shall set apart and maintain such portion thereof in good order for the said purpose; but the Chief Customs Authority shall pay to the Board from time to time, as may be determined by Government, all surplus income derived from the use of such portion of the said Customs Bonded Warehouse as a public warehouse as aforesaid after payment of all charges and expenses of management.

71. The Board shall provide such number of public landing-places as shall, in the opinion of Govern-

Board to provide free landing-places.

ment, be sufficient, from and upon which the public shall be permitted to embark and to land free of charge.

*Control of Pilots.*

72. The Board shall have the right and privilege of maintaining pilots for the navigation of vessels at the Port, and all fees for pilotage shall be paid to the Board : Provided that no person shall be appointed to be a pilot by the Board who is not for the time being authorized by Government, under the provisions of the Indian Ports Act, 1875, to pilot vessels.

The Board may also, from time to time, make such bye-laws and regulations as they shall think fit :

(a) for fixing and regulating the wages and allowances for pilotage to be received by pilots, and

(b) for regulating the behaviour and conduct of pilots ;

and shall enforce the observance of such bye-laws and regulations, by the imposition of pecuniary penalties not exceeding two hundred rupees for each offence, or by suspension, or deprivation of appointment, or otherwise as to them may appear expedient : Provided that such bye-laws shall first have been approved by Government, and published in the manner directed by section 74.

*Bye-Laws.*

73. The Board may, from time to time, make bye-laws :

(a) for the guidance of persons employed by them under this Act ;

(b) for the safe and convenient use of the wharves, docks, piers, warehouses, tramways, and other works constructed or acquired by them under this Act ;

(c) for the use of the public landing-places constructed by or belonging to them ;

(d) for the reception and removal of goods brought within the premises of the Board ;

(e) for keeping clean the harbour and basins and the works of the Board, and for preventing filth or rubbish being thrown therein or thereon ;

(f) for settling the mode of the payment of the rates and charges leviable under this Act ;

(g) for regulating, declaring, and defining the wharves, docks, and piers vested in the Board on which goods shall be landed from, and shipped on board vessels ; and

(h) generally for carrying out the purposes of this Act.

The Board may also, from time to time, vary, alter, or revoke any such bye-laws so made by them.

74. No bye-law, or alteration or revocation of a bye-law, shall have effect until the same shall have been approved by Government, and such approval shall have been published in the *Bombay Government Gazette* ; and no bye-law or alteration or revocation of a bye-law shall be approved by Government until the same shall have been published for three weeks successively in the said Gazette.

It shall be lawful for Government at any time by notification in the said Gazette to cancel any bye-law or regulation made and published under the provisions of this and of the last two preceding sections.

75. The Board may, in the bye-laws made under section 73, prescribe such penalties as they shall deem fit for the infringement of the same : Provided that no penalty for any one infringement of a bye-law shall exceed one hundred rupees, nor, in case of a continuing infringement, shall any penalty exceed fifty rupees per diem for every day after notice of such infringement shall have been given by the Board to the person guilty of such infringement.

76. The Board shall cause the said bye-laws and the scales of rates and charges to be exhibited. The scales of rates and charges to be leviable by the Board, to be printed in the English, Maráthi and Guzeráthi languages, and to be hung up at the several wharves, docks, and piers, and other convenient places on the premises of the Board.

77. Until bye-laws are framed by the Board under section 73, the bye-laws framed by the Trustees appointed under the Bombay Port Trust Act, 1873, under section 85 of that Act, and in force when this Act comes into operation, shall be deemed

to have been framed under the said section 73 of this Act.

#### VIII.—PENALTIES.

78. Any person who being a Trustee, or an officer or servant of the Board, shall acquire, directly or indirectly, any share or interest in any contract or employment with, by, or on behalf of the Board, shall be deemed to have committed the offence made punishable by section 168 of the Indian Penal Code:

Provided that nothing in this section shall apply to a person—

(a) having a share in any Joint Stock Company which shall contract with, or be employed by, or on behalf of the Board, or

(b) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Board may be inserted, or,

(c) interested in any loan of money to the Board.

79. Any person employed under this Act, not being a public servant within the meaning of section 21 of the Indian Penal Code, who shall accept or obtain, or agree to accept or attempt to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a reward for doing, or forbearing to do, any official act, or for showing, or forbearing to show, in the exercise of his official functions, favour or disfavour to any person; or for rendering, or attempting to render, any service or dis-service to any person with the Board or with any public servant as such, or with the Government, shall be liable to the same punishment as is provided by the Indian Penal Code in the case of the like offence committed by a public servant.

80. Any person who shall refuse or neglect to appear before any auditor of accounts, or to produce any books, deeds, contracts, accounts, vouchers, documents, or papers, or to make or sign any declaration when duly required so to do by any auditor of accounts under section 58, shall be punished for every such neglect or refusal with fine which may extend to one hundred rupees.

81. Any person, other than the Board or the Conservator of the Port, who shall, without first obtaining the written consent of Government to his so doing, make, set up, or fix, below high-water mark within the Port, any wharf, quay, pier, mooring, or other erection whatsoever, shall be punished with fine which may extend to one thousand rupees, and to a further fine which may extend to one hundred rupees for every day during which he shall permit such wharf, quay, pier, mooring, or other erection, to remain after notice to remove the same has been given to him.

For setting up any erection below high-water mark in the Port.

Any such wharf, quay, pier, mooring, or other erection, may be removed by the Board, and the person who made, set up, or fixed the same, shall also be liable to pay all expenses which may be incurred by the Board in the removal thereof.

82. If it be found when goods are imported at, or exported from, any wharf, dock, goods, &c. or pier in the possession of the Board, that the weight or quantity of such goods, or the tonnage of any vessel carrying such goods, has been understated in any document presented to any officer of the Board for the purpose of enabling him to determine the rates or charges payable in respect of the said goods or vessel, the consignee, in the case of goods imported, and the consignor, in the case of goods exported, shall be liable to pay to the Board such sum not exceeding twice the proper rates or charges on the weight or quantity of goods or amount of tonnage so understated as may be determined by the Board, and the said sum shall on the application of the Board be recoverable under a Presidency Magistrate's warrant as if it were a fine inflicted by such Magistrate.

83. Any person who removes, or attempts to remove, or abets within the meaning of the Indian Penal Code the removal of any goods, vessel, animal, or vehicle with the intention of evading payment of the rates or charges lawfully due in respect thereof to the Board shall be punished with fine which may extend to fifty rupees.

84. If, through the negligence of any person having the guidance or command of any vessel, or of any of the mariners

Recovery of value of damage to any property of the Board.

or persons employed on such vessel, damage shall be caused to any wharf, dock, pier, or other work in the possession of the Board, the amount of such damage shall, on the application of the Board, be recoverable, together with the cost of such recovery, by distress and sale, under a Presidency Magistrate's warrant, of a sufficient portion of the boats, masts, spars, ropes, cables, anchors, or stores belonging to such vessel: Provided that no such warrant shall issue until the master of such vessel has been duly summoned to appear, or, if he appears, until he has been heard, and provided also that no such warrant shall issue if the vessel was at the time under the orders of a duly authorized officer in the pilot service of the Port or of the Master Attendant's Department.

85. Except as is otherwise provided in section 82, all offences against this Act or against any bye-law made under section 73 shall be cognizable by a Presidency Magistrate.

All fines and damages recovered from any offender, or by any distress under section 84, shall be paid to the Board.

#### IX.—MISCELLANEOUS.

86. Whenever any day by this Act appointed for any purpose shall happen to be a Sunday or a public holiday, the business appointed to

be done on such day shall be done on the day next after such Sunday or public holiday.

87. No suit or other proceeding shall be commenced against any person for anything done, or purporting to have been done, in pursuance of this Act without giving to such person one month's previous notice in writing of the intended suit or other proceeding, and of the cause thereof, nor after six months from the accrual of the cause of such suit or other proceeding.

The Board shall not be responsible for any mis-feasance, mal-feasance, or non-feasance of any officer or servant appointed under this Act;

nor, if they should be appointed by Government, under the Indian Ports Act, 1875, Conservators of the Port, for any mis-feasance, mal-feasance or non-feasance of any Deputy Conservator, Master Attendant or Harbour-Master, or of any assistant or deputy of any such officer, or of any person acting under the authority or direction of or in subordination to any such officer, assistant or deputy;

nor for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers, or other things belonging to the Board, which may be used by such vessel;

nor shall the Board, or any of the said officers or servants, be liable in damages for any act *bonâ fide* done, or ordered to be done by them in pursuance of this Act.

### SCHEDULE A.

#### *Properties referred to in Section 29.*

No.	Names of Holders.	General Description of Properties.
1	The Sassoon Dock Company.	All the property at Colába, belonging to the Sassoon Dock Company, known as the Sassoon Dock, together with the land on the west of the Colába road appertaining thereto, and all rights, privileges, and powers enjoyed or claimed by the Sassoon Dock Company in connection therewith.
2	The New Colába Company.	A strip of land, varying from 25 to 50 feet or thereabouts in width, running along the whole foreshore of the estate of the New Colába Company, situated at Colába, commencing from the Colába road at the point where the properties of the New Colába Company and the Sassoon Dock Company adjoin, and thence continuing alongside the Bandar wall of the Victoria Basin and the Harbour Face up to the junction of the New Colába Company's

## SCHEDULE A—continued.

No.	Names of Holders.	General Description of Properties.
3	The Apollo Press Company.	property with the Gun Carriage Reclamation; again commencing at the junction of the New Colába Company's property and the property of the Apollo Press Company and running along the Harbour Face and alongside the Arthur Basin up to the Colába road; together with the whole of the Arthur Bandar and the ground adjacent thereto, situate within Customs limits, together with all rights and privileges enjoyed or claimed by the New Colába Company in respect of the strip of land, Bandar, and ground aforesaid, and of the Victoria and Arthur Basins. All the land at Colába the property of the Apollo Press Company, and known as the Jamsetjee Bandar and Reclamation, including all rights and privileges enjoyed or claimed by the Apollo Press Company in respect of the said land and of the Gun Carriage Basin, together with all rights and privileges enjoyed or claimed by the Apollo Press Company at or in respect of any of the Bandars belonging to the New Colába Company.
4	The Mázgaon Land Company.	All the land at Mázgaon, known as the Powder Works Bandar, the property of the Mázgaon Land Company, lying between the Harbour and the western side of the road running from the Harbour Defences Office to Tank Bandar, together with all rights and privileges enjoyed or claimed by the Mázgaon Land Company in respect of the said land.
5	The Frere Land Company.	All the land north of Tank Bandar the property of the Frere Land Company, bounded towards the west by the Ghorupdavi road and towards the north and west by the Jackaria Bandar road, together with all rights and privileges enjoyed or claimed by the Frere Land Company in respect of the said land.
6	Hajee Ismael Hajee Hubèeb.	All the land and fish-ponds bounded by the Harbour on the east and by the Jackaria Bandar road and the Siwri road on the west and north, by the property of the Frere Land Company on the south, and by the property of the Trustees of the Port on the north, known as Siwri Bandar, together with all rights and privileges enjoyed or claimed in respect of the said land by the respective holders thereof.
7	Hajee Jackaria Noor Mahomed.	
8	Manockjee Adurjee ...	
9	Aitwar Lukdee ...	
10	Muncherjee Framjee Cama.	
11	Dadabhoj Hormusjee	
12	Hajee Essa Hajee Fuzla	
13	Dorabjee Nusserwanjee	
14	Byramjee Cowasjee ...	
15	Esmail Mahomed Songaji.	

## SCHEDULE B. (SEE SECTION 30.)

*Form of Security.*

## THE TRUSTEES OF THE PORT OF BOMBAY.

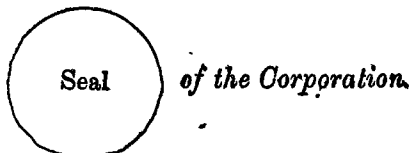
No.

Under the provisions of the Bombay Port Trust Act, 1879, we, the Trustees of the Port of Bombay, do hereby for ourselves and our successors promise and agree to pay to \_\_\_\_\_, or order, the sum of Rupees \_\_\_\_\_ value received; such payment to be made on demand at the office of the Accountant General, Bombay, after the expiration of three months' notice of payment to be given by the Chairman of the said Trustees in the *Bombay Government Gazette*. We further promise and agree for ourselves and our successors to pay to the said \_\_\_\_\_, or order, interest on the said sum of Rupees \_\_\_\_\_ from the \_\_\_\_\_ day of \_\_\_\_\_ until the expiration of three months after such notice of payment as aforesaid; such interest to be at the rate of four per centum per annum

and to be payable on demand at the office aforesaid half-yearly on the 1st day of April and the 1st day of October in every year until the expiration of three months from the date of such notice of payment as aforesaid, when the amount of interest then due hereunder will be payable with the principal on demand at the office aforesaid and (such notice being considered as equivalent to a tender of payment at the period appointed for the discharge hereof) all further interest shall cease.

Given under our common Seal this                      day of                      187 .

(Signature of the Chairman and two Trustees.)



### SCHEDULE C. (SEE SECTION 33.)

#### Statement of Capital Debts of the Board due to the Secretary of State for India in Council.

On account of what Property, &c.	Bearing Interest.			Not bearing Interest.			Total.		
	Rs.	a.	p.	Rs.	a.	p.	Rs.	a.	p.
Elphinstone Estate, purchase price ...	1,85,91,596	12	8	.....					
Elphinstone Estate, expended in 11 months to 31st March 1871.	7,47,370	2	10	.....					
Elphinstone Estate, expended in 12 months to 31st March 1872.	2,75,090	8	6	.....					
Elphinstone Estate, Troop Siding, Carnac Bunder.	39,790	3	2	.....					
							1,96,53,847	11	2
Moody Bay Reclamation (portion east of Frere Road), expended in year to 31st March 1871.	3,57,596	8	8	.....					
Moody Bay Reclamation (portion east of Frere Road), expended in year to 31st March 1872.	2,01,345	6	4	.....					
							5,58,941	15	0
Apollo Bay Reclamation, expended in year to 31st March 1872.	9,752	11	11	.....					
Wellington Reclamation, expended in year to 31st March 1872.	934	12	8	.....					
							9,752	11	11
							934	12	8
Apollo Pier, expended prior to 31st March 1870.	.....			2,23,038	12	2			
Apollo Pier, expended in year to 31st March 1871.	1,38,173	7	8	.....					
Apollo Pier, expended in year to 31st March 1872.	61,825	9	2	.....					
							4,23,037	13	0
Tank Bandar, expended in year to 31st March 1871.	182	0	0	.....					
Customs } Apollo Bonded Ware- Bonded } house. Warehouse } Custom-house Godown...	.....			5,50,000	0	0			
	.....			25,165	0	0			
							5,75,165	0	0
Kussara Bandar ... ..	.....			5,285	0	0			
Saw Mill Property, Tank Bandar ...	.....			41,189	14	4			
Expended on the above properties between 31st March 1872 and the passing of Bombay Act I. of 1873.	1,45,053	5	4	.....					
Balance of Interest unpaid at 31st March 1871.	2,75,273	4	7						
Balance of Interest unpaid at 31st March 1872.	1,50,233	3	2						
Balance of Interest unpaid for the period from 1st April 1872 until the date on which Bombay Act I. of 1873 came into operation.	1,76,536	2	3						
							6,02,042	10	0
Total...Rs.	2,11,70,754	2	11	8,44,678	10	6	2,20,15,432	13	5



## SCHEDULE D. (SEE SECTION 42.)

*Form of Debenture.*

THE TRUSTEES OF THE PORT OF BOMBAY.

*The*

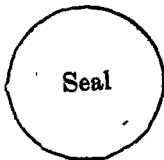
18

No.

By virtue of the Act No.            of 1879 of the Council of the Governor of Bombay for making Laws and Regulations, entitled "The Bombay Port Trust Act, 1879," we, the Trustees of the Port of Bombay, in consideration of the sum of Rupees            paid to us by *A. B.*, of            promise to pay to the said            , or order, the said sum of Rupees            after the date hereof, together with interest at the rate of            per centum per annum, payable half-yearly on the            day of            and the            day of           

Given under our Corporate Seal this            day of            187

*(Signatures of the Chairman and two Trustees.)*



*of the Corporation.*

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

**C. G. W. MACPHERSON,**  
Acting Under Secretary to Government.

*Poona, 1st September 1879.*

THE



# Bombay Government Gazette.

Published by Authority.

THURSDAY, 2ND OCTOBER 1879.

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

## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 4th August 1879, and the assent of His Excellency the Viceroy and Governor General on the 19th September 1879, and is published for general information :—

#### Bombay Act No. VII. of 1879.

*An Act to provide for Irrigation in the Bombay Presidency.*

WHEREAS it is necessary to make provision for the construction, maintenance, and regulation of canals, for the supply of water therefrom, and for the levy of rates for water so supplied, in the Bombay Presidency; It is enacted as follows :—

Preamble.

vision for the construction, main-

tenance, and regulation of canals, for the supply of water therefrom, and for the levy of rates for water so supplied, in the Bombay Presidency; It is enacted as follows :—

#### PART I.

##### PRELIMINARY.

Short title.

1. This Act may be called "The Bombay Irrigation Act, 1879."

It extends to the whole of the Presidency of Bombay,

Local extent.

except the City of Bombay.

2. In Section 55 of the Bombay Land Revenue Code, 1879, for the words "or which has been made available in consequence of the construction, improvement or repair of any irrigational or other work by, or at the instance of Government," the words "and in respect of which no rate is leviable under the Bombay Irrigation Act, 1879," shall be substituted;

Sections 55, 101 and 105 of the Bombay Land Revenue Code, 1879, amended.

and in Section 101 of the said Code for the word "leviable" the word "levied" shall be substituted, and the words "or under the Bombay Irrigation Act, 1879," shall be inserted after the figures "55";

and to Section 105 of the said Code the words "or of the Bombay Irrigation Act, 1879," shall be added.

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

(1)—"canal" includes—

(a) all canals, channels, pipes, and reservoirs constructed, maintained, or controlled by Government for the supply or storage of water;

(b) all works, embankments, structures, and supply and escape channels connected with such canals, channels, pipes, or reservoirs, and all roads constructed for the purpose of facilitating the construction or maintenance of such canals, channels, pipes or reservoirs;

(c) all water-courses, drainage-works, and flood-embankments as herein-after respectively defined;

(d) any part of a river, stream, lake, natural collection of water, or natural drainage-channel, to which the Governor in Council may apply the provisions of section five, or of which the water has been applied or used before the passing of this Act for the purpose of any existing canal;

(e) all land belonging to Government which is situate on a bank of any canal as hereinbefore defined, and which has been appropriated, under the orders of Government, for the purposes of such canal;

(2)—"water-course" means any channel or pipe not maintained at the cost of Government, which is supplied with water from a canal, and includes all subsidiary works connected with any such channel or pipe, except the sluice or outlet through which water is supplied from a canal to such channel or pipe;

(3)—"drainage-work" means any work in connection with a system of irrigation or reclamation made or improved by the Government for the purpose of the drainage of the country, whether under the provisions of section fifteen or otherwise, and includes escape-channels from a canal, dams, weirs, embankments, sluices, groins,

and other works connected therewith, but does not include works for the removal of sewage from towns;

(4)—"flood-embankment" means any embankment constructed or maintained by Government in connection with any system of irrigation or reclamation works for the protection of lands from inundation, or which may be declared by the Governor in Council to be maintained in connection with any such system, and includes all groins, spurs, dams, and other protective works connected with such embankments;

(5)—"Collector" means the head revenue officer of a district, and includes any officer appointed by the Governor in Council to exercise all or any of the powers of a Collector under this Act;

(6)—"canal officer" means any officer lawfully appointed or invested with powers under section four;

(7)—"owner" includes every person having a joint interest in the ownership of the thing specified; and all rights and obligations which attach to an owner under the provisions of this Act shall attach jointly and severally to every person having such joint interest in the ownership.

4. Government or, subject to such orders as may from time to time be passed by Government, any officer of Government whom the Governor in Council empowers in this behalf, may

(a) appoint such officers with such designations, and assign to them respectively such powers and duties under this Act as Government or such officer may deem fit,

(b) invest any Government officer in any department, either personally, or in right of his office, or any other person, with such powers, and impose upon him such duties, under this Act, as Government or such officer may deem fit:

Provided that any assignment of, or investment with, powers or duties made under this section may at any time be cancelled or varied by the authority who made it.

## PART II.

OF THE CONSTRUCTION AND MAINTENANCE OF  
CANALS.*Application of Water for purposes of  
Canals.*

5. Whenever it appears expedient to the Governor in Council that the water of any river or stream flowing in a natural channel, or of any lake, or any other natural collection of still water should be applied or used by the Government for the purpose of any existing or projected canal ;

Notification to issue when water-supply is to be applied for purposes of any Canal.

the Governor in Council may, by notification in the *Bombay Government Gazette*, declare that the said water will be so applied or used after a day to be named in the said notification, not being earlier than three months from the date thereof.

*Powers of Entry on Land, &c.*

6. At any time after the day so named any canal officer duly empowered in this behalf may enter on any land, remove any obstruction, close any channel, and do any other thing necessary for such application or use of the said water, and for such purpose may take with him, or depute, or employ, such subordinates and other persons as he deems fit.

7. Whenever it shall be necessary to make any enquiry or examination in connection with a projected canal, or with the maintenance of an existing canal, any canal officer duly empowered in this behalf and any person acting under the general or special order of any such canal officer, may

- (a) enter upon such land as he may think necessary for the purpose; and
- (b) exercise all powers and do all things in respect of such land as he might exercise and do if the Government had issued a notification under the provisions of section four of the Land Acquisition Act, 1870, to the effect that land in that locality is likely to be needed for a public purpose, and
- (c) set up and maintain water-gauges and do all other things necessary for the prosecution of such enquiry and examination.

8. Any canal officer duly empowered in this behalf and any person acting under the general or special

Power to inspect and regulate water-supply.

order of any such canal officer, may enter upon any land, building, or water-course, on account of which any water-rate is chargeable, for the purpose of inspecting or regulating the use of the water supplied, or of measuring the land irrigated thereby or chargeable with a water-rate, and of doing all things necessary for the proper regulation and management of the canal from which such water is supplied.

9. In case of any accident being apprehended or happening to a canal, any canal officer duly empowered in this behalf and any person acting under the general or special order of any such canal officer, may enter upon any land adjacent to such canal and may take trees and other materials, and execute all works which may be necessary for the purpose of preventing such accident, or repairing any damage done.

10. When a canal officer or other person proposes, under the provisions of any of the three last preceding sections, to enter into any building or enclosed court or garden attached to a dwelling-house, not supplied with water from a canal, and not adjacent to a flood-embankment, he shall previously give to the occupier of such building, court, or garden such reasonable notice as the urgency of the case may allow.

*Canal Crossings.*

11. Suitable means of crossing canals shall be provided at such places as the Governor in Council thinks necessary for the reasonable convenience of the inhabitants of the adjacent land; and suitable bridges, culverts, or other works shall be constructed to prevent the drainage of the adjacent land being obstructed by any canal.

*Removal of Obstructions to Drainage.*

12. Whenever it appears to the Governor in Council that injury to the public health, or public convenience, or to any canal, or to any land for which irrigation from a canal is available, has arisen or may arise from the obstruction of any river, stream, or natural drainage-course, the Governor in Council may, by notification published in the *Bombay*

Power to enter for repairs, and to prevent accidents.

Notice to occupier of building, &c.

Means of crossing canals and of drainage to be provided as may be deemed necessary by Government.

Governor in Council may prohibit formation of obstructions of rivers, &c., within certain limits,

*Government Gazette*, prohibit, within limits to be defined in such notification, the formation of any such obstruction, or may, within such limits, order the removal or other modification of such obstruction.

Thereupon so much of the said river, stream, or natural drainage-channel, as is comprised within such limits, shall be held to be a drainage-work as defined in section three.

13. Any canal officer duly empowered in this behalf may, after such publication, issue an order to any person causing or having control over any such obstruction to remove or modify the same within a time to be fixed in such order.

14. If, within the time so fixed, such person does not comply with the order, the canal officer may cause the obstruction to be removed or modified; and if the person to whom the order was issued does not, when called upon, pay the expenses of such removal or modification, such expenses shall be recoverable by the Collector as an arrear of land-revenue.

#### *Construction of Drainage Works.*

15. Whenever it appears to the Governor in Council that any drainage work is necessary for the public health or for the improvement of the proper cultivation or irrigation of any land, or that protection from floods or other accumulations of water, or from erosion by a river, is required for any land, the Governor in Council may cause a scheme for such work to be drawn up and carried into execution,

and the person authorized by the Governor in Council to draw up and execute such scheme may exercise in connection therewith the powers conferred on canal officers by sections seven, eight, and nine, and shall be liable to the obligations imposed upon canal officers by sections ten and thirty-four.

### PART III.

#### OF WATER COURSES.

##### *Construction of New Water Courses.*

16. Any person may, with the permission of a canal officer duly empowered to grant such permission, construct a new water-course if he has obtained the consent of the holder of the land required therefor.

17. Any person desiring to construct a new water-course, but being unable or unwilling to construct it under a private arrangement with the holder of the land required for the same, may apply, in writing, to any canal officer duly empowered to receive such applications, stating

(1)—that he is ready to defray all the expenses necessary for acquiring the land and constructing such water-course;

(2)—that he desires the said canal officer in his behalf and at his cost to do all things necessary for constructing such water-course.

18. If the canal officer considers the construction of such water-course expedient, he may call upon the applicant to deposit any part of the expense such officer may consider necessary,

and upon such deposit being made, shall cause enquiry to be made into the most suitable alignment for the said water-course,

and shall mark out the land which, in his opinion, it will be necessary to occupy for the construction thereof,

and shall forthwith publish a notification in every village through which the water-course is proposed to be taken, that so much of such land as is situated within such village has been so marked out,

and shall send a copy of such notification to the Collector of every district in which such land is situated for publication on such land.

The said notification shall also call upon any person who wishes to share in the ownership of such water-course to make his application in that respect to the canal officer within thirty days of the publication of such notification.

If any such applicant appears, and his application is admitted, he shall be liable to pay his share in the construction of such water-course, and in the cost of acquiring the land for the same, and shall be an owner of such water-course when constructed.

19. On receipt of copy of such notification, the Collector shall proceed to acquire such land under the provisions of the Land Acquisition Act, 1870, as if a declaration had been issued by the Government for the acquisition thereof under section six of that Act, and as if the Government had thereupon directed the Collector to take order for the acquisition of such land under section seven of the said Act, and (if necessary) as if the Government had issued orders for summary possession being taken under section seventeen of the said Act.

20. On being put in possession of the land, the canal officer shall construct the required water-course; and on its completion shall give to the owner notice thereof, and of any sum payable by him on account of the cost of acquiring the land and constructing the water-course. On such notice being given, such sum shall be due from the owner to the canal officer. On receipt of payment in full of all expenses incurred, the canal officer shall make over possession of such water-course to such owner.

*Rights and Obligations of Owners of Water-courses.*

21. Every owner of a water-course shall be bound—

(a) to construct and maintain all works necessary for the passage across such water-course, of canals, water-courses, drainage-channels, and public roads existing at the time of its construction, and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the occupants of neighbouring lands;

(b) to maintain such water-course in a fit state of repair for the conveyance of water;

(c) to allow the use of it to others or to admit other persons as joint owners thereof on such terms as may be prescribed under the provisions of section twenty-three;

and every owner of a water-course and

Rights of owners and users of water-courses.

every person duly authorized under the provisions hereinafter contained to use a water-course shall be entitled—

iv.—41

(d) to have a supply of water by such water-course at such rates and on such terms as may from time to time be prescribed under section forty-four and by the rules made by the Governor in Council under section seventy.

Provided always that any owner of a water-course and subject to the terms of any agreement between the parties, or to any condition imposed under section twenty-three, any such person as aforesaid may at any time by giving three months' previous notice in writing in this behalf to a canal officer duly empowered to receive such notices, resign his interest in such water-course.

22. Any person desiring to have a supply of water through a water-course, of which he is not an owner, may make a private arrangement with the owner for permitting the conveyance of water thereby, or may apply to a canal officer duly empowered to receive such applications for authority to use such water-course, or to be declared a joint owner thereof.

23. On receipt of any such application, the canal officer shall serve notice on the owner to show cause why such authority should not be granted, or such declaration should not be made, and, if no objection be raised, or if any objection be raised and be found insufficient or invalid, shall, subject to the approval of the Collector, either authorize the applicant to use the water-course, or declare him to be a joint owner thereof on such conditions as to the payment of compensation or rent or otherwise as may appear to him equitable.

24. No land acquired under this Part for a water-course shall be used for any other purpose without the previous consent of a canal officer duly empowered to grant such permission.

25. If any owner of a water-course fails to fulfil any obligation imposed upon him by clause (a) or (b) of section twenty-one; any canal officer duly empowered in this behalf may require

him by notice to execute the necessary work or repair within a period to be prescribed in such notice, of not less than fifteen days, and, in the event of failure, may execute the same on his behalf; and, except as hereinafter provided in this section, all expenses incurred in the execution of such work or repair shall be a sum due by such owner to Government.

Every person other than an owner who uses any water-course in respect of which any repair has been executed by a canal officer under this section shall, in the absence of any agreement between the parties or of any condition imposed under section twenty-three at the time such person was authorized to use such water-course to the contrary, be liable to pay to Government such proportion of the expenses incurred in the execution of such repairs as shall be determined by the said canal officer.

*Settlement of Disputes concerning Water-courses.*

26. Whenever a dispute arises between two or more persons in regard to their mutual rights or liabilities in respect of the use, construction, or maintenance of a water-course, or among joint owners of a water-course as to their respective shares of the expense of constructing or maintaining such water-course, or as to the amounts severally contributed by them towards such expense, or as to failure on the part of any owner to contribute his share,

any person interested in the matter of such dispute may apply, in writing, to any canal officer duly empowered to receive such applications, stating the matter in dispute.

Such officer shall thereupon give notice to the other persons interested that, on a day to be named in such notice, he will proceed to enquire into the said matter,

and if all the persons interested consent, in writing, to his being arbitrator, he may pass his order thereon;

failing such consent, he shall transfer the matter to the Collector, who shall enquire into and pass his order thereon.

Any order passed by the Collector under this section shall remain in force until set aside by a decree of a civil court.

PART IV.

OF THE SUPPLY OF WATER.

*Applications for Supply.*

27. Every person desiring to have a supply of water from a canal shall submit on written application; a written application to that effect to a canal officer duly empowered to receive such applications in such form as shall from time to time be prescribed by Government in this behalf.

If the application be for a supply of water to be used for purposes other than those of irrigation, the canal officer may, with the sanction of Government, give permission for water to be taken for such purposes under such special conditions and restrictions as to the limitation, control, and measurement of the supply as he shall be empowered by Government to impose in each case.

*Provisions as to Supply.*

28. The supply of water to any water-course or to any person who is entitled to such supply shall not be stopped except—

(a) whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by competent authority;

(b) whenever and so long as any water-course by which such supply is received, is not maintained in such repair as to prevent the wasteful escape of water therefrom;

(c) whenever and so long as it is necessary to do so in order to supply in rotation the legitimate demands of other persons entitled to water;

(d) whenever and so long as it may be necessary to do so in order to prevent the wastage or misuse of water;

(e) within periods fixed from time to time by a canal officer duly empowered in this behalf, of which due notice shall be given.

29. When canal-water is supplied for the irrigation of one or more crops only, the permission to use such water shall be held to continue only until such crop or crops shall come to maturity, and to apply only to such crop or crops.

30. Every agreement for the supply of

Agreements for supply of water transferable with the property in respect of which supply is given ;

canal-water to any land, building, or other immoveable property shall be transferable therewith, and

shall be presumed to have been so transferred whenever a transfer of such land, building, or other immoveable property takes place.

No person entitled to the use of any work

but right to use of water may not be transferred in any other case without permission of canal officer.

or land appertaining to any canal, and except in the case of any such agreement as aforesaid, no person

entitled to use the water of any canal, shall sell, or sub-let, or otherwise transfer his right to such use without the permission of a canal officer duly empowered to grant such permission.

## PART V.

### OF THE AWARD OF COMPENSATION.

#### *Compensation when claimable.*

31. Compensation may be awarded in

Compensation to be paid in all cases of ascertainable substantial damage.

respect of any substantial damage caused by the exercise of any of the powers

conferred by this Act, which is capable of being ascertained and estimated at the time of awarding such compensation :

Provided that no compensation shall be so awarded in respect of any damage arising from

Exceptions.

- (a) deterioration of climate, or
- (b) stoppage of navigation, or the means of rafting timber, or of watering cattle, or
- (c) stoppage or diminution of any supply of water in consequence of the exercise of the power conferred by section five, if no use have been made of such supply within the five years next before the date of the issue of the notification under section thirty-seven, or
- (d) failure or stoppage of the water in a canal, when such failure or stoppage is due to—
  - (1) any cause beyond the control of Government,
  - (2) the execution of any repairs, alterations or additions to the canal, or

(3) any measures considered necessary by any canal officer duly empowered in this behalf for regulating the proper flow of water in the canal, or for maintaining the established course of irrigation ;

but any person who suffers loss from

Remission of water-rates when allowable.

any stoppage or diminution of his water-supply due to any of

the causes named in clause (d) of this section shall be entitled to such remission of the water-rate payable by him as may be authorized by the Governor in Council.

32. No claim for compensation under

Limitation of claims.

this Act shall be entertained after the expiration of twelve months from the time

when the damage complained of commenced unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

33. No compensation shall be claimable

Compensation not claimable in respect of works executed before this Act came into force.

under this Act in respect of any work executed before it came into force, or of any damage caused by or in the execution of any such work.

#### *Summary Decisions.*

34. In every case of entry upon any

Compensation for damage caused by entry on land, &c.

land or building under section six, section seven, section eight, or section nine,

the canal officer or person making the entry shall ascertain and record the extent of the damage, if any, caused by the entry, or in the execution of any work, to any crop, tree, building, or other property,

and within one month from the date of such entry compensation shall be tendered by a canal officer duly empowered in this behalf to the land-holder, or owner of the property damaged.

If such tender is not accepted, the canal officer shall forthwith refer the matter to the Collector for the purpose of making enquiry as to the amount of compensation and deciding the same.

35. If the supply of water to any land

Compensation on account of interruption of water-supply.

irrigated from a canal be interrupted otherwise than in the manner described in clause

(d) of section thirty-one, the holder of such land may present a petition for compensation to the Collector for any loss arising from



such interruption, and the Collector, after consulting the canal officer, shall award to the petitioner reasonable compensation for such loss.

36. The decision of the Collector under either of the last two preceding sections as to the amount of compensation to be awarded, or, if in any rule framed under section seventy such decision shall be declared to be appealable, then the decision of the authority to whom the appeal lies, shall be conclusive.

*Formal Adjudications.*

37. As soon as practicable after the issue of a notification under section five, the Collector shall cause public notice to be given at convenient places, stating that the Government intend to apply or use the water as aforesaid, and that claims for compensation may be made before him.

A copy of sections thirty-one and thirty-two shall be annexed to every such notice.

38. All claims for compensation under this Act, other than claims of the nature provided for in sections thirty-four and thirty-five, must be made before the Collector of the district in which such claim arises.

39. The Collector shall enquire into every such claim and determine the amount of compensation, if any, which should in his opinion be given to the claimant, and sections eleven, twelve, fourteen, fifteen, eighteen to twenty-three (inclusive), twenty-six to forty (inclusive), fifty-one, and fifty-eight of the Land Acquisition Act, 1870, shall apply to such enquiries:

Provided that instead of the last clause of the said section twenty-six the following shall be read: "The provisions of this section and of sections thirty-one and forty of the Bombay Irrigation Act, 1879, shall be read to every assessor in a language which he understands before he gives his opinion as to the amount of compensation to be awarded."

40. In determining the amount of compensation under the last preceding section, regard shall be had to the diminution in the market-value; at the time of awarding

compensation, of the property in respect of which compensation is claimed;

and where such market-value is not ascertainable, the amount shall be reckoned at twelve times the amount of the diminution of the annual net profits of such property, caused by the exercise of the powers conferred by this Act.

41. All sums of money payable for Compensation when compensation awarded under section thirty-nine, shall become due three months after the claim for such compensation was made;

and simple interest at the rate of six per centum per annum shall be allowed on any such sum remaining unpaid after the said three months, except when the non-payment of such sum is caused by the neglect or refusal of the claimant to apply for or receive the same.

*Abatements of Land Revenue and Rent.*

42. If compensation is awarded under section thirty-nine on account of a stoppage or diminution of supply of water to any land paying revenue to Government, and the amount of the revenue payable on account of such land has been fixed with reference to the water-advantages appertaining thereto, the holder of the said land shall be entitled to an abatement of the amount of revenue payable to such extent as shall be determined by the Collector.

43. Every inferior holder of any land in respect of which such compensation has been paid shall, if he receives no part of the said compensation, be entitled to an abatement of the rent previously payable by him to the superior holder thereof in proportion to the reduced value of the holding;

but if a water-supply which increases the value of the holding is afterwards restored to the said land otherwise than at the cost of the inferior holder, the superior holder shall be entitled to enhance the rent in proportion to such increased value: provided that the enhanced rent shall not in any case exceed the rent payable by the inferior holder before the abatement, unless the superior holder shall, independently of the provisions of this section, be entitled so to enhance the previous rent.

PART VI,  
OF WATER RATES.

*Supply Rates.*

44. Such rates shall be leviable for canal-

Rates for supply of canal-water to be determined by Government.

water supplied for purposes of irrigation, or for any other purpose, as shall from time to time be determined by the Governor in Council.

If, owing to the construction of a new

Provision for cases in which existing water supply is improved.

canal or to the improvement or extension of an existing canal, the amount or duration of any water-supply, in respect of which either no revenue, or a fixed amount of revenue has hitherto been paid to Government, is increased, rates shall be leviable under this section in respect of the increased water-supply only.

The said rates shall be payable by the person on whose application the supply was granted, or by any person who uses the water so supplied.

*Occasional Rates.*

45. If water supplied through a water-

Liability when person using water unauthorizedly cannot be identified.

course be used in an unauthorized manner, and if the person by whose act or neglect such use has occurred cannot be identified, the person or all the persons on whose land such water has flowed, if such land has derived benefit therefrom,

or if no land has derived benefit therefrom, the person or all the persons chargeable in respect of the water supplied through such water-course,

shall be liable, or jointly liable, as the case may be, for the charges which shall be made for such use under the rules prescribed by the Governor in Council under section seventy.

46. If water supplied through a water-

Liability when water runs to waste.

course be suffered to run to waste, and if, after enquiry, the person through whose act or neglect such water was suffered to run to waste cannot be discovered,

the person or all the persons chargeable in respect of the water supplied through such water-course shall be liable or jointly liable, as the case may be, for the charges which shall be made, in respect of the water so wasted, under the rules prescribed by the Governor in Council under section seventy,

All questions arising under this and the last preceding section shall, subject to the provisions of section sixty-seven, be decided by a canal officer duly empowered in this behalf.

47. All charges for the unauthorized use

Charges recoverable in addition to penalties.

or for waste of water may be recovered, as water-rates, in addition to any penalties incurred on account of such use or waste.

*Percolation and Leakage Rates.*

48. If it shall appear to a canal officer

Land deriving benefit from percolation liable to water-rate.

duly empowered to enforce the provisions of this section, that any cultivated land within two hundred yards of any canal receives, by percolation or leakage from such canal, an advantage equivalent to that which would be given by a direct supply of canal-water for irrigation,

or that any cultivated land, wherever situate, derives by a surface-flow, or by means of a well sunk within two hundred yards of any canal after the admission of water into such canal, a supply of water which has percolated or leaked from such canal,

he may charge on such land a water-rate not exceeding that which would ordinarily have been charged for a similar direct supply to land similarly cultivated.

For the purposes of this Act, land charged under this section shall be deemed to be land irrigated from a canal.

*Protection Rate.*

49. If at the close of any financial

Levy of rate on lands irrigable, but not irrigated.

year it shall appear to the Governor in Council that the gross revenue from water supplied from any canal, or from the completed portion of any canal, during the said year has not amounted to five per centum of the total capital expended in the construction of such canal, or of the completed portion thereof, he may direct the levy in the year then next ensuing of a rate not exceeding eight annas per acre on all cultivated land which is under command of such canal, but is not irrigated: Provided—

(1)—that the rate to be so levied in re-

Provisoos.

spect of any such land shall not in any case exceed one-fourth of the full dry-crop rate at which such land is at the time being assessed for the purposes of the land-revenue;

(2)—that when the area of the land under command of the canal exceeds the area for which water is available therefrom for the irrigation during the monsoon months of such dry-crops as are ordinarily grown in the tract of country through which such canal passes, the maximum rate leviable under the foregoing proviso shall be reduced in the proportion which the area for which water is so available bears to the area under command.

For the purposes of this section the amount of the total capital expended on the construction of a canal, or of any completed portion of a canal, shall be ascertained and determined in such manner as Government shall direct. The proportion in which the maximum rate shall be reduced in respect of the lands under command of any canal to which the second proviso of this section is applicable, shall also be determined under the orders of Government.

Conditions on which the said rate shall be leviable.

50. The said rate shall not be leviable in respect of any land—

- (a) which has not been irrigable from such canal for a period exceeding three years ;
- (b) if during the year for which such rate might otherwise be levied, water sufficient for the irrigation of such land has not been supplied when duly applied for by the holder thereof ;
- (c) unless the net annual value of the produce of such land, or the productive powers thereof will be increased by the irrigation thereof by canal-water, after deducting all necessary expenses incurred in cultivating the same, conveying the water thereto, and paying all Government charges in respect of such irrigation ;
- (d) unless a canal officer duly empowered in this behalf shall have offered to permit the person who would otherwise be liable to pay the said rate, to construct the water-course necessary for conveying the water to the said land under section sixteen, or, if the said person shall so prefer, to apply the provisions of sections eighteen, nineteen, and twenty; or of sections twenty-two and twenty-three, as the case may be, for the construction of a water-course, or for authorizing such person to use or to become a joint owner of some other water-course.

and shall have tendered an advance of money sufficient to provide for the construction of the said water-course or the acquisition of such authority or joint ownership, as the case may be ; such advance to be repayable in conformity with the rules for recovering advances made under the Land Improvement Act, 1871.

If any question shall arise whether the aforesaid conditions have been complied with it shall be determined by the Collector.

Questions as to fulfilment of said conditions to be determined by the Collector.

51. If there are both superior and inferior holders of any land in respect of which the said rate is chargeable, the rate shall be payable by the superior holder, who shall be entitled to assistance in the recovery of the same from the inferior holder in accordance with the law at the time in force for assisting such superior holders in recovering land revenue demands from their inferior holders.

*Procedure for determining Liability to Protection Rate.*

52. Immediately on the issue of an order by the Governor in Council for the levy of a rate under section forty-nine, a general notice shall be published by the Collector of every district affected thereby, proclaiming the liability of all lands under command of the canal to the rate prescribed in the said order, unless such lands are irrigated, and setting forth the general boundaries within which the same will be leviable.

53. As soon as practicable after the issue of a notice under the last preceding section a canal officer duly empowered in this behalf shall prepare and submit to the Collector a sketch map showing clearly the extent and boundaries of the area under command of the canal, or of the completed portion of the canal, in his district.

54. The Collector shall by the aid of such sketch map, prepare a list of the land-holders whom he shall deem to be liable to the payment of the said rate.

The said list shall be published in such manner as the Collector deems fit in every village concerned, together with an intimation that all objections to any entry therein must be made to the Collector, in writing, within one month from the publication thereof.

55. All objections duly made within the said period shall be heard and determined by the Collector, or, if the Collector shall so direct, by the Assistant or Deputy Collector in charge of the taluka concerned, and the decision of the Collector, or of the Assistant or Deputy Collector, as the case may be, shall be final.

56. A copy of the said list, as finally corrected, shall be given to the Pátel, or other officer empowered under section fifty-seven to collect the said rate, and shall be his warrant to collect the rate from the persons named therein.

*Recovery of Water Rates and other Dues in Arrears.*

57. Every water-rate leviable under this Act shall be payable in such instalments and on such dates and to such officers as shall from time to time be determined under the orders of the Governor in Council.

Any such rate, or instalment of the same, which is not paid on the day when it becomes due, and any sum due to Government or to a canal officer, whether on behalf of Government or of any other person, under Part III. of this Act, which is not paid when demanded, shall be recoverable according to the law and under the rules for the time being in force for the recovery of arrears of land-revenue.

Rent payable to the owner of a water-course by a person authorized to use such water-course shall be payable in such instalments and on such dates as the canal officer duly empowered to act under section twenty-three shall direct, and may be recovered on behalf of the owner according to the law and rules aforesaid: Provided always that no more shall at any time be payable to the owner than is actually recovered from the said person.

**PART VII.**

**OF OBTAINING LABOUR FOR CANALS ON EMERGENCIES.**

58. Whenever it appears to a Canal Officer duly empowered to act under this section, that unless some work or repair is immediately executed, such serious damage will happen to any canal as to cause sudden and extensive public injury,

or, that, unless some clearance of a canal or other work which is necessary in order to maintain the established course of irrigation is immediately executed, serious public loss will occur,

and that the labourers necessary for the proper execution of such repair, clearance, or work cannot be obtained in the ordinary manner within the time that can be allowed for the execution of the same so as to prevent such injury or loss,

the said officer may, by order under his hand, direct that the provisions of this section shall be put into operation for the execution of such repair, clearance, or work; and thereupon every able-bodied person who resides or holds land in the vicinity of the locality where such repair, clearance, or work has to be executed, and whose name appears in the list hereinafter mentioned, shall, if required to do so by such officer or by any person authorized by him in this behalf, be bound to assist in the execution of such repair, clearance, or work by labouring thereat as such officer or any person authorized by him in this behalf may direct.

All persons so labouring shall be entitled to payment at rates which shall not be less than the highest rates for the time being paid in the neighbourhood for similar labour.

59. Subject to such rules as may from time to time be prescribed under section seventy in this behalf, the Collector shall prepare a list of the persons liable to be required to assist as aforesaid, and may from time to time add to or alter such list or any part thereof.

60. All orders made under section fifty-eight shall be immediately reported to the Collector for the information of the Commissioner of the division, and likewise to the Chief Engineer for Irrigation for the information of Government.

**PART VIII.**  
**OF PENALTIES.**

61. Whoever voluntarily and without proper authority,  
For damaging canal, &c.

(1)—damages, alters, enlarges, or obstructs any canal;

(2)—interferes with, or increases or diminishes the supply of water in, or the flow of water from, through, over, or under any canal, or by any means raises or lowers the level of the water in any canal;

(3)—corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used;

(4)—destroys, defaces or moves any land or level mark or water-gauge fixed by the authority of a public servant;

(5)—destroys, tampers with, or removes, any apparatus, or part of any apparatus, for controlling, regulating, or measuring the flow of water in any canal;

(6)—passes, or causes animals or vehicles to pass in or across any of the works, banks, or channels of a canal contrary to rules made under section seventy, after he has been desired to desist therefrom;

(7)—causes or knowingly and wilfully permits cattle to graze upon any canal or flood-embankment, or tethers, or causes, or knowingly and wilfully permits cattle to be tethered upon any such canal or embankment, or roots up any grass, or other vegetation growing on any such canal or embankment, or removes, cuts, or in any way injures or causes to be removed, cut, or otherwise injured any tree, bush, grass, or hedge intended for the protection of such canal or embankment;

(8)—neglects, without reasonable cause, to assist or to continue to assist in the execution of any repair, clearance, or work, when lawfully bound so to do under section fifty-eight;

(9)—violates any rule made under section seventy for breach whereof the Governor in Council shall, in such rules, direct that a penalty may be incurred;

and whoever—

(10)—being responsible for the maintenance of a water-course, or using a water-course, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorized distribution of the water therefrom, or uses such water in an unauthorized manner, or prevents or interferes with the lawful use of such water-course by any person authorized to use the same or declared to be a

joint owner thereof under section twenty-three;

shall, when such act shall not amount to the offence of committing mischief within the meaning of the Indian Penal Code, on conviction before a Magistrate, be punished for each such offence with fine which may extend to fifty rupees, or with imprisonment of either description within the meaning of the said Code, for a term which may extend to one month, or with both.

For endangering stability of a canal, &c.

62. Whoever without proper authority,

(1)—pierces or cuts through, or attempts to pierce or cut through, or otherwise to damage, destroy, or endanger the stability of any canal;

(2)—opens, shuts or obstructs, or attempts to open, shut or obstruct any sluice in any canal;

(3)—makes any dam or obstruction for the purpose of diverting or opposing the current of a river, or canal on the bank whereof there is a flood-embankment, or refuses or neglects to remove any such dam or obstruction when lawfully required so to do;

shall, when such act shall not amount to the offence of committing mischief within the meaning of the Indian Penal Code, on conviction before a Magistrate of the First or Second Class, be punished for each such offence with fine which may extend to two hundred rupees, or with imprisonment of either description within the meaning of the said Code, for a term which may extend to six months, or with both.

63. Whenever any person is convicted under either of the last

Obstruction to be removed and damage repaired. two preceding sections, the convicting Magistrate may order that he

shall remove the obstruction, or repair the damage in respect of which the conviction is held within a period to be fixed in such order. If such person neglects or refuses to obey such order within the period so fixed, any Canal Officer duly empowered in this behalf may remove such obstruction, or repair such damage, and the cost of such removal or repair, as certified by the said officer, shall be leviable from such person by the Collector as an arrear of land-revenue.

64. Any person in charge of, or employed upon any canal,

Persons employed on canal may take offenders into custody. may remove from the lands or buildings belonging thereto, or may take into custody without a warrant,

and take forthwith before a Magistrate or to the nearest Police Station, to be dealt with according to law, any person who within his view—

(1)—wilfully damages, obstructs, or fouls any canal, or

(2)—without proper authority interferes with the supply or flow of water, in or from any canal, or in any river or stream, so as to endanger, damage, make dangerous or render less useful any canal.

65. Nothing herein contained shall prevent any person from being prosecuted under any other law for any act or omission made punishable by this Act: provided that no person shall be punished twice in respect of one and the same act or omission.

66. Whenever any person is fined for an offence under this Act, the Court which imposes such fine, or which confirms in appeal or revision a sentence of such fine, or a sentence of which such fine forms part, may direct that the whole or any part of such fine may be paid by way of award to any person who gave information leading to the detection of such offence or to the conviction of the offender.

If the fine be awarded by a Court whose decision is subject to appeal or revision, the amount awarded shall not be paid until the period prescribed for presentation of the appeal has elapsed, or, if an appeal be presented, till after the decision of the appeal.

## PART IX.

### MISCELLANEOUS.

67. Every order passed by a canal officer under sections thirteen, eighteen, twenty-five, thirty, forty-five, forty-six and forty-eight shall be appealable to the Collector, provided that the appeal be presented within thirty days of the date on which the order appealed against was communicated to the appellant.

All orders and proceedings of a Collector under this Act shall be subject to the supervision and control of the Commissioner of the division.

68. Any officer empowered under this Act to conduct any enquiry, may exercise all such powers connected with the summoning and examining of witnesses and the production of documents as are conferred on Civil

Courts by the Code of Civil Procedure; and every such enquiry shall be deemed a judicial proceeding.

69. Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed by the officer therein mentioned. Whenever it may be practicable the service of the notice shall be made on the person therein named. When such person cannot be found, the service may be made on any adult male member of his family residing with him; and if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business; and if such person has no ordinary place of residence within the district, service of any notice may be made by sending copy of such notice by post in a registered cover addressed to such person at his usual place of residence.

70. The Governor in Council may from time to time make and cancel rules, rules not inconsistent with this Act to regulate the following matters:—

- (a) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter;
- (b) the cases in which, the officers to whom, and the conditions subject to which, orders and decisions given under any provision of this Act, and not expressly provided for as regards appeal, shall be appealable;
- (c) the person by whom, the time, place, or manner at or in which, anything for the doing of which provision is made in this Act, shall be done;
- (d) the amount of any charge to be made under this Act,
- (e) and generally to carry out the provisions of this Act.

The Governor in Council may, from time to time, alter or cancel any rules so made.

Such rules, alterations, and cancellments shall be published in the *Bombay Government Gazette*, and shall thereupon have the force of law.

71. Nothing in this Act shall be deemed to apply to any canal, channel, reservoir, lake, or other collection of water vesting in any municipality.

By order of His Excellency the Honourable the Governor in Council,  
C. G. W. MACPHERSON,

Acting Under Secretary to Government.

Poona, 30th September 1879.

[Published with the "Bombay Government Gazette" on the 16th October 1879.]

## PART IV.

## ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 4th August 1879, and the assent of His Excellency the Viceroy and Governor General on the 19th September 1879, and is published for general information:—

## Bombay Act No. VII. of 1879.

*An Act to provide for Irrigation in the Bombay Presidency.*

WHEREAS it is necessary to make provision for the construction, maintenance, and regulation of canals, for the supply of water therefrom, and for the levy of rates for water so supplied, in the Bombay Presidency; It is enacted as follows:—

## PART I.

## PRELIMINARY.

1. This Act may be called "The Bombay Irrigation Act, 1879."

Short title.

It extends to the whole of the Presidency of Bombay, except the City of Bombay.

Local extent.

2. In Section 55 of the Bombay Land Revenue Code, 1879, for the words "or which has been made available in consequence of the construction, improvement or repair of any irrigational or other work by, or at the instance of Government," the words "and in respect of which no rate is leviable under the Bombay Irrigation Act, 1879," shall be substituted;

Sections 55, 101 and 105 of the Bombay Land Revenue Code, 1879, amended.

and in Section 101 of the said Code for the word "leviable" the word "levied" shall be substituted, and the words "or under the Bombay Irrigation Act, 1879," shall be inserted after the figures "55";

and to Section 105 of the said Code the words "or of the Bombay Irrigation Act, 1879," shall be added.

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

Interpretation section.

(1)—"canal" includes—

(a) all canals, channels, pipes, and reservoirs constructed, maintained, or controlled by Government for the supply or storage of water;

(b) all works, embankments, structures, and supply and escape channels connected with such canals, channels, pipes, or reservoirs, and all roads constructed for the purpose of facilitating the construction or maintenance of such canals, channels, pipes or reservoirs;

(c) all water-courses, drainage-works, and flood-embankments as herein-after respectively defined;

(d) any part of a river, stream, lake, natural collection of water, or natural drainage-channel, to which the Governor in Council may apply the provisions of section five, or of which the water has been applied or used before the passing of this Act for the purpose of any existing canal;

(e) all land belonging to Government which is situate on a bank of any canal as hereinbefore defined, and which has been appropriated, under the orders of Government, for the purposes of such canal;

(2)—"water-course" means any channel or pipe not maintained at the cost of Govern-

ment, which is supplied with water from a canal, and includes all subsidiary works connected with any such channel or pipe, except the sluice or outlet through which water is supplied from a canal to such channel or pipe ;

(3)—“ drainage-work ” means any work in connection with a system of irrigation or reclamation made or improved by the Government for the purpose of the drainage of the country, whether under the provisions of section fifteen or otherwise, and includes escape-channels from a canal, dams, weirs, embankments, sluices, groins, and other works connected therewith, but does not include works for the removal of sewage from towns ;

(4)—“ flood-embankment ” means any embankment constructed or maintained by Government in connection with any system of irrigation or reclamation works for the protection of lands from inundation, or which may be declared by the Governor in Council to be maintained in connection with any such system, and includes all groins, spurs, dams, and other protective works connected with such embankments ;

(5)—“ Collector ” means the head revenue officer of a district, and includes any officer appointed by the Governor in Council to exercise all or any of the powers of a Collector under this Act ;

(6)—“ canal officer ” means any officer lawfully appointed or invested with powers under section four ;

(7)—“ owner ” includes every person having a joint interest in the ownership of the thing specified ; and all rights and obligations which attach to an owner under the provisions of this Act shall attach jointly and severally to every person having such joint interest in the ownership.

4. Government or, subject to such orders as may from time to time be passed by Government, any officer of Government whom the Governor in Council empowers in this behalf, may

(a) appoint such officers with such designations, and assign to them respectively such powers and duties under this Act as Government or such officer may deem fit,

(b) invest any Government officer in any department, either personally, or in

right of his office, or any other person, with such powers, and impose upon him such duties, under this Act, as Government or such officer may deem fit :

Provided that any assignment of, or investment with, powers or duties made under this section may at any time be cancelled or varied by the authority who made it.

## PART II.

### OF THE CONSTRUCTION AND MAINTENANCE OF CANALS.

#### *Application of Water for purposes of Canals.*

5. Whenever it appears expedient to the Governor in Council that the water of any river or stream flowing in a natural channel, or of any lake, or any other natural collection of still water should be applied or used by the Government for the purpose of any existing or projected canal ;

the Governor in Council may, by notification in the *Bombay Government Gazette*, declare that the said water will be so applied or used after a day to be named in the said notification, not being earlier than three months from the date thereof.

#### *Powers of Entry on Land, &c.*

6. At any time after the day so named any canal officer duly empowered in this behalf may enter on any land, remove any obstruction, close any channel, and do any other thing necessary for such application or use of the said water, and for such purpose may take with him, or depute, or employ, such subordinates and other persons as he deems fit.

7. Whenever it shall be necessary to make any enquiry or examination in connection with a projected canal, or with the maintenance of an existing canal, any canal officer duly empowered in this behalf and any person acting under the general or special order of any such canal officer, may

(a) enter upon such land as he may think necessary for the purpose, and

(b) exercise all powers and do all things in respect of such land as he might exercise and do if the Government had issued a notification under the provi-



sions of section four of the Land Acquisition Act, 1870, to the effect that land in that locality is likely to be needed for a public purpose, and

(e) set up and maintain water-gauges and do all other things necessary for the prosecution of such enquiry and examination.

8. Any canal officer duly empowered in this behalf and any person acting under the general or special order of any such canal officer, may enter upon any land, building, or water-course, on account of which any water-rate is chargeable, for the purpose of inspecting or regulating the use of the water supplied, or of measuring the land irrigated thereby or chargeable with a water-rate, and of doing all things necessary for the proper regulation and management of the canal from which such water is supplied.

9. In case of any accident being apprehended or happening to a canal, any canal officer duly empowered in this behalf and any person acting under the general or special order of any such canal officer, may enter upon any land adjacent to such canal and may take trees and other materials, and execute all works which may be necessary for the purpose of preventing such accident, or repairing any damage done.

10. When a canal officer or other person proposes, under the provisions of any of the three last preceding sections, to enter into any building or enclosed court or garden attached to a dwelling-house, not supplied with water from a canal, and not adjacent to a flood-embankment, he shall previously give to the occupier of such building, court, or garden such reasonable notice as the urgency of the case may allow.

#### Canal Crossings.

11. Suitable means of crossing canals shall be provided at such places as the Governor in Council thinks necessary for the reasonable convenience of the inhabitants of the adjacent land; and suitable bridges, culverts, or other works shall be constructed to prevent the drainage of the adjacent land being obstructed by any canal.

#### Removal of Obstructions to Drainage.

12. Whenever it appears to the Governor in Council that any drainage-work is necessary for the public health or for the improvement of the proper cultivation or irrigation of any land, or that protection from floods or other accumulations of water, or from erosion by a river, is required for any land, the Governor in Council may cause a scheme for such work to be drawn up and carried into execution, and the person authorized by the Governor in Council to draw up and execute such scheme may exercise in connection therewith the powers conferred on canal officers by

12. Whenever it appears to the Governor in Council that any drainage-work is necessary for the public health or for the improvement of the proper cultivation or irrigation of any land, or that protection from floods or other accumulations of water, or from erosion by a river, is required for any land, the Governor in Council may cause a scheme for such work to be drawn up and carried into execution, and the person authorized by the Governor in Council to draw up and execute such scheme may exercise in connection therewith the powers conferred on canal officers by

Thereupon so much of the said river, stream, or natural drainage-channel, as is comprised within such limits, shall be held to be a drainage-work as defined in section three.

13. Any canal officer duly empowered in this behalf may, after such publication, issue an order to any person causing or having control over any such obstruction to remove or modify the same within a time to be fixed in such order.

14. If, within the time so fixed, such person does not comply with the order, the canal officer may cause the obstruction to be removed. If the person to whom the order was issued does not, when called upon, pay the expenses of such removal or modification, such expenses shall be recoverable by the Collector as an arrear of land-revenue.

#### Construction of Drainage Works.

15. Whenever it appears to the Governor in Council that any drainage-work is necessary for the public health or for the improvement of the proper cultivation or irrigation of any land, or that protection from floods or other accumulations of water, or from erosion by a river, is required for any land, the Governor in Council may cause a scheme for such work to be drawn up and carried into execution,

and the person authorized by the Governor in Council to draw up and execute such scheme may exercise in connection therewith the powers conferred on canal officers by

sections seven, eight, and nine, and shall be liable to the obligations imposed upon canal officers by sections ten and thirty-four.

### PART III.

#### OF WATER COURSES.

##### *Construction of New Water Courses.*

16. Any person may, with the permission of a canal officer duly empowered to grant such permission, construct a new water-course if he has obtained the consent of the holder of the land required therefor.

17. Any person desiring to construct a new water-course, but being unable or unwilling to construct it under a private arrangement with the holder of the land required for the same, may apply, in writing, to any canal officer duly empowered to receive such applications, stating

(1)—that he is ready to defray all the expenses necessary for acquiring the land and constructing such water-course ;

(2)—that he desires the said canal officer in his behalf and at his cost to do all things necessary for constructing such water-course.

18. If the canal officer considers the construction of such water-course expedient, he may call upon the applicant to deposit any part of the expense such officer may consider necessary,

and upon such deposit being made, shall cause enquiry to be made into the most suitable alignment for the said water-course,

and shall mark out the land which, in his opinion, it will be necessary to occupy for the construction thereof,

and shall forthwith publish a notification in every village through which the water-course is proposed to be taken, that so much of such land as is situated within such village has been so marked out,

and shall send a copy of such notification to the Collector of every district in which such land is situated for publication on such land.

The said notification shall also call upon any person who wishes to share in the ownership of such water-course to make his application within thirty days.

application in that respect to the canal officer within thirty days of the publication of such notification.

If any such applicant appears, and his application is admitted, he shall be liable to pay his share in the construction of such water-course, and in the cost of acquiring the land for the same, and shall be an owner of such water-course when constructed.

19. On receipt of copy of such notification, the Collector shall proceed to acquire such land under the provisions of the Land Acquisition Act, 1870, as if a declaration had been issued by the Government for the acquisition thereof under section six of that Act, and as if the Government had thereupon directed the Collector to take order for the acquisition of such land under section seven of the said Act, and (if necessary) as if the Government had issued orders for summary possession being taken under section seventeen of the said Act.

20. On being put in possession of the land, the canal officer shall construct the required water-course ; and on its completion shall give to the owner notice thereof, and of any sum payable by him on account of the cost of acquiring the land and constructing the water-course. On such notice being given, such sum shall be due from the owner to the canal officer. On receipt of payment in full of all expenses incurred, the canal officer shall make over possession of such water-course to such owner.

##### *Rights and Obligations of Owners of Water-courses.*

21. Every owner of a water-course shall be bound—

- (a) to construct and maintain all works necessary for the passage across such water-course, of canals, water-courses, drainage-channels, and public roads existing at the time of its construction, and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the occupants of neighbouring lands ;
- (b) to maintain such water-course in a fit state of repair for the conveyance of water ;

(c) to allow the use of it to others or to admit other persons as joint owners thereof on such terms as may be prescribed under the provisions of section twenty-three;

and every owner of a water-course and every person duly authorized under the provisions hereinafter contained to use a water-course shall be entitled—

(d) to have a supply of water by such water-course at such rates and on such terms as may from time to time be prescribed under section forty-four and by the rules made by the Governor in Council under section seventy.

Provided always that any owner of a water-course and subject to the terms of any agreement between the parties, or to any condition imposed under section twenty-three, any such person as aforesaid may at any time by giving three months' previous notice in writing in this behalf to a canal officer duly empowered to receive such notices, resign his interest in such water-course.

22. Any person desiring to have a supply of water through

Person other than owner may arrange with owner to have supply of water through water-course, or may apply to canal officer to authorize supply or declare him a joint owner.

a water-course, of which he is not an owner, may make a private arrangement with the owner for permitting the conveyance of water thereby, or may apply to a canal officer duly empowered to receive such applications for authority to use such water-course, or to be declared a joint owner thereof.

23. On receipt of any such application,

Canal officer after enquiry may authorize supply, or declare applicant to be a joint owner.

the canal officer shall serve notice on the owner to show cause why such authority should not be granted, or such declaration should not be made, and, if no objection be raised, or if any objection be raised and be found insufficient or invalid, shall, subject to the approval of the Collector, either authorize the applicant to use the water-course, or declare him to be a joint owner thereof on such conditions as to the payment of compensation or rent or otherwise as may appear to him equitable.

24. No land acquired under this Part

Land acquired for a water-course may not be used for other purpose.

for a water-course shall be used for any other purpose without the previous consent

of a canal officer duly empowered to grant such permission.

25. If any owner of a water-course

If owner fails to execute work, or to repair his water-course, canal officer may execute the same on his behalf.

fails to fulfil any obligation imposed upon him by clause (a) or (b) of section twenty-one; any canal officer duly empowered in this behalf may require him by notice to execute the necessary work or repair within a period to be prescribed in such notice, of not less than fifteen days, and, in the event of failure, may execute the same on his behalf; and, except as hereinafter provided in this section, all expenses incurred in the execution of such work or repair shall be a sum due by such owner to Government.

Every person other than an owner who

Person who uses the water-course to pay a share of the expenses of repair.

uses any water-course in respect of which any repair has been executed by a canal officer under this section shall, in the absence of any agreement between the parties or of any condition imposed under section twenty-three at the time such person was authorized to use such water-course to the contrary, be liable to pay to Government such proportion of the expenses incurred in the execution of such repairs as shall be determined by the said canal officer.

#### *Settlement of Disputes concerning Water-courses.*

26. Whenever a dispute arises between

Settlement of disputes as to mutual rights and liabilities of persons interested in a water-course.

two or more persons in regard to their mutual rights or liabilities in respect of the use, construction, or maintenance of a water-course, or among joint owners of a water-course as to their respective shares of the expense of constructing or maintaining such water-course, or as to the amounts severally contributed by them towards such expense, or as to failure on the part of any owner to contribute his share,

any person interested in the matter of such dispute may apply, in writing, to any canal officer duly empowered to receive such applications, stating the matter in dispute.

Such officer shall thereupon give notice to the other persons interested that, on a day to be named in such notice, he will proceed to enquire into the said matter,

and if all the persons interested consent, in writing, to his being arbitrator, he may pass his order thereon;

failing such consent, he shall transfer the matter to the Collector, who shall enquire into and pass his order thereon.

Any order passed by the Collector under this section shall remain in force until set aside by a decree of a civil court.

#### PART IV.

##### OF THE SUPPLY OF WATER.

###### *Applications for Supply.*

27. Every person desiring to have a supply of water from a canal shall submit a written application to that effect to a canal officer duly empowered to receive such applications in such form as shall from time to time be prescribed by Government in this behalf.

If the application be for a supply of water to be used for purposes other than those of irrigation, the canal officer may, with the sanction of Government, give permission for water to be taken for such purposes under such special conditions and restrictions as to the limitation, control, and measurement of the supply as he shall be empowered by Government to impose in each case.

###### *Provisions as to Supply.*

28. The supply of water to any water-course or to any person who is entitled to such supply shall not be stopped except—

- (a) whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by competent authority ;
- (b) whenever and so long as any water-course by which such supply is received, is not maintained in such repair as to prevent the wasteful escape of water therefrom ;
- (c) whenever and so long as it is necessary to do so in order to supply in rotation the legitimate demands of other persons entitled to water ;
- (d) whenever and so long as it may be necessary to do so in order to prevent the wastage or misuse of water ;
- (e) within periods fixed from time to time by a canal officer duly empowered in this behalf, of which due notice shall be given.

29. When canal-water is supplied for the irrigation of one or more crops only, the

permission to use such water shall be held to continue only until such crop or crops shall come to maturity, and to apply only to such crop or crops.

30. Every agreement for the supply of canal-water to any land, building, or other immovable property shall be transferable therewith, and shall be presumed to have been so transferred whenever a transfer of such land, building, or other immovable property takes place.

No person entitled to the use of any work or land appertaining to any canal, and except in the case of any such agreement as aforesaid, no person entitled to use the water of any canal, shall sell, or sub-let, or otherwise transfer his right to such use without the permission of a canal officer duly empowered to grant such permission.

#### PART V.

##### OF THE AWARD OF COMPENSATION.

###### *Compensation when claimable.*

31. Compensation may be awarded in respect of any substantial damage caused by the exercise of any of the powers conferred by this Act, which is capable of being ascertained and estimated at the time of awarding such compensation :

Provided that no compensation shall be so awarded in respect of any damage arising from

- (a) deterioration of climate, or
- (b) stoppage of navigation, or the means of rafting timber, or of watering cattle, or
- (c) stoppage or diminution of any supply of water in consequence of the exercise of the power conferred by section five, if no use have been made of such supply within the five years next before the date of the issue of the notification under section thirty-seven, or
- (d) failure or stoppage of the water in a canal, when such failure or stoppage is due to—
  - (1) any cause beyond the control of Government,

- (2) the execution of any repairs, alterations or additions to the canal, or
- (3) any measures considered necessary by any canal officer duly empowered in this behalf for regulating the proper flow of water in the canal, or for maintaining the established course of irrigation;

but any person who suffers loss from any stoppage or diminution of his water-supply due to any of

Remission of water-rates when allowable.

the causes named in clause (d) of this section shall be entitled to such remission of the water-rate payable by him as may be authorized by the Governor in Council.

32. No claim for compensation under

Limitation of claims. this Act shall be entertained after the expiration of twelve months from the time when the damage complained of commenced unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

33. No compensation shall be claimable under this Act in respect of any work executed before it came into force, or of any damage caused by or in the execution of any such work.

Compensation not claimable in respect of works executed before this Act came into force.

in the execution of any such work.

#### Summary Decisions.

34. In every case of entry upon any land or building under section six, section seven, section eight, or section nine,

Compensation for damage caused by entry on land, &c.

the canal officer or person making the entry shall ascertain and record the extent of the damage, if any, caused by the entry, or in the execution of any work, to any crop, tree, building, or other property,

and within one month from the date of such entry compensation shall be tendered by a canal officer duly empowered in this behalf to the land-holder, or owner of the property damaged.

If such tender is not accepted, the canal officer shall forthwith refer the matter to the Collector for the purpose of making enquiry as to the amount of compensation and deciding the same.

35. If the supply of water to any land irrigated from a canal

Compensation on account of interruption of water-supply.

be interrupted otherwise than in the manner described in clause (d) of section thirty-one, the holder of such land may present a petition for compensation to the Collector for any loss arising from

such interruption, and the Collector, after consulting the canal officer, shall award to the petitioner reasonable compensation for such loss.

36. The decision of the Collector under either of the last two

Decision as to amount of compensation under either of the last two sections to be conclusive.

preceding sections as to the amount of compensation to be awarded, or, if in any rule framed under section seventy such decision shall be declared to be appealable, then the decision of the authority to whom the appeal lies, shall be conclusive.

#### Formal Adjudications.

37. As soon as practicable after the issue of a notification under section five,

Notice as to claims for compensation in certain cases.

the Collector shall cause public notice to be given at convenient places, stating that the Government intend to apply or use the water as aforesaid, and that claims for compensation may be made before him.

A copy of sections thirty-one and thirty-two shall be annexed to every such notice.

38. All claims for compensation under this Act, other than

Claims to be preferred to the Collector.

claims of the nature provided for in sections thirty-four and thirty-five, must be made before the Collector of the district in which such claim arises.

39. The Collector shall enquire into

Collector to be guided by the provisions of the Land Acquisition Act, 1870.

every such claim and determine the amount of compensation, if any, which should in his opinion be given to the claimant, and sections eleven, twelve, fourteen, fifteen, eighteen to twenty-three (inclusive), twenty-six to forty (inclusive), fifty-one, and fifty-eight of the Land Acquisition Act, 1870, shall apply to such enquiries:

Provided that instead of the last clause of the said section twenty-six the following shall be read: "The provisions of this section and of sections thirty-one and forty of the Bombay Irrigation Act, 1879, shall be read to every assessor in a language which he understands before he gives his opinion as to the amount of compensation to be awarded."

40. In determining the amount of com-

Diminution in market-value to be considered in fixing the amount of compensation.

penetration under the last preceding section, regard shall be had to the diminution in the market-value, at the time of awarding

compensation, of the property in respect of which compensation is claimed ;

and where such market-value is not ascertainable, the amount shall be reckoned at twelve times the amount of the diminution of the annual net profits of such property, caused by the exercise of the powers conferred by this Act.

41. All sums of money payable for Compensation when compensation awarded. due. ed under section thirty-nine, shall become due three months after the claim for such compensation was made ;

and simple interest at the rate of six per centum per annum shall be allowed on any such sum remaining unpaid after the said three months, except when the non-payment of such sum is caused by the neglect or refusal of the claimant to apply for or receive the same.

*Abatements of Land Revenue and Rent.*

42. If compensation is awarded under section thirty-nine on account of a stoppage or diminution of supply of water to any land paying revenue to Government, and the amount of the revenue payable on account of such land has been fixed with reference to the water-advantages appertaining thereto, the holder of the said land shall be entitled to an abatement of the amount of revenue payable to such extent as shall be determined by the Collector.

43. Every inferior holder of any land in respect of which such compensation has been paid shall, if he receives no part of the said compensation, be entitled to an abatement of the rent previously payable by him to the superior holder thereof in proportion to the reduced value of the holding ;

but if a water-supply which increases the value of the holding is afterwards restored to the said land otherwise than at the cost of the inferior holder, the superior holder shall be entitled to enhance the rent in proportion to such increased value : provided that the enhanced rent shall not in any case exceed the rent payable by the inferior holder before the abatement, unless the superior holder shall, independently of the provisions of this section, be entitled so to enhance the previous rent.

**PART VI.**  
**OF WATER RATES.**

*Supply Rates.*

44. Such rates shall be leviable for canal-water supplied for purposes of irrigation, or for any other purpose, as shall from time to time be determined by the Governor in Council.

If, owing to the construction of a new canal or to the improvement or extension of an existing canal, the amount or duration of any water-supply, in respect of which either no revenue, or a fixed amount of revenue has hitherto been paid to Government, is increased, rates shall be leviable under this section in respect of the increased water-supply only.

The said rates shall be payable by the person on whose application the supply was granted, or by any person who uses the water so supplied.

*Occasional Rates.*

45. If water supplied through a water-course be used in an unauthorized manner, and if the person by whose act or neglect such use has occurred cannot be identified, the person or all the persons on whose land such water has flowed, if such land has derived benefit therefrom,

or if no land has derived benefit therefrom, the person or all the persons chargeable in respect of the water supplied through such water-course,

shall be liable, or jointly liable, as the case may be, for the charges which shall be made for such use under the rules prescribed by the Governor in Council under section seventy.

46. If water supplied through a water-course be suffered to run to waste, and if, after enquiry, the person through whose act or neglect such water was suffered to run to waste cannot be discovered,

the person or all the persons chargeable in respect of the water supplied through such water-course shall be liable or jointly liable, as the case may be, for the charges which shall be made, in respect of the water so wasted, under the rules prescribed by the Governor in Council under section seventy.

All questions arising under this and the last preceding section shall, subject to the provisions of section sixty-seven, be decided by a canal officer duly empowered in this behalf.

47. All charges for the unauthorized use or for waste of water may be recovered, as water-rates, in addition to any penalties incurred on account of such use or waste.

Charges recoverable in addition to penalties.

*Percolation and Leakage Rates.*

48. If it shall appear to a canal officer duly empowered to enforce the provisions of this section, that any cultivated land within two hundred yards of any canal receives, by percolation or leakage from such canal, an advantage equivalent to that which would be given by a direct supply of canal-water for irrigation,

or that any cultivated land, wherever situate, derives by a surface-flow, or by means of a well sunk within two hundred yards of any canal after the admission of water into such canal, a supply of water which has percolated or leaked from such canal,

he may charge on such land a water-rate not exceeding that which would ordinarily have been charged for a similar direct supply to land similarly cultivated.

For the purposes of this Act, land charged under this section shall be deemed to be land irrigated from a canal.

*Protection Rate.*

49. If at the close of any financial year it shall appear to the Governor in Council that the gross revenue from water supplied from any canal, or from the completed portion of any canal, during the said year has not amounted to five per centum of the total capital expended in the construction of such canal, or of the completed portion thereof, he may direct the levy in the year then next ensuing of a rate not exceeding eight annas per acre on all cultivated land which is under command of such canal, but is not irrigated: Provided—

Levy of rate on lands irrigable, but not irrigated.

(1)—that the rate to be so levied in respect of any such land shall not in any case exceed one-fourth of the full dry-crop rate at which such land is at the time being assessed for the purposes of the land-revenue;

Proviso.

(2)—that when the area of the land under command of the canal exceeds the area for which water is available therefrom for the irrigation during the monsoon months of such dry-crops as are ordinarily grown in the tract of country through which such canal passes, the maximum rate leviable under the foregoing proviso shall be reduced in the proportion which the area for which water is so available bears to the area under command.

For the purposes of this section the amount of the total capital expended on the construction of a canal, or of any completed portion of a canal, shall be ascertained and determined in such manner as Government shall direct. The proportion in which the maximum rate shall be reduced in respect of the lands under command of any canal to which the second proviso of this section is applicable, shall also be determined under the orders of Government.

Conditions on which the said rate shall be leviable.

50. The said rate shall not be leviable in respect of any land—

- (a) which has not been irrigable from such canal for a period exceeding three years;
- (b) if during the year for which such rate might otherwise be levied, water sufficient for the irrigation of such land has not been supplied when duly applied for by the holder thereof;
- (c) unless the net annual value of the produce of such land, or the productive powers thereof will be increased by the irrigation thereof by canal-water, after deducting all necessary expenses incurred in cultivating the same, conveying the water thereto, and paying all Government charges in respect of such irrigation;
- (d) unless a canal officer duly empowered in this behalf shall have offered to permit the person who would otherwise be liable to pay the said rate, to construct the water-course necessary for conveying the water to the said land under section sixteen, or, if the said person shall so prefer, to apply the provisions of sections eighteen, nineteen, and twenty, or of sections twenty-two and twenty-three, as the case may be, for the construction of a water-course, or for authorizing such person to use or to become a joint owner of some other water-course,

and shall have tendered an advance of money sufficient to provide for the construction of the said water-course or the acquisition of such authority or joint ownership, as the case may be; such advance to be repayable in conformity with the rules for recovering advances made under the Land Improvement Act, 1871.

If any question shall arise whether the aforesaid conditions have been complied with it shall be determined by the Collector.

Questions as to fulfilment of said conditions to be determined by the Collector.

51. If there are both superior and inferior holders of any land in respect of which the said rate is chargeable, the rate shall be payable by the superior holder, who shall be entitled to assistance in the recovery of the same from the inferior holder in accordance with the law at the time in force for assisting such superior holders in recovering land revenue demands from their inferior holders.

*Procedure for determining Liability to Protection Rate.*

52. Immediately on the issue of an order by the Governor in Council for the levy of a rate under section forty-nine, a general notice shall be published by the Collector of every district affected thereby, proclaiming the liability of all lands under command of the canal to the rate prescribed in the said order, unless such lands are irrigated, and setting forth the general boundaries within which the same will be leviable.

53. As soon as practicable after the issue of a notice under the last preceding section a canal officer duly empowered in this behalf shall prepare and submit to the Collector a sketch map showing clearly the extent and boundaries of the area under command of the canal, or of the completed portion of the canal, in his district.

54. The Collector shall by the aid of such sketch map, prepare a list of the land-holders whom he shall deem to be liable to the payment of the said rate.

The said list shall be published in such manner as the Collector deems fit in every village concerned, together with an intimation that all objections to any entry therein must be made to the Collector, in writing, within one month from the publication thereof.

55. All objections duly made within the said period shall be heard and determined by the Collector, or, if the Collector shall so direct, by the Assistant or Deputy Collector in charge of the taluka concerned, and the decision of the Collector, or of the Assistant or Deputy Collector, as the case may be, shall be final.

56. A copy of the said list, as finally corrected, shall be given to the Pátel, or other officer empowered under section fifty-seven to collect the said rate, and shall be his warrant to collect the rate from the persons named therein.

*Recovery of Water Rates and other Dues in Arrears.*

57. Every water-rate leviable under this Act shall be payable in such instalments and on such dates and to such officers as shall from time to time be determined under the orders of the Governor in Council.

Any such rate, or instalment of the same, which is not paid on the day when it becomes due, and any sum due to Government or to a canal officer, whether on behalf of Government or of any other person, under Part III. of this Act which is not paid when demanded, shall be recoverable according to the law and under the rules for the time being in force for the recovery of arrears of land-revenue.

Rent payable to the owner of a water-course by a person authorized to use such water-course shall be payable in such instalments and on such dates as the canal officer duly empowered to act under section twenty-three shall direct, and may be recovered on behalf of the owner according to the law and rules aforesaid: Provided always that no more shall at any time be payable to the owner than is actually recovered from the said person.



## PART VII.

OF OBTAINING LABOUR FOR CANALS ON  
EMERGENCIES.

58. Whenever it appears to a Canal Officer duly empowered to act under this section, that unless some work or repair is immediately executed, such serious damage will happen to any canal as to cause sudden and extensive public injury, or, that, unless some clearance of a canal or other work which is necessary in order to maintain the established course of irrigation is immediately executed, serious public loss will occur,

and that the labourers necessary for the proper execution of such repair, clearance, or work cannot be obtained in the ordinary manner within the time that can be allowed for the execution of the same so as to prevent such injury or loss,

the said officer may, by order under his hand, direct that the provisions of this section shall be put into operation for the execution of such repair, clearance, or work; and thereupon every able-bodied person who resides or holds land in the vicinity of the locality where such repair, clearance, or work has to be executed, and whose name appears in the list hereinafter mentioned, shall, if required to do so by such officer or by any person authorized by him in this behalf, be bound to assist in the execution of such repair, clearance, or work by labouring thereat as such officer or any person authorized by him in this behalf may direct.

All persons so labouring shall be entitled to payment at rates which shall not be less than the highest rates for the time being paid in the neighbourhood for similar labour.

59. Subject to such rules as may from time to time be prescribed under section seventy in this behalf, the Collector shall prepare a list of the persons liable to be required to assist as aforesaid, and may from time to time add to or alter such list or any part thereof.

60. All orders made under section fifty-eight shall be immediately reported to the Collector for the information of the Commissioner of the division, and likewise to the Chief Engineer for Irrigation for the information of Government.

## PART VIII.

## OF PENALTIES.

61. Whoever voluntarily and without proper authority,  
For damaging canal, &c.

(1)—damages, alters, enlarges, or obstructs any canal;

(2)—interferes with, or increases or diminishes the supply of water in, or the flow of water from, through, over, or under any canal, or by any means raises or lowers the level of the water in any canal;

(3)—corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used;

(4)—destroys, defaces or moves any land or level mark or water-gauge fixed by the authority of a public servant;

(5)—destroys, tampers with, or removes any apparatus, or part of any apparatus, for controlling, regulating, or measuring the flow of water in any canal;

(6)—passes, or causes animals or vehicles to pass in or across any of the works, banks, or channels of a canal contrary to rules made under section seventy, after he has been desired to desist therefrom;

(7)—causes or knowingly and wilfully permits cattle to graze upon any canal or flood-embankment, or tethers, or causes, or knowingly and wilfully permits cattle to be tethered upon any such canal or embankment, or roots up any grass, or other vegetation growing on any such canal or embankment, or removes, cuts, or in any way injures or causes to be removed, cut, or otherwise injured any tree, bush, grass, or hedge intended for the protection of such canal or embankment;

(8)—neglects, without reasonable cause, to assist or to continue to assist in the execution of any repair, clearance, or work, when lawfully bound so to do under section fifty-eight;

(9)—violates any rule made under section seventy for breach whereof the Governor, in Council shall, in such rules, direct that a penalty may be incurred;

and whoever—

(10)—being responsible for the maintenance of a water-course, or using a water-course, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorized distribution of the water therefrom, or uses such water in an unauthorized manner, or prevents or interferes with the lawful use of such water-course by any person authorized to use the same or declared to be a

joint owner thereof under section twenty-three;

shall, when such act shall not amount to the offence of committing mischief within the meaning of the Indian Penal Code, on conviction before a Magistrate, be punished for each such offence with fine which may extend to fifty rupees, or with imprisonment of either description within the meaning of the said Code, for a term which may extend to one month, or with both.

For endangering stability of a canal, &c. 62. Whoever without proper authority,

(1)—pierces or cuts through, or attempts to pierce or cut through, or otherwise to damage, destroy, or endanger the stability of any canal;

(2)—opens, shuts or obstructs, or attempts to open, shut or obstruct any sluice in any canal;

(3)—makes any dam or obstruction for the purpose of diverting or opposing the current of a river, or canal on the bank whereof there is a flood-embankment, or refuses or neglects to remove any such dam or obstruction when lawfully required so to do;

shall, when such act shall not amount to the offence of committing mischief within the meaning of the Indian Penal Code, on conviction before a Magistrate of the First or Second Class, be punished for each such offence with fine which may extend to two hundred rupees, or with imprisonment of either description within the meaning of the said Code, for a term which may extend to six months, or with both.

63. Whenever any person is convicted under either of the last two preceding sections, the convicting Magistrate may order that he shall remove the obstruction, or repair the damage in respect of which the conviction is held within a period to be fixed in such order. If such person neglects or refuses to obey such order within the period so fixed, any Canal Officer duly empowered in this behalf may remove such obstruction, or repair such damage, and the cost of such removal or repair, as certified by the said officer, shall be leviable from such person by the Collector as an arrear of land-revenue.

64. Any person in charge of, or employed upon any canal, may remove from the lands or buildings belonging thereto, or may take into custody without a warrant,

Persons employed on canal may take offenders into custody.

and take forthwith before a Magistrate or to the nearest Police Station, to be dealt with according to law, any person who within his view—

(1)—wilfully damages, obstructs, or fouls any canal, or

(2)—without proper authority interferes with the supply or flow of water, in or from any canal, or in any river or stream, so as to endanger, damage, make dangerous or render less useful any canal.

65. Nothing herein contained shall prevent any person from being prosecuted under any other law for any act or omission made punishable by this Act: provided that no person shall be punished twice in respect of one and the same act or omission.

66. Whenever any person is fined for an offence under this Act, the Court which imposes such fine, or which confirms in appeal or revision a sentence of such fine, or a sentence of which such fine forms part, may direct that the whole or any part of such fine may be paid by way of award to any person who gave information leading to the detection of such offence or to the conviction of the offender.

If the fine be awarded by a Court whose decision is subject to appeal or revision, the amount awarded shall not be paid until the period prescribed for presentation of the appeal has elapsed, or, if an appeal be presented, till after the decision of the appeal.

## PART IX.

### MISCELLANEOUS.

67. Every order passed by a canal officer under sections thirteen, eighteen, twenty-five, thirty, forty-five, forty-six and forty-eight shall be appealable to the Collector, provided that the appeal be presented within thirty days of the date on which the order appealed against was communicated to the appellant.

All orders and proceedings of a Collector under this Act shall be subject to the supervision and control of the Commissioner of the division.

68. Any officer empowered under this Act to conduct any enquiry, may exercise all such powers connected with the summoning and examining of witnesses and the production of documents as are conferred on Civil

Power to summon and examine witnesses.

Courts by the Code of Civil Procedure; and every such enquiry shall be deemed a judicial proceeding.

69. Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed by the officer therein mentioned. Whenever it may be practicable the service of the notice shall be made on the person therein named. When such person cannot be found, the service may be made on any adult male member of his family residing with him; and if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business; and if such person has no ordinary place of residence within the district, service of any notice may be made by sending copy of such notice by post in a registered cover addressed to such person at his usual place of residence.

70. The Governor in Council may from time to time make rules not inconsistent with this Act to regulate the following matters:—

Power to make, alter, and cancel rules.

(a) the proceedings of any officer who, under any provision of this Act, is

required or empowered to take action in any matter;

(b) the cases in which, the officers to whom, and the conditions subject to which, orders and decisions given under any provision of this Act, and not expressly provided for as regards appeal, shall be appealable;

(c) the person by whom, the time, place, or manner at or in which, anything for the doing of which provision is made in this Act, shall be done;

(d) the amount of any charge to be made under this Act,

(e) and generally to carry out the provisions of this Act.

The Governor in Council may, from time to time, alter or cancel any rules so made.

Such rules, alterations, and cancelments shall be published in the *Bombay Government Gazette*, and shall thereupon have the force of law.

71. Nothing in this Act shall be deemed to apply to any canal, channel, reservoir, lake, or other collection of water vesting in any municipality.

Saving of Municipal water-works.

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

C. G. W. MACPHERSON,

Acting Under Secretary to Government.

Poona, 30th September 1879.

## ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 30th September 1879, and was promulgated for general information in the *Gazette of India* on the 4th October 1879 :—

### Act No. XVI. of 1879.

#### *An Act to restrict the transport of Salt by Sea.*

Whereas it is expedient to restrict the transport of salt by sea in manner hereinafter appearing ; It is hereby enacted as follows :—

1. This Act may be called "The Transport of Salt Act, 1879" :  
Short title.

It extends to the western coast of British India north of Cochin and to the sea within a distance of a marine league from such coast ;  
Local extent.

and it shall come into force at once.  
Commencement.

2. When any salt is carried by sea in any vessel other than a vessel of the burden of three hundred tons and upwards, the owner and master of such vessel shall each be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to six months, or with both.  
Penalties for carrying salt in certain vessels.

3. Nothing in section two applies to—  
Exceptions.

(a) salt covered by a permit granted under section twenty-eight or section thirty-one of the Act of the Governor of Bombay in Council No. VII. of 1873, or by a *rawana* granted under Madras Regulation I. of 1805, section eleven, clause third ;

(b) salt covered by a pass granted by any officer whom the Governor of Bombay in Council may appoint in this behalf ;

(c) such amount of salt carried on board any vessel for consumption by her crew or by the passengers or animals (if any) on board as the Governor of Bombay in Council may, from time to time, exempt from the operation of section two.

4. When any officer empowered by the Governor of Bombay in Council whether by name or office, to act under this section has reason to believe, from personal knowledge or from information taken down in writing, that any salt is being carried, or has within the twenty-four hours next before the requirement first hereinafter mentioned been carried, in any vessel so as to render the owner or master of such vessel liable to the penalties prescribed by Section two, he may require such vessel to be brought-to, and thereupon may—  
Power of stoppage, search, and arrest.

(a) enter and search the same ;

(b) require the master of such vessel to produce any documents in his possession relating to such vessel or the cargo thereof ;

(c) seize such vessel if the said officer has reason to believe it liable to confiscation under this Act, and cause it to be brought with its crew and cargo into any port in British India ; and

(d) where salt is found on board such vessel, search and arrest without a warrant any person on board the same who such officer has reason to believe is punishable under section two.

5. Any master of a vessel refusing or neglecting to bring-to or to produce his papers when required to do so by an officer acting under section four,

and any person obstructing any such officer in the performance of his duty,

may be arrested by such officer without a warrant, and shall be punished with fine which may extend to one thousand Rupees, or with imprisonment for a term which may extend to six months, or with both.

6. Every vessel in which salt is carried so as to render the owner or master of such vessel liable to the penalties prescribed

by section two, the cargo on board such vessel and all salt in respect of which an offence under this Act has been committed shall be liable to confiscation.

The confiscation of any vessel under this section shall include her tackle, apparel, and furniture.

Confiscations under this section may be adjudged by the Chief Customs Authority, or by such other officer as the Local Government may, from time to time, appoint in this behalf.

Whenever any Customs-officer is satisfied that any article is liable to confiscation under this section, he may seize such article, and shall at once report the seizure to his superior officer for the information of the Chief Customs Authority or such other officer as aforesaid, and such authority or officer may, if satisfied on such report, or after making such enquiry as it or he thinks fit, that the article so seized is liable to confiscation, either declare it to be confiscated or impose a fine in lieu thereof not exceeding the value of the article.

7. For the purpose of the adjudication of penalties under section two or section five, every offence thereunder may be deemed to have been committed within the limits of the jurisdiction of the Magistrate of any place where the offender is found, or to which, if arrested under section four or section five, he may be brought.  
Jurisdiction.

8. The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, exempt the carriage of salt within any local limits or in any class of vessels from the operation of this Act, and, by like notification, again subject such carriage to the operation of this Act.  
Power to exempt from operation of Act.

D. FITZPATRICK,  
*Secy. to the Govt. of India,*  
*Legislative Department.*

[Published with the "Bombay Government Gazette" on the 23rd October 1879.]

## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 30th September 1879, and was promulgated for general information in the *Gazette of India* on the 4th October 1879:—

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Short title. 1. This Act may be called "The Transport of Salt Act, 1879":

Local extent. It extends to the western coast of British India north of Cochin and to the sea within a distance of a marine league from such coast;

Commencement. and it shall come into force at once.

Penalties for carrying salt in certain vessels. 2. When any salt is carried by sea in any vessel other than a vessel of the burden of three hundred tons and upwards, the owner and master of such vessel shall each be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

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(b) salt covered by a pass granted by any officer whom the Governor of Bombay in Council may appoint in this behalf;

(c) such amount of salt carried on board any vessel for consumption by her crew or by the passengers or animals (if any) on board as the Governor of Bombay in Council may, from time to time, exempt from the operation of section two.

Power of stoppage, search, and arrest. 4. When any officer empowered by the Governor of Bombay in Council whether by name or office,

to act under this section has reason to believe, from personal knowledge or from information taken down in writing, that any salt is being carried, or has within the twenty-four hours next before the requirement first hereinafter mentioned been carried, in any vessel so as to render the owner or master of such vessel liable to the penalties prescribed by Section two, he may require such vessel to be brought-to, and thereupon may—

(a) enter and search the same;

(b) require the master of such vessel to produce any documents in his possession relating to such vessel or the cargo thereof;

(c) seize such vessel if the said officer has reason to believe it liable to confiscation under this Act, and cause it to be brought with its crew and cargo into any port in British India; and

(d) where salt is found on board such vessel, search and arrest without a warrant any person on board the same who such officer has reason to believe is punishable under section two.

5. Any master of a vessel refusing or neglecting to bring-to or to produce his papers when required to do so by an officer acting under section four,

and any person obstructing any such officer in the performance of his duty,

may be arrested by such officer without a warrant, and shall be punished with fine which may extend to one thousand Rupees, or with imprisonment for a term which may extend to six months, or with both.

6. Every vessel in which salt is carried so as to render the owner or master of such vessel liable to the penalties prescribed by section two, the cargo on board such vessel and all salt in respect of which an offence under this Act has been committed shall be liable to confiscation.

The confiscation of any vessel under this section shall include her tackle, apparel, and furniture.

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tion, he may seize such article, and shall at once report the seizure to his superior officer for the information of the Chief Customs Authority or such other officer as aforesaid, and such authority or officer may, if satisfied on such report, or after making such enquiry as it or he thinks fit, that the article so seized is liable to confiscation, either declare it to be confiscated or impose a fine in lieu thereof not exceeding the value of the article.

7. For the purpose of the adjudication of penalties under section two or section five, every offence thereunder may be deemed to have been committed within the limits of the jurisdiction of the Magistrate of any place where the offender is

found, or to which, if arrested under section four or section five, he may be brought.

8. The Governor General in Council may, from time to time, by notification in the *Gazette of India*, exempt the carriage of salt within any local limits or in any class of vessels from the operation of this Act, and, by like notification, again subject such carriage to the operation of this Act.

D. FITZPATRICK,  
Secy. to the Govt. of India,  
Legislative Department.

THE



# Bombay Government Gazette.

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## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

#### LEGISLATIVE DEPARTMENT.

No. 355.—*Errata*.—In line 2 of clause (a) of Section 114 of “The Bombay Land Revenue Code, 1879,” as published in the *Government Gazettes* of the 17th, 24th and 31st July 1879, insert the word “the” between the words “in” and “estate.”

In line 7 of para. 3 of Section 136, for “inferior” read “superior.”

In line 11 of Section 140, for “thereinafter” read “hereinafter.”

In line 8 of Section 160 insert the word “are” between the words “as” and “interested.”

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

C. G. W. MACPHERSON,  
Acting Under Secretary to Government.

Poona, 23rd October 1879.

[Published with the <sup>P. U. V.</sup> ~~the~~ Bombay Government Gazette" on the 6th November 1879.]

## PART IV:

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#### LEGISLATIVE DEPARTMENT.

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In line 8 of Section 160 insert the word "are" between the words "as" and "interested."

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

C. G. W. MACPHERSON,  
Acting Under Secretary to Government.

*Poona, 23rd October 1879.*



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## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 29th October 1879, and was promulgated for general information in the *Gazette of India* on the 1st November 1879:—

Act No. XVII of 1879.

#### THE DEKKHAN AGRICULTURISTS RELIEF ACT, 1879.

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*An Act for the Relief of Indebted Agriculturists in certain parts of the Dekkhan.*

WHEREAS it is expedient to relieve the agricultural classes in certain parts of the Dekkhan from indebtedness; It is hereby enacted as follows:—

Preamble.

of the Dekkhan from indebtedness;

## CHAPTER I.

## PRELIMINARY.

1. This Act may be cited as "The Dekkhan Agriculturists Relief Act, 1879":

and it shall come into force on the first day of November, 1879.

Commencement.

Sections eleven, fifty-six, sixty and sixty-two extend to the whole of British India. The rest of this Act extends only to the districts of Puna, Satára, Sholapur and Ahmadnagar.

Local extent.

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

Interpretation-clause.

"money":

(1) "money" includes agricultural produce, implements and stock:

(2) "agriculturist" means a person who earns his livelihood wholly or principally by agriculture carried on within the limits of the said districts; and every agriculturist shall be deemed to "reside" where he so earns his livelihood.

## CHAPTER II.

## OF THE HEARING OF CERTAIN SUITS BY SUBORDINATE JUDGES.

Application of this chapter. 3. The provisions of this chapter shall apply to—

(a) suits for an account instituted on or after the first day of November, 1879, by an agriculturist in the Court of a Subordinate Judge under the provisions hereinafter contained, and

(b) suits of the descriptions next hereinafter mentioned and instituted on or after the same date—

(1) when such suits are heard by Subordinate Judges of the first class and the subject-matter thereof does not exceed in amount or value five hundred rupees, or

(2) when such suits are heard by Subordinate Judges of the second class and the subject-matter thereof does not exceed in amount or value one hundred rupees, or

(3) when such suits are heard by Subordinate Judges of the second class and the subject-matter thereof exceeds one hundred rupees, but does not exceed five hundred rupees, in amount or value, and the parties to the suits agree that such provisions shall apply thereto.

The descriptions of suits referred to in clause (b) are the following (namely):—

(w) suits for the recovery of money alleged to be due to the plaintiff—

on account of money lent or advanced to, or paid for, the defendant, or

as the price of goods sold, or

on an account stated between the plaintiff and defendant, or

on a written or unwritten engagement for the payment of money not hereinbefore provided for;

(x) suits for the recovery of money due on contracts other than the above and suits for rent or for moveable property, or for the value of such property, or for damages; and

(y) suits for foreclosure or for the possession of mortgaged property, or for sale of such property, or foreclosure or sale, when the defendant, or any one of the defendants not being merely a surety for the principal debtor, is an agriculturist; and

(z) suits for the redemption of mortgaged property when the plaintiff, or, where there are several plaintiffs, any one of the plaintiffs, is an agriculturist.

4. Where a Subordinate Judge of the first class and a Subordinate

Certain suits to be instituted in Courts of first class Subordinate Judges. Judge of the second class have ordinary jurisdiction in the same local area,

every suit referred to in section three, clause (b), and instituted in such local area shall, if the amount or value of the subject-matter of such suit exceeds one hundred rupees and does not exceed five hundred rupees, be instituted in the Court of the Subordinate Judge of the first class.

5. Notwithstanding anything contained in the Bombay Civil Courts Act, 1869, section 28, no Subordinate Judge shall be invested with the jurisdiction of a Judge of a Court of Small Causes; and any such jurisdiction heretofore conferred on any Subordinate Judge shall be deemed, except as regards suits instituted before the said first day of November, 1879, to have been withdrawn.

6. The Local Government may, from time to time, by notification in the local Gazette, direct that any class of suits which a Subordinate Judge would be precluded from hearing by section 12 of Act XI of 1865 (*to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature*) shall be heard and determined by him and not otherwise, and may, by a like notification, cancel any such direction.

7. In every case in which it seems to the Court possible to dispose of a suit at the first hearing, the summons shall be for the final disposal of the suit.

In every suit the Court shall examine the defendant as a witness unless, for reasons to be recorded by it in writing, it deems it unnecessary so to do.

8. In suits of the descriptions mentioned in section three, clauses (w) and (x), no party shall be entitled without the permission of the Court to file a written statement.

9. When the subject-matter of any suit does not exceed ten rupees in amount or value, it shall not be necessary to take down the evidence or make a memorandum thereof in manner provided by the Code of Civil Procedure; but in cases where the evidence is not so taken down and no memorandum is so made, the substance of the evidence shall be stated in the judgment.

10. No appeal shall lie from any decree or order passed, in any suit to which this chapter applies.

### CHAPTER III.

#### OF SUITS AND OTHER PROCEEDINGS TO WHICH AGRICULTURISTS ARE PARTIES.

11. Every suit of the description mentioned in section three, clause (w), may, if the defendant, or, when there are several defendants, one only of such defendants, is an agriculturist, be instituted and tried in a Court within the local limits of whose jurisdiction such defendant resides and not elsewhere.

Every such suit in which there are several defendants who are agriculturists may be instituted and tried in a Court within the local limits of whose jurisdiction any one of such defendants resides and not elsewhere.

Nothing herein contained shall affect sections 22 to 25 (both inclusive) of the Code of Civil Procedure.

12. In any suit of the description mentioned in section three, clause (w) in which the defendant or any one of the defendants, not being merely a surety of the principal debtor, is an agriculturist,

and in any suit of the descriptions mentioned in section three, clause (y) or clause (z), the Court shall, if the amount of the creditor's claim is disputed, enquire into the history and merits of the case, from the commencement of the transactions between the parties and the persons (if any) through whom they claim out of which the suit has arisen, first, with a view to ascertaining whether there is any defence to the suit on the ground of fraud, mistake, accident, undue influence or otherwise, and secondly, with a view to taking an account between such parties in manner hereinafter provided.

When the amount of the claim is admitted and the Court for reasons to be recorded by it in writing believes that such admission is true and is made by the debtor with a full knowledge of his legal rights as against the creditor, the Court shall not be bound so to enquire, but may do so if it thinks fit.

In other cases in which the amount of the claim is admitted the Court shall be bound to enquire as aforesaid.

Section IX, clause first, of Bombay Regulation V of 1827 is repealed so far as regards any suit to which this section applies.

Nothing herein contained shall affect the right of the parties to require that any matter in difference between them be referred to arbitration.

13. When the Court enquires into the history and merits of a case under section twelve, it shall—

notwithstanding any agreement between the parties or the persons (if any) through whom they claim as to allowing compound interest or setting off the profits of mortgaged property without an account in lieu of interest or otherwise determining the manner of taking the account,

and notwithstanding any statement or settlement of account or any contract purporting to close previous dealings and create a new obligation,

open the account between the parties from the commencement of the transactions and take that account according to the following rules (that is to say) :—

(a) separate accounts of principal and interest shall be taken :

(b) in the account of principal there shall be debited to the debtor such money as may from time to time have been actually received by him or on his account from the creditor and the price of goods, if any, sold to him by the creditor as part of the transactions ;

(c) in the account of principal there shall not be debited to the debtor any money which he may have agreed to pay in contravention of section 257A of the Code of Civil Procedure :

(d) in the account of principal there shall not be debited to the debtor any accumulated interest which has been converted into principal at any statement or settlement of account or by any contract made in the course of the transactions, unless the Court, for reasons to be recorded by it in writing, deemed such debit to be reasonable :

(e) in the account of interest there shall be debited to the debtor monthly simple interest on the balance of principal for the time being outstanding at the rate allowed by the Court as hereinafter provided :

(f) all money paid by or on account of the debtor to the creditor or on his account, and all profits, service or other advantages of every description, received by the creditor in the course of the transactions (estimated, if necessary, at such money value as the Court in its discretion, or with the aid of arbitrators appointed by it, may determine) shall be credited first in the account of interest ; and when any payment is more than sufficient to discharge the balance of interest due at the time it is made, the residue of such payment shall be credited to the debtor in the account of principal :

(g) the accounts of principal and interest shall be made up to the date of instituting the suit, and the aggregate of the balances (if any) appearing due on both such accounts against the debtor on that date shall be deemed to be the amount due at that date except when the balance appearing due on the interest account exceeds that appearing due on the principal account, in which case double the latter balance shall be deemed to be the amount then due.

14. The interest to be awarded in taking an account according to the rules set forth in section thirteen shall be—

(a) the rate, if any, agreed upon between the parties, or the persons (if any) through whom they claim, unless such rate is deemed by the Court to be unreasonable ; or

(b) if such rate is deemed by the Court unreasonable, or if no rate was agreed upon, or when any agreement between the parties, or the persons (if any) through whom they claim, to set-off profits without an account in lieu of interest has been set aside by the Court, such rate as the Court deems reasonable.

15. Instead of enquiring into the history and merits of a case under section twelve, or if upon so enquiring the Court is unable to satisfy itself as to the amount, which should be allowed on account of principal or interest or both, the Court may, of its own motion, direct that such amount be ascertained by arbitration.

If the parties are willing to nominate arbitrators, the arbitrators shall be nominated by them in such manner as may be agreed upon between them : if the parties are unwilling to nominate arbitrators or cannot agree in respect of such nomination, the Court shall appoint any three persons it thinks fit :

Provided that if all the parties reside in the same village, town or city, and, in the opinion of the Court, three fit persons can be found among the residents of such village, town or city, it shall appoint residents of such village, town or city.

The provisions of sections 508 to 522 (both inclusive) of the Code of Civil Procedure shall apply to every reference to arbitration under this section.

16. Any agriculturist may sue for an account of money lent or advanced to or paid for him by a creditor or due by him to the creditor as the price of goods sold or on a written or unwritten engagement for the payment of money and of money paid by him to the creditor, and for a decree declaring the amount, if any, still payable by him to the creditor.

When any such suit is brought, the amount (if any) payable by the plaintiff shall be determined under the same rules as would be applicable under this Act if the creditor had him sued for recovery of the debt.

17. A decree passed under section sixteen may, besides declaring the amount due, direct that such amount shall be paid by instalments, with or without interest ; and, when any such decree so directs, the plaintiff may pay the amount of such decree, or the amount of each instalment fixed by such decree, as it falls due, into court, in default whereof execution of the decree may be enforced by the defendant in the same manner as if he had obtained the decree in a suit to recover the debt.

18. The plaintiff in any suit instituted under section sixteen may at any stage of such suit deposit in court such sum of money as he considers a satisfaction in full of the defendant's claim against him.

Notice of the deposit shall be given by the Court to the defendant, and the amount of the deposit shall (unless the Court otherwise directs) be paid to the defendant on his application.

No interest shall be allowed to the defendant on any sum so deposited from the date of the receipt of such notice, whether the sum deposited be in full of the claim or fall short thereof.

19. When a decree has been passed, whether before or after this Act comes into force, under which any sum less than fifty rupees is recoverable from an agriculturist, the Court may, either in the course of execution of such decree or otherwise, if it is satisfied that there is no other claim against him and that he is unable to pay the whole of such sum, direct the payment of such portion of the same, as it considers him able to pay, and grant him a discharge from the balance.

When the sum payable under the decree amounts to fifty rupees or upwards, or when there are other debts due by the debtor which together with such sum amount to fifty rupees or upwards, the Court may direct proceedings to be taken with respect to him as nearly as may be as if he had applied to be declared an insolvent under the provisions hereinafter contained.

20. The Court may at any time direct that the amount of any decree passed, whether before or after this Act comes into force, against an agriculturist or the portion of the same which it directs under section nineteen to be paid, shall be paid by instalments with or without interest.

21. No agriculturist shall be arrested or imprisoned in execution of a decree for money.

22. No agriculturist's immoveable property shall be attached or sold in execution of any decree or order unless it has been specifically mortgaged for the repayment of the debt to which such decree or order relates, and the security still subsists.

But the Court may, when passing a decree against an agriculturist or at any subsequent time, direct the Collector to take possession, for any period not exceeding seven years, of any such property of the judgment-debtor to the possession of which he is entitled, and which, in the opinion of the Collector, is not required for his support and the support of the members of his family dependent on him, and the Collector shall thereupon take possession of such property and deal with the same for the benefit of the decree-holder in manner provided by section twenty-nine.

The provisions of section thirty-one shall *mutatis mutandis* apply to any property so dealt with.

23. No provision of this chapter shall apply to the proceedings in the Courts of Village-Munsifs unless such provision has been specially extended thereto under the power hereinafter conferred.

#### CHAPTER IV. OF INSOLVENCY.

24. Every Subordinate Judge shall have the powers conferred by sections 344 to 359 (both inclusive) of the Code of Civil Procedure, as modified by the provisions next hereinafter contained, for the purpose of dealing with applications under the Code of Civil Procedure or under this Act to have agriculturists residing within the local limits of his ordinary jurisdiction declared insolvent and proceedings taken under orders passed under the second clause of section nineteen; and, except as provided in chapter VII of

this Act, no such application or proceeding shall be dealt with by any other Court.

25. Any agriculturist whose debts (if any) amount to fifty rupees or upwards may apply to any Subordinate Judge within the local limits of whose ordinary jurisdiction he resides to be declared an insolvent, though he has not been arrested or imprisoned, and though no order of attachment has issued against his property, in execution of a decree.

26. Notwithstanding anything contained in section 351 of the Code of Civil Procedure, the Court shall declare an agriculturist an insolvent if it is satisfied that he is in insolvent circumstances, and that the application to have him declared an insolvent has been properly made under section 344 of the said Code or section twenty-five of this Act.

27. No person other than the Nazir of the Court shall be appointed as receiver, and no receiver shall be entitled to commission.

28. In determining under section 352 of the said Code the amount of any claim of the nature referred to in section twelve of this Act due by an insolvent agriculturist, the Court shall proceed in the manner prescribed by sections twelve to fifteen of this Act, both inclusive.

29. No immoveable property of the insolvent shall vest in the receiver; but the Court may direct the Collector to take into his possession, for any period not exceeding seven years from the date on which the receiver has been appointed, any immoveable property to the possession of which the insolvent is entitled, and which, in the opinion of the Collector, is not required for the support of the insolvent and the members of his family dependent on him, and, subject to any rules the Local Government may from time to time make in this behalf, to manage the same for the benefit of the creditors, by letting it on lease or otherwise:

Provided that if the insolvent or his representative in interest at any time pays into court the balance of the scheduled debts then unpaid, he shall, subject to any rights created in favour of other persons by the Collector, be entitled to recover possession of such property.

A Collector managing property under this section shall during the management have all the powers which the owner might as such have legally exercised, and shall receive and recover all rents and profits of such property, and for the purpose of recovering such rents and profits shall have, in addition to any powers possessed by an owner, all powers possessed by a Collector for securing and recovering the land-revenue due to Government except the powers mentioned in the Bombay Land-Revenue Code, 1879, section 150, clauses (b), (d) and (e).

Nothing in this section shall authorize the Court to direct the Collector to take into his possession any houses or other buildings belonging to and occupied by an agriculturist.

30. When any scheduled debt is secured by a mortgage of any portion of the insolvent's immovable property, the Court may direct the Collector, if he can obtain a premium equal to the amount of such debt by letting such property for a term not exceeding twenty years, to let such property, and, if he cannot so obtain such premium, to sell such property under section 325 of the Code of Civil Procedure.

Where property is let under this section, the premium shall be applied to the payment of the debt, and the rent, if any, shall for a period of seven years from the date of such letting be paid to the receiver and thereafter to the insolvent or his representative in interest.

When property is sold under this section, the sale proceeds shall be applied, first, to the payment of the debt; and the balance, if any, shall be paid to the receiver.

31. So long as any management under section twenty-nine or letting under section thirty continues, the insolvent and his representative in interest shall be incompetent to mortgage, charge, lease or alienate the property managed or let or any part thereof.

32. When the balance available for distribution among the scheduled creditors under section 356 of the said Code has been distributed, the claims of such creditors shall be deemed to have been discharged, except as regards the right to share in the profits of any property managed by the Collector under section twenty-nine or let by him under section thirty.

33. No appeal shall lie from any order passed under this chapter except orders passed in exercise of the power conferred by section 359 of the Code of Civil Procedure.

#### CHAPTER V.

##### OF VILLAGE-MUNSIFS.

34. The Local Government may from time to time appoint any Patel of a village or any other person possessing local influence in a village to be a Village-Munsif for such village or for such village and for any other villages, the sites of which are situate in the same district not more than two miles from the site of such village, and may cancel any such appointment.

35. Every Village-Munsif so appointed shall take cognizance of suits of the description mentioned in section three, clause (w), when the subject-matter thereof does not exceed ten rupees in amount or value, and all the defendants at the time of the commencement of the suit actually

and voluntarily reside or carry on business or personally work for gain within the local area for which such Village-Munsif is appointed.

Notwithstanding anything hereinbefore contained, a suit cognizable by a Village-Munsif shall not be heard by any other Court:

Provided that the District Judge may, from time to time, transfer any suit instituted before a Village-Munsif to his own Court or any other Civil Court in the district for trial:

Provided also that no Village-Munsif shall try any suit to or in which he is a party or is personally interested, or shall adjudicate upon any proceeding connected with or arising out of such suit.

36. The District Judge may on a petition being presented within thirty days from the date of any decree or order of a Village-Munsif by any party deeming himself aggrieved by such decree or order, set aside such decree or order on the ground of corruption, gross partiality or misconduct of the Village-Munsif and pass such other decree or order as he thinks fit.

Except as provided in this Act and in section 622 of the Code of Civil Procedure, every decree and order of a Village-Munsif shall be final.

37. The Local Government may, from time to time, by notification in the official Gazette, make rules consistent with this Act for regulating the procedure of Village-Munsifs and for conferring on them or any of them all or any of the powers for the trial of suits or the execution of decrees exercised by a Civil Court under the Code of Civil Procedure or any other enactment for the time being in force.

#### CHAPTER VI.

##### OF CONCILIATION.

38. The Local Government may from time to time appoint any person other than an officer of police to be a Conciliator and may cancel any such appointment.

Every Conciliator appointed under this section shall appointed only for a term not exceeding three years, but may on the expiration of the period for which he has been appointed be again appointed for a further term not exceeding three years.

Every Conciliator so appointed shall exercise his functions under this Act in respect of matters affecting agriculturists residing within such local area as the Local Government may, from time to time, prescribe.

39. When any dispute arises as to, or there is a prospect of litigation regarding, any matter within the cognizance of a Civil Court between two or more parties, one of whom is an agriculturist residing within any

ocal area for which a Conciliator has been appointed, or when application for execution of any decree in any suit to which any such agriculturist is a party, and which was passed before the date on which this Act comes into force is contemplated, any of the parties may apply to such Conciliator to effect an amicable settlement between them.

40. If the application be made by one of the parties only, the Conciliator shall take down, or Procedure thereupon. cause to be taken down, in writing a concise statement of the applicant's case, and shall thereupon, by summons or by such other means as he deems fit, invite the person against whom such application is made to attend before him at a time and place to be fixed for this purpose, and shall direct the applicant also to be present at such time and place.

If the said person fails to appear at the time first fixed, the Conciliator may, if he thinks fit, from Day for attendance may from time to time be postponed. period for his appearance.

41. Whenever all the parties are present, the Conciliator shall call upon each in turn to explain his case regarding the matter in question, and shall use his best endeavours to induce them to agree to an amicable settlement or to submit such matter to arbitration.

42. The Conciliator shall hear but shall not record the statement of any witness and shall Conciliator to hear statements of witnesses, &c. peruse any book of account or other document produced by the parties, or so much thereof as may be necessary, and, if any party or witness consents in writing to affirm any statement upon oath in any form not repugnant to justice or decency and not purporting to affect any third person, shall provide for such oath being duly taken in the presence of all the parties.

43. If on the day on which the case is first heard by the Conciliator or on any subsequent day to which he may adjourn the hearing, the parties come to any agreement, either finally disposing of the matter or for referring it to arbitration, such agreement shall be forthwith reduced to writing, and shall be read and explained to the parties, and shall be signed or otherwise authenticated by the Conciliator and the parties respectively.

*Explanation.*—A Conciliator may be appointed arbitrator under this section.

44. When the agreement is one finally disposing of the matter, the Conciliator shall forward the same in original to the Court of the Subordinate Judge of lowest grade having jurisdiction in the place where the agriculturist who is a party thereto resides;

and shall at the same time deliver to each of the parties a written notice to show cause before such Judge, within one month from the date of such delivery, why such agreement ought not to be filed in such Court.

The Court which receives the agreement shall after the expiry of the said period of one month, unless cause has been shown as aforesaid, order such agreement to be filed; and it shall then take effect as if it were a decree of the said Court passed on the day on which it is ordered to be filed and from which no appeal lies.

45. When the agreement is one for referring the matter to arbitration, the Conciliator shall forward it to the Court having jurisdiction in the matter, and such Court shall cause it to be filed and proceed thereon in manner provided by sections 523 and 524 of the Code of Civil Procedure.

46. If the person against whom any application is made before a Conciliator cannot after reasonable search be found, or if he refuses or neglects, after a reasonable period has been allowed for his appearance, to appear before the Conciliator, or if he appears but the endeavour to induce the parties to agree to an amicable settlement or to submit the matter in question to arbitration fails, the Conciliator shall, on demand, give to the applicant, or when there are several applicants to each applicant, a certificate under his hand to that effect.

47. No suit and no application for execution of a decree passed before the date on which this Act comes into force to which any agriculturist residing within any local area for which a Conciliator has been appointed is a party shall be entertained by any Civil Court, unless the plaintiff produces such certificate as aforesaid in reference thereto.

48. In computing the period of limitation prescribed for any such suit the time intervening between the application made by the plaintiff under section thirty-nine and the grant of the certificate under section forty-six shall be excluded.

49. The Local Government may from time to time make rules—

(a) regulating the procedure before Conciliators in matters not provided for by this Act;

(b) fixing the charges to be made by Conciliators for anything done by them under this chapter; and

(c) determining what record and accounts shall be kept by Conciliators and what returns shall be framed and furnished by them.

## CHAPTER VII.

### SUPERINTENDENCE AND REVISION.

50. The District Judge shall inspect, supervise and control the proceedings, under chapter II and chapter IV of this Act, of all Subordinate Judges and the proceedings of all Village-Munsifs and Conciliators.



## 51. The District Judge may—

(a) transfer to his own file, any suit or other matter pending before the Court of any Subordinate Judge under chapter II or chapter IV of this Act, and may dispose of the same as if he were a Subordinate Judge; or

(b) stay the proceedings in any such suit or matter, and sit together with such Judge as a Bench to dispose of such suit or matter in accordance with the provisions of this Act.

If the members of any Bench sitting under this section differ in opinion, the opinion of the District Judge shall prevail.

## 52. The Local Government shall appoint an

Assistant or Subordinate Judge to inspect and supervise, subject to the control of the District Judge, the proceedings of all Subordinate Judges, under chapter II and chapter IV of this Act, and of all Village-Munsifs and Conciliators in each of the said districts of Poona, Sátára, Sholápur and Ahmednagar:

Provided that, if the local Government thinks fit, the same Assistant or Subordinate Judge may be so appointed for two or more such districts.

Any Assistant or Subordinate Judge appointed under this section may in any district for which he is so appointed, if the District Judge so directs, exercise the powers of the District Judge under section fifty-one of this Act, and transfer any suit under section twenty-five of the Code of Civil Procedure.

## 53. The District Judge may, for the purpose

of satisfying himself of the legality or propriety of any decree or order passed by a Subordinate Judge in any suit or other matter under chapter II or chapter IV of this Act, and as to the regularity of the proceedings therein, call for and examine the record of such suit or matter, and pass such decree or order thereon as he thinks fit; and any Assistant Judge or Subordinate Judge appointed by the Local Government under section fifty-two may similarly, in any district for which he is appointed, call for and examine the record of any such suit or matter, and if he see cause therefor, may refer the same, with his remarks thereon, to the District Judge and the District Judge may pass such decree or order on the case as he thinks fit:

Provided that no decree or order shall be reversed or altered for any error or defect, or otherwise, unless a failure of justice appears to have taken place.

## 54. The Local Government from time to time

may, and if the Government of India so direct, shall appoint an officer, as Special Judge, to discharge in the place of the District Judge all the functions of the District Judge under this Act, in respect of the proceedings of all Subordinate Judges, Village-Munsifs and Conciliators; and may cancel any such appointment.

Such Special Judge shall not, without the previous sanction of the Government of India, discharge any public function, except those which he is empowered by this Act to discharge.

If any conflict of authority arises between the Special Judge and the District Judge the High Court shall pass such order thereon consistent with this Act as it thinks fit.

No appeal shall lie from any decree or order passed by the District Judge under this chapter, or by the Special Judge, or by an Assistant or Subordinate Judge appointed under section fifty-two, or by a Bench, in any suit or proceeding under this Act.

## CHAPTER VIII.

## REGISTRATION BY VILLAGE-REGISTRARS.

55. The Local Government may, from time to time,—

(a) appoint such persons as it thinks fit, whether public officers or not, to be Village-Registrars, for such local areas as it may from time to time prescribe;

(b) direct that the Village-Registrar for any local area to discharge the functions of a Village-Registrar for any other local areas concurrently with the Village-Registrars of such other local areas; and

(c) delegate to any person by name or in virtue of his office the powers conferred on it by this section; and may cancel any such appointment, direction, or delegation.

56. No instrument which purports to create, modify, transfer, evidence or extinguish an obligation for the payment of money or a charge upon any property, or to be a conveyance or lease, and which is executed after this Act comes into force by an agriculturist residing in any local area for which a Village-Registrar has been appointed, shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence, or shall be acted upon by any such person or by any public officer unless such instrument is written by, or under the superintendence of, and is attested by a Village-Registrar:

Provided that nothing herein contained shall prevent the admission of any instrument in evidence in any criminal proceeding.

57. When any persons, one of whom is an agriculturist residing in any such local area, desire to execute any such instrument, they shall present themselves before the Village-Registrar

appointed by the Local Government for the area in which such agriculturist, or, when there are several such agriculturists, any one of such agriculturists, resides, and such Registrar, after satisfying himself in such manner as he deems fit as to the identity of the parties and

receiving from them the fee (if any) prescribed by the Local Government in this behalf and the stamp (if any) which may be required by law, shall write the instrument, or cause the same to be written under his superintendence, and after reading the same aloud or causing it to be so read in the hearing of the parties shall require them to execute it in his presence.

Every instrument so written and executed shall be attested by the Village-Registrar, and also, if any of the parties thereto is unable to read such instrument, by two respectable witnesses.

58. Every Village-Registrar shall keep a register of instruments executed before him in such form as shall, from time to time, be prescribed by the Inspector-General of Registration.

As soon as all the parties to any instrument have executed it before a Village-Registrar, he shall make a copy of it or cause a copy of it to be made in his register, and shall deliver the original instrument to the party entitled to the custody of the same, and a certified copy thereof to the other party, or to each of the other parties if there be more than one.

Previous to delivery, the original instrument and each such copy shall be endorsed under the Village-Registrar's signature with the date of registration, the name and residence of the Village-Registrar and the volume and page of the register in which the instrument has been registered.

59. In every instrument written by or under the superintendence of the Village-Registrar, the amount and nature of the consideration, if any, shall be fully stated.

The Village-Registrar shall also endorse upon the instrument a note under his hand, recording whether or not the transfer of the consideration stated therein, or of any part thereof, took place in his presence.

If the instrument modifies, or wholly or partly supersedes, a previous instrument, such previous instrument shall be produced before the Village-Registrar and shall be fully described in the instrument to be executed, and shall be marked by the Village-Registrar under his hand for identification.

60. Every instrument executed and registered in accordance with the foregoing provisions shall be deemed to have been duly registered under the provisions of the Indian Registration Act, 1877; and no instrument which ought to have been executed before a Village-Registrar but has been otherwise executed shall be registered by any officer acting under the said Act, or in any public office, or shall be authenticated by any public officer.

61. The Inspector-General of Registration shall exercise, by himself and his subordinates, a general superintendence over all Village-Registrars, and may, from time to time, with the previous sanction of the Local Government, make rules consistent with this Act for regulating their proceedings and for providing for the custody of their records.

62. Nothing in this Act shall be deemed to require any instrument to which the Government or any officer of Government in his official capacity is a party to be executed before a Village-Registrar.

63. The Local Government may, from time to time, make rules regulating the appointment, suspension, dismissal and remuneration of Village-Registrars, and prescribing the fees to be levied by them.

## CHAPTER IX.

### OF RECEIPTS AND STATEMENTS OF ACCOUNT.

64. The person to whom any agriculturist makes any payment of money in liquidation of a debt shall, at the time of such payment, tender to such agriculturist, whether he demand the same or not, a written receipt for the amount of such payment.

If such payment is made under any instrument executed before a Village-Registrar, the receipt shall, if the agriculturist so require, be endorsed on the copy of the instrument furnished to him under section fifty-eight.

65. Any agriculturist by whom any money is due under any instrument shall, on such date in each year as the Local Government, having regard to local custom, may from time to time, by notification in the official Gazette, fix, be entitled to receive, on demand, from the person claiming under such instrument, a statement up to that date of his account under such instrument.

66. Any agriculturist in whose name an account is kept by any trader or money-lender shall be entitled to receive from such trader or money-lender, on demand, a pass-book, and require, from time to time, that his account up to date be written therein and authenticated by the signature or mark of the said trader or money-lender.

An entry so made in any such pass-book of any payment made to the trader or money-lender shall be deemed to be equivalent, for the purposes of section sixty-four, to the grant of a receipt for the amount so entered.

No person whose account has been written in a pass-book as required by this section shall be entitled also to demand an account under section sixty-five.

67. Any person who, in contravention of section sixty-four, sixty-five or sixty-six, refuses or neglects to tender a receipt or a statement of account or a pass-book, or to write, or cause to be written, any account or any part of an account in a pass-book, or to attest the same when so written, shall be punished for each such offence with fine which may extend to one hundred rupees.

### CHAPTER X.

#### LEGAL PRACTITIONERS.

68. No pleader, vakíl, or mukhtár, and no advocate or attorney of a High Court, shall be permitted to appear on behalf of any party to a case before a Conciliator or a Village-Munsif, or to any case cognizable by a Subordinate Judge under this Act, the subject-matter whereof does not exceed in amount or value one hundred rupees :

Provided that any party to any such case may be permitted, on reasonable cause being shown to the satisfaction of the Conciliator, Village-Munsif or Subordinate Judge, to employ any relative, servant or dependent who is not, and has not previously been, a pleader, vakíl or mukhtár, or an advocate or attorney of a High Court, to appear either conjointly with, or in lieu of, such party :

Provided also that a Subordinate Judge may permit a pleader, vakíl or mukhtár, or an advocate or attorney of a High Court, to appear before him on behalf of any party to any case of the description aforesaid in which, for reasons to be recorded by him in writing, he deems it desirable that the party should have such assistance.

When a relative, servant or dependent appears in lieu of a party, he shall be furnished by him with a power-of-attorney defining the extent to which he is empowered to act.

69. When in any suit or proceeding before a Subordinate Judge under this Act to which an agriculturist is a party any pleader, vakíl or mukhtár, or any advocate or attorney of a High Court, appears on behalf of any party opposed to such agriculturist, the Subordinate Judge, if he is of opinion that such agriculturist has not the means of obtaining proper professional assistance, may, with the consent of such agriculturist, direct the Government pleader or any other fit person (who is willing so to do) to appear on his behalf.

### CHAPTER XI.

#### MISCELLANEOUS.

70. No mortgage, lien or charge of or upon any immoveable property belonging to an agriculturist shall be valid unless it is created by an instrument in writing under the hand of the person creating such mortgage, lien or charge.

Nothing in this section shall apply to any mortgage, lien or charge created by mere opera-

tion of law, or in favour of the Government or of any officer of the Government in his official capacity.

71. Every instrument executed before this Act comes into force and purporting to create any mortgage, lien or charge of or upon any immoveable property belonging to an agriculturist shall be deemed to be an instrument required by section 17 of the Indian Registration Act, 1877, to be registered; and any such instrument which before the passing of this Act was not so required to be registered may, notwithstanding anything contained in the said Indian Registration Act, 1877, be registered under that Act within one year from the date on which this Act comes into force.

Every Village-Registrar appointed under this Act shall be deemed to be a Sub-Registrar for the purpose of so registering such instruments; and the local area for which he is appointed shall be deemed for such purpose to be his sub-district.

Nothing in this section applies to an instrument purporting to create a mortgage, lien or charge in favour of the Government or of any officer of the Government in his official capacity.

72. In any suit against an agriculturist under this Act for the recovery of money the following periods of limitation shall be deemed to be substituted for those prescribed in the second column of the second schedule annexed to the Indian Limitation Act, 1877 (that is to say) :—

(a) when such suit is based on a written instrument registered under this Act or any law in force at the date of the execution of such instrument,—twelve years;

(b) in any other case,—six years :

Provided that nothing herein contained shall revive the right to bring any suit which would have been barred by limitation if it had been instituted immediately before this Act comes into force.

73. The decision of any Court of first instance that any person is or is not an agriculturist shall for the purposes of this Act be final.

74. Except in so far as it is inconsistent with this Act, the Code of Civil Procedure shall apply in all suits and proceedings before Subordinate Judges under this Act.

75. The Local Government may, from time to time, make all such rules as it may deem necessary for carrying out the provisions herein contained.

76. All rules made by the Local Government under this Act shall be published in the official Gazette, and shall thereupon, in so far as they are consistent with this Act, have the force of law.

D. FITZPATRICK,

Secy. to the Govt. 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 October, 1879, and was promulgated for general information in the *Gazette of India* on the 1st November 1879 :—

ACT No. XVIII OF 1879.

THE LEGAL PRACTITIONERS  
ACT, 1879.

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*An Act to consolidate and amend the law relating to Legal Practitioners.*

WHEREAS it is expedient to consolidate and amend the law relating to Legal Practitioners in the Lower Provinces of Bengal, the North-Western Provinces, the Panjáb, Oudh, the Central Provinces and Assam, and to empower each of the Local Governments of the rest of British India to extend to the territories administered by it such portions of this Act as such Government may think fit; It is hereby enacted as follows :—

CHAPTER I.—*Preliminary.*

1. This Act may be called "The Legal Practitioners Act, 1879": and shall come into force on the first day of January 1880.

This section and section two extend to the whole of British India.

The rest of this Act extends, in the first instance, only to the territories respectively administered by the Lieutenant-Governors of the Lower Provinces of Bengal, the North-Western Provinces and the Panjáb, and the Chief Commissioners of Oudh, the Central Provinces and Assam. But any other Local Government may, from time to time, by notification in the official Gazette, extend all or any of the provisions of the rest of this Act to the whole or any part of the territories under its administration.

2. On and from the first day of January 1880, the enactments mentioned in the first schedule hereto annexed shall be repealed to the extent specified therein.

All rules and appointments made, penalties prescribed, fees fixed, persons admitted, names enrolled, certificates issued, sanctions given and orders passed under any enactment hereby repealed shall be deemed to be respectively made, prescribed, fixed, admitted, enrolled, issued, given and passed under this Act.

All references made to any enactment hereby repealed, in any Act or Regulation passed, or notification published, shall be read as if made to the corresponding provisions of this Act.

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

“Judge” means the presiding judicial officer in every civil and criminal Court, by whatever title he is designated :

“Subordinate Court” means all Courts subordinate to the High Court, including Courts of small causes established under Act No. IX of 1850 or Act No. XI of 1865 :

“Revenue-office” includes all Courts (other than civil Courts) trying suits under any Act for the time being in force relating to landholders and their tenants or agents :

“Legal practitioner” means an Advocate, Vakíl or Attorney of any High Court, a Pleader, Mukhtár or Revenue-agent.

#### CHAPTER II.—Of Advocates, Vakíls and Attorneys.

4. Every person now or hereafter entered as an Advocate or Vakíl on the roll of any High Court under the Letters Patent

constituting such Court, or as an Advocate on the roll of the Chief Court of the Panjáb, shall be entitled to practise in all the Courts subordinate to the Court on the roll of which he is entered, and in all Revenue-offices situate within the local limits of the appellate jurisdiction of such Court, subject, nevertheless, to the rules in force relating to the language in which the Court or office is to be addressed by Pleaders or Revenue-agents ; and any person so entered who ordinarily practises in the Court on the roll of which he is entered or some Court subordinate thereto shall, notwithstanding anything herein contained, be entitled, as such, to practise in any Court in British India other than a High Court on whose roll he is not entered, or, with the permission of the Court, in any High Court on whose roll he is not entered, and in any Revenue-office :

Provided that no such Vakíl shall be entitled to practise under this section before a Judge of the High Court, Division Court or High Court exercising original jurisdiction in a Presidency-town.

5. Every person now or hereafter entered as an Attorney on the roll of any High Court shall be entitled to practise in all the Courts subordinate to such High Court and in all Revenue-offices situate within the local limits of the appellate jurisdiction of such High Court, and every person so entered who ordinarily practises in the Court on the roll of which he is so entered or some Court subordinate thereto shall, notwithstanding anything herein contained, be entitled, as such, to practise in any Court in British India other than a High Court established by Royal Charter on the roll of which he is not entered, and in any Revenue-office.

The High Court of the Province in which an Attorney practises under this section may, from time to time, make rules declaring what shall be deemed to be the functions, powers and duties of an Attorney so practising.

#### CHAPTER III.—Of Pleaders and Mukhtárs.

6. The High Court may, from time to time, make rules consistent with this Act as to the following matters (namely) :—

(a) the qualifications, admission and certificates of proper persons to be Pleaders of the subordinate Courts, and of the Revenue-offices situate within the local limits of its appellate jurisdiction, and, in the case of a High Court not established by Royal Charter, of such Court ;

(b) the qualifications, admission and certificates of proper persons to be Mukhtárs of the subordinate Courts, and, in the case of a High Court not established by Royal Charter, of such Court ;

(c) the fees to be paid for the examination and admission of such persons ; and

(d) the suspension and dismissal of such Pleaders and Mukhtárs.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law : Provided that in the case of rules made by a High Court not established by Royal Charter such rules have been previously approved by the Local Government.

7. On the admission, under section six, of any person as a Pleader or Mukhtár, the High Court shall cause a certificate, signed by such officer as the Court from time to time appoints in this behalf, to be issued to such person authorizing him to practise up to the end of the current year in the Courts, and, in the case of a Pleader, also the Revenue-offices specified therein.

At the expiration of such period, the holder of the certificate, if he desires to continue to practise, shall, subject to any rules consistent with this Act which may, from time to time, be made by the

High Court in this behalf, be entitled to have his certificate renewed by the Judge of the District Court within the local limits of whose jurisdiction he then ordinarily practises, or by such officer as the High Court, from time to time, appoints in this behalf.

On every such renewal, the certificate then in possession of such Pleader or Mukhtár shall be cancelled and retained by such Judge or officer.

Every certificate so renewed, shall be signed by such Judge or officer, and shall continue in force up to the end of the current year.

Every Judge or officer so renewing a certificate shall notify such renewal to the High Court.

8. Every Pleader holding a certificate issued under section seven may

Pleaders on enrolment may practise in Courts and Revenue-offices.

apply to be enrolled in any Court or Revenue-office mentioned therein and situate within the local limits of the appellate jurisdiction of the High Court by which he has been admitted; and, subject to such rules consistent with this Act as the High Court or the Chief Controlling Revenue authority may, from time to time, make, in this behalf, the presiding Judge or officer shall enrol him accordingly; and thereupon he may appear, plead and act in such Court or office and in any Court or Revenue-office subordinate thereto.

9. Every Mukhtár holding a certificate issued

Mukhtárs on enrolment may practise in Courts.

under section seven may apply to be enrolled in any civil or criminal Court mentioned therein and situate within the same limits; and, subject to such rules as the High Court may from time to time make in this behalf, the presiding Judge shall enrol him accordingly; and thereupon he may practise as a Mukhtár in any such civil Court and any Court subordinate thereto, and may (subject to the provisions of the Code of Criminal Procedure) appear, plead and act in any such criminal Court and any Court subordinate thereto.

10. Except as provided by this Act or any

No person to practise as Pleader or Mukhtár unless qualified.

other enactment for the time being in force, no person shall practise as a Pleader or Mukhtár in any Court not established by Royal Charter unless he holds a certificate issued under section seven and has been enrolled in such Court or in some Court to which it is subordinate:

Provided that persons who have been admitted

Revenue-agents may appear, plead and act in Munsifs' Courts in suits under Bengal Act VIII of 1869.

as Revenue-agents before the first day of January 1880, and hold certificates, as such, under this Act in the territories administered by the Lieutenant-Governor of Bengal may be enrolled in manner provided by section nine in any Munsif's Court in the said territories, and on being so enrolled may appear, plead and act in such Court in suits under Bengal Act No. VIII of 1869 (to amend the procedure in suits between Landlord and Tenant) or under any other Act for the time being in force regulating

the procedure in suits between landholders and their tenants and agents.

11. Notwithstanding anything contained in

Power to declare functions of Mukhtárs.

the Code of Civil Procedure, the High Court may, from time to time, make rules declaring what shall be deemed to be the functions, powers and duties of Mukhtárs practising in the subordinate Courts, and, in the case of a High Court not established by Royal Charter, in such Court.

12. The High Court may suspend or dismiss

Suspension and dismissal of Pleaders and Mukhtárs convicted of criminal offence.

any Pleader or Mukhtár holding a certificate issued under section seven who is convicted of any criminal offence implying a defect of character which unfits him to be a Pleader or Mukhtár, as the case may be.

Suspension and dismissal of Pleaders and Mukhtárs guilty of unprofessional conduct.

13. The High Court may also, after such enquiry as it thinks fit, suspend or dismiss

any Pleader holding a certificate as aforesaid who takes instructions in any case except from the party on whose behalf he is retained, or a private servant of such party, or some person who is the recognized agent of such party within the meaning of the Code of Civil Procedure, or

any Pleader or Mukhtár holding a certificate as aforesaid who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or for any other reasonable cause.

14. If any such Pleader or Mukhtár practising

Procedure when charge of unprofessional conduct is brought in subordinate Court or Revenue-office.

in any subordinate Court or in any Revenue-office is charged in such Court or office with taking instructions except as aforesaid or with any such misconduct as aforesaid, the presiding officer shall send him a copy of the charge and also a notice that, on a day to be therein appointed, such charge will be taken into consideration.

Such copy and notice shall be served upon the Pleader or Mukhtár at least fifteen days before the day so appointed.

On such day or on any subsequent day to which the enquiry may be adjourned, the presiding officer shall receive and record all evidence properly produced in support of the charge, or by the Pleader or Mukhtár, and shall proceed to adjudge on the charge.

If such officer finds the charge established and considers that the Pleader or Mukhtár should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and shall report the same to the High Court; and the High Court may acquit, suspend or dismiss the Pleader or Mukhtár.

Any District Judge, or with his sanction any

Suspension pending investigation.

Judge subordinate to him, any District Magistrate, or with his sanction any Magistrate subordinate to him, and any Revenue

authority not inferior to a Collector, or with the Collector's sanction any Revenue-officer subordinate to him, may, pending the investigation and the orders of the High Court, suspend from practise any Pleader or Mukhtár charged before him or it under this section.

Every report made to the High Court under this section shall

(a) when made by any Civil Judge subordinate to the District Judge, be made through such Judge;

(b) when made by a Magistrate subordinate to the Magistrate of the District, be made through the Magistrate of the District and the Sessions Judge;

(c) when made by the Magistrate of the District, be made through the Sessions Judge;

(d) when made by any Revenue-officer subordinate to the Chief Controlling Revenue Authority, be made through such Revenue authorities as the Chief Controlling Revenue Authority may, from time to time, direct.

Every such report shall be accompanied by the opinion of each Judge, Magistrate or Revenue authority through whom or which it is made.

15. The High Court, in any case in which a Pleader or Mukhtár has been acquitted under section 14, otherwise than by an order of the High Court, may call for the record and pass such order thereon as it thinks fit.

16. Notwithstanding anything contained in any Letters Patent or in the Code of Civil Procedure, section 37, clause

(a), any High Court established by Royal Charter may, from time to time, make rules consistent with this Act as to the following matters (namely):—

(a) the qualifications and admission of proper persons to be Mukhtárs practising on the Appellate side of such Court;

(b) the fees to be paid for the examination and admission of such persons;

(c) the security which they may be required to give for their honesty and good conduct.

(d) the suspension and dismissal of such Mukhtárs; and

(e) declaring what shall be deemed to be their functions, powers and duties;

and may prescribe and impose fines for the infringement of such rules not exceeding in any case five hundred rupees; and such fines, when imposed, may be recovered as if they had been imposed in the exercise of the High Court's ordinary original criminal jurisdiction.

#### CHAPTER IV.—Of Revenue-agents.

17. The Chief Controlling Revenue Authority may, from time to time, make rules consistent with this Act as to the following matters (namely):—

(a) the qualifications, admission and certificate of proper persons to be Revenue-agents;

(b) the fees to be paid for the examination and admission of such persons;

(c) the suspension and dismissal of such Revenue-agents; and

(d) declaring what shall be deemed to be their functions, powers and duties.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

18. On the admission of any person as a Revenue-agent under section

Certificates to Revenue-agents. seventeen, the Chief Controlling Revenue Authority shall cause a certificate, signed by such officer as such authority from time to time appoints in this behalf, to be issued to such person, authorizing him to practise up to the end of the current year in such Revenue-offices as may be specified therein.

At the expiration of such period, the holder of the certificate, if he desires to continue to practise, shall be entitled to have his certificate renewed by the Secretary of the Chief Controlling Revenue Authority, or by any other officer authorized by such authority in that behalf.

On every such renewal, the certificate then in the possession of such Revenue-agent shall be cancelled and retained by such Secretary or other officer.

Every certificate so renewed shall be signed by such Secretary or other officer and shall continue in force to the end of the current year.

Every officer so renewing a certificate shall notify the renewal to the Chief Controlling Revenue Authority.

19. Every Revenue-agent holding a certificate issued under section eighteen may apply to be enrolled in any Revenue-office mentioned therein and situate within the limits of the territory under the Chief Controlling Revenue Authority; and, subject to such rules as the Chief Controlling Revenue Authority may, from time to time, make in this behalf, the officer presiding in such office shall enrol him accordingly, and thereupon he may practice as a Revenue-agent in such office and in any Revenue-office subordinate thereto.

20. Except as provided by this Act or any other enactment for the time being in force, no person, other than a Pleader duly qualified under the provisions hereinbefore contained, shall practise as a Revenue-agent in any Revenue-office, unless he holds a certificate issued under section eighteen and has been enrolled in such office or some other office to which it is subordinate:

No person to act as agent in Revenue-offices unless qualified.

Provided that any person duly authorized in this behalf may, with the sanction of the Chief Controlling Revenue Authority, or of an officer empowered by the Local Government in this behalf, transact all or any business in which his principal may be concerned in any Revenue-office.

The sanction mentioned in this section may be general or special, and may at any time be revoked or suspended by the Authority or officer granting the same.

21. The Chief Controlling Revenue Authority may suspend or dismiss any Revenue-agent holding a certificate issued under this Act who is convicted of any criminal offence implying a defect of character which unfits him to be a Revenue-agent.

Dismissal of Revenue-agent convicted of criminal offence.

22. The Chief Controlling Revenue Authority may also, after making such enquiry as it thinks fit, suspend or dismiss any Revenue-agent holding a certificate issued under this Act who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or for any other reasonable cause.

Dismissal of Revenue-agent guilty of unprofessional conduct.

23. If any Revenue-agent holding a certificate issued under this Act is charged with any such conduct in any office subordinate to the Chief Controlling Revenue Authority, or in the Court of any Munsif, the officer at the head of such office, or such Munsif, as the case may be, shall send him a copy of the charge, and also a notice that, on a day to be therein appointed, such charge will be taken into consideration.

Procedure when Revenue-agent is so charged in subordinate office.

Such copy and notice shall be served upon the person charged at least fifteen days before the day so appointed. On such day or on any other day to which the enquiry may be adjourned, the officer or Munsif shall receive all evidence properly produced in support of the charge, or by the person charged, and shall proceed to adjudicate on the charge.

If the officer or Munsif finds the charge established, and considers that the person charged should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and report the same to the Chief Controlling Revenue authority; and such Authority shall proceed to acquit, suspend, or dismiss him.

Any Revenue officer not inferior to a Collector, and with the Collector's sanction, any Revenue-officer subordinate to him, or any Munsif in his district, may, pending the investigation and the orders of the Chief Controlling Revenue Authority suspend from practice any Revenue-agent charged before him under this section.

Where any officer acting under this section is subordinate to the Commissioner of a Division, he shall transmit the report through such Commissioner, who shall forward with the same an expression of his own opinion on the case.

24. The Chief Controlling Revenue authority, in any case in which a Revenue-agent has been acquitted under section twenty-three otherwise than by an order of the Chief Controlling Re-

Power to Chief Controlling Revenue authority to call for record.

venue authority, may call for the record and pass such order thereon as seems fit.

#### CHAPTER V.—Of Certificates.

25. Every certificate, whether original or renewed, issued under this Act shall be written upon stamped paper of the value prescribed therefor in the second schedule hereto annexed:

Fee for certificates.

Provided that a certificate issued on or after the first day of July in any year may be written on stamped paper of half the value so prescribed.

26. When any Pleader, Mukhtár or Revenue-agent is suspended or dismissed under this Act, he shall forthwith deliver up his certificate to the Court or officer at the head of the office before or in which he was practising at the time he was so suspended or dismissed, or to any Court or officer to which the High Court or Chief Controlling Revenue Authority (as the case may be) orders him to deliver the same.

Dismissed practitioners to surrender certificates.

#### CHAPTER VI.—Of the Remuneration of Pleaders, Mukhtárs and Revenue-agents.

27. The High Court shall, from time to time, fix and regulate the fees payable by any party in respect of the fees of his adversary's Advocate, Pleader, Vakíl, Mukhtár or Attorney upon all proceedings (a) on the Appellate Side of such Court, (b) in the case of a High Court not established by Royal Charter, on its Original Side, and (c) in subordinate Courts.

High Court and Chief Controlling Revenue Authority to fix fees on civil and revenue proceedings.

The Chief Controlling Revenue Authority shall, from time to time, fix and regulate the fees payable upon all proceedings in the Revenue-offices by any party in respect of the fees of his adversary's Advocate, Pleader, Vakíl, Attorney, Mukhtár or Revenue-agent.

Tables of the fees so fixed shall be published in the local official Gazette.

Nothing in this section applies to the Agents mentioned in the proviso to section twenty.

Exception as to Agents mentioned in section 20.

28. No agreement entered into by any Pleader, Mukhtár or Revenue-agent with any person retaining or employing him respecting the amount and manner of payment for the whole or any part of any past or future services, fees, charges, or disbursements in respect of business done or to be done by such Pleader, Mukhtár or Revenue-agent, shall be valid unless it is made in writing signed by such person, and is, within fifteen days from the day on which it is executed, filed in the District Court or in some Court in which some portion of the business in respect of which it has been executed has been or is to be done.

Agreements with clients.

29. Where a suit is brought to enforce any such agreement, if the agreement is not proved to be fair and reasonable, the Court may reduce the amount payable thereunder or order it to be cancelled, and the costs, fees, charges and disbursements, in respect of the

Power to modify or cancel agreements.





ment, make rules as to the qualifications and admission of proper persons to be Advocates of such Court.

Subject to such rules, the Chief Court may admit and enrol such and so many Advocates as it thinks fit; and such Advocates shall be entitled to appear for the suitors of such Court, and to plead or to act, or to plead and act, for such suitors according as such Court may by its rules determine, and subject to such rules.

The Chief Court may dismiss any Advocate so enrolled or suspend him from practice :

Provided that no such Advocate shall be dismissed or suspended under this section unless he has been allowed an opportunity of defending himself before the Chief Court."

### FIRST SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

Number and date of enactments.	Title.	Extent of repeal.
Act XX of 1865...	To amend the law relating to Pleaders and Mukhtárs.	The whole.
Act XXIX of 1865	To amend the Pleaders, Mukhtárs and Revenue-agents Act, 1865.	So much as has not been repealed.
Act IX of 1866...	To extend to the Sudder Court of the North-Western Provinces certain provisions of "The Pleaders, Mukhtárs and Revenue-agents Act, 1865," and of Act No. XXIX of 1865.	The whole.
Act IV of 1876 ...	To authorize Revenue-agents to practise in certain suits in the Munsifs' Courts of the Lower Provinces of Bengal.	The whole.
Act XVII of 1877	The Panjáb Courts Act, 1877.	Sections forty-two, forty-three, forty-four and forty-five.

### SECOND SCHEDULE.

VALUE OF STAMPS FOR CERTIFICATES..

(See section 25.)

#### I.

For a certificate authorizing the holder to practise as a Pleader—

(a) In the High Court and any subordinate Court—rupees fifty :

(b) In any Court of Small Causes in a Presidency-town—rupees twenty-five :

(c) In all other subordinate Courts—rupees twenty-five :

(d) In the Courts of Subordinate Judges Munsifs, Assistant Commissioners, Extra Assistant Commissioners and Tahsildárs, and in Courts of Small Causes outside the Presidency-towns and in all Criminal Courts subordinate to the High Court—rupees fifteen :

(e) In the Courts of Munsifs and any Civil or Criminal Court of first instance not hereinbefore specifically mentioned—rupees five.

#### II.

For a certificate authorizing the holder to practise as a Mukhtár—

(f) In the High Court and any subordinate Court—rupees twenty-five :

(g) In any Court of Small Causes in a Presidency-town—rupees fifteen :

(h) In all other subordinate Courts—rupees fifteen :

(i) In the Courts of Subordinate Judges, Munsifs, Assistant Commissioners, Extra Assistant Commissioners and Tahsildárs, in Courts of Small Causes outside the Presidency-towns—and in all Criminal Courts subordinate to the High Court—rupees ten :

(j) In the Courts of Munsifs and any Civil or Criminal Court of first instance not hereinbefore specifically mentioned—rupees five.

#### III.

For a certificate authorizing the holder to practise as a Revenue-agent—

(k) In the office of the Chief Controlling Revenue Authority and in any Revenue-office subordinate to such Authority—rupees fifteen :

(l) In the office of a Commissioner and in any Revenue-office subordinate to a Commissioner—rupees ten :

(m) In the office of a Collector and in any Revenue-office subordinate to a Collector—rupees five.

D. FITZPATRICK,

Secy. to the Govt. of India,  
Legislative Department.

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## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

#### LEGISLATIVE DEPARTMENT.

No. 355.—*Errata*.—In line 2 of clause (a) of Section 114 of “The Bombay Land Revenue Code, 1879,” as published in the *Government Gazettes* of the 17th, 24th and 31st July 1879, insert the word “the” between the words “in” and “estate.”

In line 7 of para. 3 of Section 136, for “inferior” read “superior.”

In line 11 of Section 140, for “thereinafter” read “hereinafter.”

In line 8 of Section 160 insert the word “are” between the words “as” and “interested.”

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

C. G. W. MACPHERSON,  
Acting Under Secretary to Government.

*Poona, 23rd October 1879.*

# ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 29th October 1879, and was promulgated for general information in the *Gazette of India* on the 1st November 1879:—

## Act No. XVII of 1879.

### THE DEKKHAN AGRICULTURISTS RELIEF ACT, 1879.

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*An Act for the Relief of Indebted Agriculturists in certain parts of the Dekkhan.*

WHEREAS it is expedient to relieve the agricultural classes in certain parts of the Dekkhan from indebtedness; It is hereby enacted as follows:—

## CHAPTER I.

## PRELIMINARY.

1. This Act may be cited as "The Dekkhan Agriculturists Relief Act, 1879";

and it shall come into force on the first day of November, 1879.

Sections eleven, fifty-six, sixty and sixty-two extend to the whole of British India. The rest of this Act extends only to the districts of Puna, Satára, Sholapur and Ahmadnagar.

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

"money": (1) "money" includes agricultural produce, implements and stock:

(2) "agriculturist" means a person who earns his livelihood wholly or principally by agriculture carried on within the limits of the said districts; and every agriculturist shall be deemed to "reside" where he so earns his livelihood.

## CHAPTER II.

## OF THE HEARING OF CERTAIN SUITS BY SUBORDINATE JUDGES.

Application of this chapter, 3. The provisions of this chapter shall apply to—

(a) suits for an account instituted on or after the first day of November, 1879, by an agriculturist in the Court of a Subordinate Judge under the provisions hereinafter contained, and

(b) suits of the descriptions next hereinafter mentioned and instituted on or after the same date—

(1) when such suits are heard by Subordinate Judges of the first class and the subject-matter thereof does not exceed in amount or value five hundred rupees, or

(2) when such suits are heard by Subordinate Judges of the second class and the subject-matter thereof does not exceed in amount or value one hundred rupees, or,

(3) when such suits are heard by Subordinate Judges of the second class and the subject-matter thereof exceeds one hundred rupees, but does not exceed five hundred rupees, in amount or value, and the parties to the suits agree that such provisions shall apply thereto.

The descriptions of suits referred to in clause (b) are the following (namely) :—

(w) suits for the recovery of money alleged to be due to the plaintiff—

on account of money lent or advanced to, or paid for, the defendant, or

as the price of goods sold, or

on an account stated between the plaintiff and defendant, or

on a written or unwritten engagement for the payment of money not hereinbefore provided for ;

(x) suits for the recovery of money due on contracts other than the above and suits for rent or for moveable property, or for the value of such property, or for damages ; and

(y) suits for foreclosure or for the possession of mortgaged property, or for sale of such property, or foreclosure or sale, when the defendant, or any one of the defendants not being merely a surety for the principal debtor, is an agriculturist ; and

(z) suits for the redemption of mortgaged property when the plaintiff, or, where there are several plaintiffs, any one of the plaintiffs, is an agriculturist.

4. Where a Subordinate Judge of the first class and a Subordinate Judge of the second class have ordinary jurisdiction in the same local area,

every suit referred to in section three, clause (b), and instituted in such local area shall, if the amount or value of the subject-matter of such suit exceeds one hundred rupees and does not exceed five hundred rupees, be instituted in the Court of the Subordinate Judge of the first class.

5. Notwithstanding anything contained in the Bombay Civil Courts Act, 1869, section 28, no Subordinate Judge shall

be invested with the jurisdiction of a Judge of a Court of Small Causes ; and any such jurisdiction heretofore conferred on any Subordinate Judge shall be deemed, except as regards suits instituted before the said first day of November, 1879, to have been withdrawn.

6. The Local Government may, from time to time, by notification in the local Gazette, direct that any class of suits which a Subordinate Judge would be precluded from hearing by section 12 of Act XI of 1865 (*to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature*) shall be heard and determined by him and not otherwise, and may, by a like notification, cancel any such direction.

7. In every case in which it seems to the Court possible to dispose of a suit at the first hearing, the summons shall be for the final disposal of the suit.

In every suit the Court shall examine the defendant as a witness unless, for reasons to be recorded by it in writing, it deems it unnecessary so to do.

8. In suits of the descriptions mentioned in section three, clauses (w) and (x), no party shall be entitled without the permission of the Court to file a written statement.

9. When the subject-matter of any suit does not exceed ten rupees in amount or value, it shall not be necessary to take down the evidence or make a memorandum thereof in manner provided by the Code of Civil Procedure ; but in cases where the evidence is not so taken down and no memorandum is so made, the substance of the evidence shall be stated in the judgment.

10. No appeal shall lie from any decree or order passed in any suit to which this chapter applies.

## CHAPTER III.

## OF SUITS AND OTHER PROCEEDINGS TO WHICH AGRICULTURISTS ARE PARTIES.

11. Every suit of the description mentioned in section three, clause (w), may, if the defendant, or, when there are several defendants, one only of such defendants, is an agriculturist, be instituted and tried in a Court within the local limits of whose jurisdiction such defendant resides and not elsewhere.

Every such suit in which there are several defendants who are agriculturists may be instituted and tried in a Court within the local limits of whose jurisdiction any one of such defendants resides and not elsewhere.

Nothing herein contained shall affect sections 22 to 25 (both inclusive) of the Code of Civil Procedure.

12. In any suit of the description mentioned in section three, clause (w) in which the defendant or any one of the defendants, not being merely a surety of the principal debtor, is an agriculturist,

and in any suit of the descriptions mentioned in section three, clause (y) or clause (z),

the Court shall, if the amount of the creditor's claim is disputed, enquire into the history and merits of the case, from the commencement of the transactions between the parties and the persons (if any) through whom they claim out of which the suit has arisen, first, with a view to ascertaining whether there is any defence to the suit on the ground of fraud, mistake, accident, undue influence or otherwise, and secondly, with a view to taking an account between such parties in manner hereinafter provided.

When the amount of the claim is admitted and the Court for reasons to be recorded by it in writing, believes that such admission is true and is made by the debtor with a full knowledge of his legal rights as against the creditor, the Court shall not be bound so to enquire, but may do so if it thinks fit.

In other cases in which the amount of the claim is admitted the Court shall be bound to enquire as aforesaid.

Section IX, clause first, of Bombay Regulation V of 1827 is repealed so far as regards any suit to which this section applies.

Nothing herein contained shall affect the right of the parties to require that any matter in difference between them be referred to arbitration.

13. When the Court enquires into the history and merits of a case under section twelve, it shall—

notwithstanding any agreement between the parties or the persons (if any) through whom they claim as to allowing compound interest or setting off the profits of mortgaged property without an account in lieu of interest or otherwise determining the manner of taking the account,

and notwithstanding any statement or settlement of account or any contract purporting to close previous dealings and create a new obligation,

open the account between the parties from the commencement of the transactions and take that account according to the following rules (that is to say) :—

(a) separate accounts of principal and interest shall be taken ;

(b) in the account of principal there shall be debited to the debtor such money as may from time to time have been actually received by him or on his account from the creditor and the price of goods, if any, sold to him by the creditor as part of the transactions ;

(c) in the account of principal there shall not be debited to the debtor any money which he may have agreed to pay in contravention of section 257A of the Code of Civil Procedure ;

(d) in the account of principal there shall not be debited to the debtor any accumulated interest which has been converted into principal at any statement or settlement of account or by any contract made in the course of the transactions, unless the Court, for reasons to be recorded by it in writing, deemed such debit to be reasonable ;

(e) in the account of interest there shall be debited to the debtor monthly simple interest on the balance of principal for the time being outstanding at the rate allowed by the Court as hereinafter provided :

(f) all money paid by or on account of the debtor to the creditor or on his account, and all profits, service or other advantages of every description, received by the creditor in the course of the transactions (estimated, if necessary, at such money value as the Court in its discretion, or with the aid of arbitrators appointed by it, may determine) shall be credited first in the account of interest ; and when any payment is more than sufficient to discharge the balance of interest due at the time it is made, the residue of such payment shall be credited to the debtor in the account of principal :

(g) the accounts of principal and interest shall be made up to the date of instituting the suit, and the aggregate of the balances (if any) appearing due on both such accounts against the debtor on that date shall be deemed to be the amount due at that date except when the balance appearing due on the interest account exceeds that appearing due on the principal account, in which case double the latter balance shall be deemed to be the amount then due.

14. The interest to be awarded in taking an account according to the rules set forth in section thirteen shall be—

(a) the rate, if any, agreed upon between the parties, or the persons (if any) through whom they claim, unless such rate is deemed by the Court to be unreasonable ; or

(b) if such rate is deemed by the Court unreasonable, or if no rate was agreed upon, or when any agreement between the parties, or the persons (if any) through whom they claim, to set-off profits without an account in lieu of interest has been set aside by the Court, such rate as the Court deems reasonable.

15. Instead of enquiring into the history and merits of a case under section twelve, or if upon so enquiring the Court is unable to satisfy itself as to the amount which should be allowed on account of principal or interest or both, the Court may, of its own motion, direct that such amount be ascertained by arbitration.

If the parties are willing to nominate arbitrators, the arbitrators shall be nominated by them in such manner as may be agreed upon between them ; if the parties are unwilling to nominate arbitrators or cannot agree in respect of such nomination, the Court shall appoint any three persons it thinks fit :

Provided that if all the parties reside in the same village, town or city, and, in the opinion of the Court, three fit persons can be found among the residents of such village, town or city, it shall appoint residents of such village, town or city.

The provisions of sections 508 to 522 (both inclusive) of the Code of Civil Procedure shall apply to every reference to arbitration under this section.

16. Any agriculturist may sue for an account of money lent or advanced to or paid for him by a creditor or due by him to the creditor as the price of goods sold or on written or unwritten engagement for the payment of money and of money paid by him to the creditor, and for a decree declaring the amount, if any, still payable by him to the creditor.

When any such suit is brought, the amount (if any) payable by the plaintiff shall be determined under the same rules as would be applicable under this Act if the creditor had him sued for recovery of the debt.

17. A decree passed under section sixteen may, besides declaring the amount due, direct that such amount shall be paid by instalments, with or without interest; and, when any such decree so directs, the plaintiff may pay the amount of such decree, or the amount of each instalment fixed by such decree, as it falls due, into court, in default whereof execution of the decree may be enforced by the defendant in the same manner as if he had obtained the decree in a suit to recover the debt.

18. The plaintiff in any suit instituted under section sixteen may at any stage of such suit deposit in court such sum of money as he considers a satisfaction in full of the defendant's claim against him.

Notice of the deposit shall be given by the Court to the defendant, and the amount of the deposit shall (unless the Court otherwise directs) be paid to the defendant on his application.

No interest shall be allowed to the defendant on any sum so deposited from the date of the receipt of such notice, whether the sum deposited be in full of the claim or fall short thereof.

19. When a decree has been passed, whether before or after this Act comes into force, under which any sum less than fifty rupees is recoverable from an agriculturist, the Court may, either in the course of execution of such decree or otherwise, if it is satisfied that there is no other claim against him and that he is unable to pay the whole of such sum, direct the payment of such portion of the same, as it considers him able to pay, and grant him a discharge from the balance.

When the sum payable under the decree amounts to fifty rupees or upwards, or when there are other debts due by the debtor which together with such sum amount to fifty rupees or upwards, the Court may direct proceedings to be taken with respect to him as nearly as may be as if he had applied to be declared an insolvent under the provisions hereinafter contained.

20. The Court may at any time direct that the amount of any decree passed, whether before or after this Act comes into force, against an agriculturist or the portion of the same which it directs under section nineteen to be paid, shall be paid by instalments with or without interest.

21. No agriculturist shall be arrested or imprisoned in execution of a decree for money.

22. No agriculturist's immoveable property shall be attached or sold in execution of any decree or order unless it has been specifically mortgaged for the repayment of the debt to which such decree or order relates, and the security still subsists.

But the Court may, when passing a decree against an agriculturist or at any subsequent time, direct the Collector to take possession, for any period not exceeding seven years, of any such property of the judgment-debtor to the possession of which he is entitled, and which, in the opinion of the Collector, is not required for his support and the support of the members of his family dependent on him, and the Collector shall thereupon take possession of such property and deal with the same for the benefit of the decree-holder in manner provided by section twenty-nine.

The provisions of section thirty-one shall *mutatis mutandis* apply to any property so dealt with.

23. No provision of this chapter shall apply to the proceedings in the Courts of Village-Munsifs unless such provision has been specially extended thereto under the power hereinafter conferred.

#### CHAPTER IV. OF INSOLVENCY.

24. Every Subordinate Judge shall have the powers conferred by sections 344 to 359 (both inclusive) of the Code of Civil Procedure, as modified by the provisions next hereinafter contained, for the purpose of dealing with applications under the Code of Civil Procedure or under this Act to have agriculturists residing within the local limits of his ordinary jurisdiction declared insolvent and proceedings taken under orders passed under the second clause of section nineteen; and, except as provided in chapter VII of



this Act, no such application or proceeding shall be dealt with by any other Court.

25. Any agriculturist whose debts (if any) amount to fifty rupees or upwards may apply to any Subordinate Judge within the local limits of whose ordinary jurisdiction he resides to be declared an insolvent, though he has not been arrested or imprisoned, and though no order of attachment has issued against his property, in execution of a decree.

26. Notwithstanding anything contained in section 351 of the Code of Civil Procedure, the Court shall declare an agriculturist an insolvent if it is satisfied that he is in insolvent circumstances, and that the application to have him declared an insolvent has been properly made under section 344 of the said Code or section twenty-five of this Act.

27. No person other than the Názir of the Receiver. Court shall be appointed as receiver, and no receiver shall be entitled to commission.

28. In determining under section 352 of the said Code the amount of any claim of the nature referred to in section twelve of this Act due by an insolvent agriculturist, the Court shall proceed in the manner prescribed by sections twelve to fifteen of this Act, both inclusive.

29. No immoveable property of the insolvent shall vest in the receiver; but the Court may direct the Collector to take into his possession, for any period not exceeding seven years from the date on which the receiver has been appointed, any immoveable property to the possession of which the insolvent is entitled, and which, in the opinion of the Collector, is not required for the support of the insolvent and the members of his family dependent on him, and, subject to any rules the Local Government may from time to time make in this behalf, to manage the same for the benefit of the creditors, by letting it on lease or otherwise:

Provided that if the insolvent or his representative in interest at any time pays into court the balance of the scheduled debts then unpaid, he shall, subject to any rights created in favour of other persons by the Collector, be entitled to recover possession of such property.

A Collector managing property under this section shall during the management have all the powers which the owner might as such have legally exercised, and shall receive and recover all rents and profits of such property, and for the purpose of recovering such rents and profits shall have, in addition to any powers possessed by an owner, all powers possessed by a Collector for securing and recovering the land-revenue due to Government except the powers mentioned in the Bombay Land-Revenue Code, 1879, section 150, clauses (b), (d) and (e).

Nothing in this section shall authorize the Court to direct the Collector to take into his possession any houses or other buildings belonging to and occupied by an agriculturist.

30. When any scheduled debt is secured by a mortgage of any portion of the insolvent's immoveable property, the Court may direct the Collector, if he can obtain a premium equal to the amount of such debt by letting such property for a term not exceeding twenty years, to let such property, and, if he cannot so obtain such premium, to sell such property under section 325 of the Code of Civil Procedure.

Where property is let under this section, the premium shall be applied to the payment of the debt, and the rent, if any, shall for a period of seven years from the date of such letting be paid to the receiver and thereafter to the insolvent or his representative in interest.

When property is sold under this section, the sale proceeds shall be applied, first, to the payment of the debt; and the balance, if any, shall be paid to the receiver.

31. So long as any management under section twenty-nine or letting under section thirty continues, the insolvent and his representative in interest shall be incompetent to mortgage, charge, lease or alienate the property managed or let or any part thereof.

32. When the balance available for distribution among the scheduled creditors under section 356 of the said Code has been distributed, the claims of such creditors shall be deemed to have been discharged, except as regards the right to share in the profits of any property managed by the Collector under section twenty-nine or let by him under section thirty.

33. No appeal shall lie from any order passed under this chapter except orders passed in exercise of the power conferred by section 359 of the Code of Civil Procedure.

## CHAPTER V.

### OF VILLAGE-MUNSIFS.

34. The Local Government may from time to time appoint any Patel of a village or any other person possessing local influence in a village to be a Village-Munsif for such village or for such village and for any other villages, the sites of which are situate in the same district not more than two miles from the site of such village, and may cancel any such appointment.

35. Every Village-Munsif so appointed shall take cognizance of suits triable by them of the description mentioned in section three, clause (w), when the subject-matter thereof does not exceed ten rupees in amount or value, and all the defendants at the time of the commencement of the suit actually

and voluntarily reside or carry on business or personally work for gain within the local area of which such Village-Munsif is appointed.

Notwithstanding anything hereinbefore contained, a suit cognizable by a Village-Munsif shall not be heard by any other Court:

Provided that the District Judge may, from time to time, transfer any suit instituted before a Village-Munsif to his own Court or any other Civil Court in the district for trial:

*Proviso.*

Provided also that no Village-Munsif shall try any suit to or in which he is a party or is personally interested, or shall adjudicate upon any proceeding connected with or arising out of such suit.

36. The District Judge may on a petition being presented within thirty days from the date of any decree or order of a Village-Munsif by any party deeming himself aggrieved by such decree or order, set aside such decree or order on the ground of corruption, gross partiality or misconduct of the Village-Munsif and pass such other decree or order as he thinks fit.

Except as provided in this Act and in section 622 of the Code of Civil Procedure, every decree and order of a Village-Munsif shall be final.

37. The Local Government may, from time to time, by notification in the official Gazette, make rules consistent with this Act for regulating the procedure of Village-Munsifs and for conferring on them or any of them all or any of the powers for the trial of suits or the execution of decrees exercised by a Civil Court under the Code of Civil Procedure or any other enactment for the time being in force.

## CHAPTER VI.

### OF CONCILIATION.

38. The Local Government may from time to time appoint any person other than an officer of police to be a Conciliator and may cancel any such appointment.

Every Conciliator appointed under this section shall be appointed only for a term not exceeding three years, but may on the expiration of the period for which he has been appointed be again appointed for a further term not exceeding three years.

Every Conciliator so appointed shall exercise his functions under this Act in respect of matters affecting agriculturists residing within such local area as the Local Government may, from time to time, prescribe.

39. When any dispute arises as to, or there is a prospect of litigation regarding, any matter within the cognizance of a Civil Court between two or more parties, one of whom is an agriculturist residing within any

local area for which a Conciliator has been appointed, or when application for execution of any decree in any suit to which any such agriculturist is a party, and which was passed before the date on which this Act comes into force is contemplated, any of the parties may apply to such Conciliator to effect an amicable settlement between them.

40. If the application be made by one of the parties only, the Conciliator shall take down, or cause to be taken down, in writing a concise statement of the applicant's case, and shall thereupon, by summons or by such other means as he deems fit, invite the person against whom such application is made to attend before him at a time and place to be fixed for this purpose, and shall direct the applicant also to be present at such time and place.

If the said person fails to appear at the time first fixed, the Conciliator may, if he thinks fit, from time to time extend the period for his appearance.

41. Whenever all the parties are present, the Conciliator shall call upon each in turn to explain his case regarding the matter in question, and shall use his best endeavours to induce them to agree to an amicable settlement or to submit such matter to arbitration.

42. The Conciliator shall hear but shall not record the statement of statements of witnesses, any witness and shall peruse any book of account or other document produced by the parties, or so much thereof as may be necessary, and, if any party or witness consents in writing to affirm any statement upon oath in any form not repugnant to justice or decency and not purporting to affect any third person, shall provide for such oath being duly taken in the presence of all the parties.

43. If on the day on which the case is first heard by the Conciliator or on any subsequent day to which he may adjourn the hearing, the parties come to any agreement, either finally disposing of the matter or for referring it to arbitration, such agreement shall be forthwith reduced to writing, and shall be read and explained to the parties, and shall be signed or otherwise authenticated by the Conciliator and the parties respectively.

*Explanation.*—A Conciliator may be appointed arbitrator under this section.

44. When the agreement is one finally disposing of the matter, the Conciliator shall forward the same in original to the Court of the Subordinate Judge of lowest grade having jurisdiction in the place where the agriculturist who is a party thereto resides;

and shall at the same time deliver to each of the parties a written notice to show cause before such Judge, within one month from the date of such delivery, why such agreement ought not to be filed in such Court.

The Court which receives the agreement shall after the expiry of the said period of one month, unless cause has been shown as aforesaid, order such agreement to be filed; and it shall then take effect as if it were a decree of the said Court passed on the day on which it is ordered to be filed and from which no appeal lies.

45. When the agreement is one for referring the matter to arbitration, the Conciliator shall forward it to the Court having jurisdiction in the matter, and such Court shall cause it to be filed and proceed thereon in manner provided by sections 523 and 524 of the Code of Civil Procedure.

46. If the person against whom any application is made before a Conciliator cannot after reasonable search be found, or if he refuses or neglects, after a reasonable period has been allowed for his appearance, to appear before the Conciliator, or if he appears but the endeavour to induce the parties to agree to an amicable settlement or to submit the matter in question to arbitration fails, the Conciliator shall, on demand, give to the applicant, or when there are several applicants to each applicant, a certificate under his hand to that effect.

47. No suit and no application for execution of a decree passed before the date on which this Act comes into force to which any agriculturist residing within any local area for which a Conciliator has been appointed is a party shall be entertained by any Civil Court, unless the plaintiff produces such certificate as aforesaid in reference thereto.

48. In computing the period of limitation prescribed for any such suit the time intervening between the application made by the plaintiff under section thirty-nine and the grant of the certificate under section forty-six shall be excluded.

49. The Local Government may from time to time make rules—

(a) regulating the procedure before Conciliators in matters not provided for by this Act;

(b) fixing the charges to be made by Conciliators for anything done by them under this chapter; and

(c) determining what record and accounts shall be kept by Conciliators and what returns shall be framed and furnished by them.

## CHAPTER VII.

### SUPERINTENDENCE AND REVISION.

50. The District Judge shall inspect, supervise and control the proceedings, under chapter II and chapter IV of this Act, of all Subordinate Judges and the proceedings of all Village-Munsifs and Conciliators.

51. The District Judge may—

(a) transfer to his own file, any suit or other matter pending before the Court of any Subordinate Judge under chapter II or chapter IV of this Act, and may dispose of the same as if he were a Subordinate Judge; or

(b) stay the proceedings in any such suit or matter, and sit together with such Judge as a Bench to dispose of such suit or matter in accordance with the provisions of this Act.

If the members of any Bench sitting under this section differ in opinion, the opinion of the District Judge shall prevail.

52. The Local Government shall appoint an Assistant or Subordinate Judge to inspect and supervise, subject to the control of the District Judge, the proceedings of all Subordinate Judges, under chapter II and chapter IV of this Act, and of all Village-Munsifs and Conciliators in each of the said districts of Poona, Sátára, Sholápur and Ahmednagar :

Provided that, if the local Government thinks fit, the same Assistant or Subordinate Judge may be so appointed for two or more such districts.

Any Assistant or Subordinate Judge appointed under this section may in any district for which he is so appointed, if the District Judge so directs, exercise the powers of the District Judge under section fifty-one of this Act, and transfer any suit under section twenty-five of the Code of Civil Procedure.

53. The District Judge may, for the purpose of satisfying himself of the legality or propriety of any decree or order passed by a Subordinate Judge in any suit or other matter under chapter II or chapter IV of this Act, and as to the regularity of the proceedings therein, call for and examine the record of such suit or matter, and pass such decree or order thereon as he thinks fit; and any Assistant Judge or Subordinate Judge appointed by the Local Government under section fifty-two may similarly, in any district for which he is appointed, call for and examine the record of any such suit or matter, and if he see cause therefor, may refer the same, with his remarks thereon, to the District Judge and the District Judge may pass such decree or order on the case as he thinks fit :

Provided that no decree or order shall be reversed or altered for any error or defect, or otherwise, unless a failure of justice appears to have taken place.

54. The Local Government from time to time may, and if the Government of India so direct, shall appoint an officer, as Special Judge, to discharge in the place of the District Judge all the functions of the District Judge under this Act, in respect of the proceedings of all Subordinate Judges, Village-Munsifs and Conciliators, and may cancel any such appointment.

Such Special Judge shall not, without the previous sanction of the Government of India, discharge any public function, except those which he is empowered by this Act to discharge.

If any conflict of authority arises between the Special Judge and the District Judge the High Court shall pass such order thereon consistent with this Act as it thinks fit.

No appeal shall lie from any decree or order passed by the District Judge under this chapter, or by the Special Judge, or by an Assistant or Subordinate Judge appointed under section fifty-two, or by a Bench, in any suit or proceeding under this Act.

## CHAPTER VIII.

### REGISTRATION BY VILLAGE-REGISTRARS.

55. The Local Government may, from time to time,—

(a) appoint such persons as it thinks fit, whether public officers or not, to be Village-Registrars, for such local areas as it may from time to time prescribe ;

(b) direct that the Village-Registrar for any local area to discharge the functions of a Village-Registrar for any other local areas concurrently with the Village-Registrars of such other local areas ; and

(c) delegate to any person by name or in virtue of his office the powers conferred on it by this section ; and may cancel any such appointment, direction, or delegation.

56. No instrument which purports to create, modify, transfer, evidence or extinguish an obligation for the payment of money or a charge upon any property, or to be a conveyance or lease, and which is executed after this Act comes into force by an agriculturist residing in any local area for which a Village-Registrar has been appointed, shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence, or shall be acted upon by any such person or by any public officer unless such instrument is written by, or under the superintendence of, and is attested by a Village-Registrar :

Provided that nothing herein contained shall prevent the admission of any instrument in evidence in any criminal proceeding.

57. When any persons, one of whom is an agriculturist residing in any such local area, desire to execute any such instrument, they shall present themselves before the Village-Registrar appointed by the Local Government for the area in which such agriculturist, or, when there are several such agriculturists, any one of such agriculturists, resides, and such Registrar, after satisfying himself in such manner as he deems fit as to the identity of the parties and

receiving from them the fee (if any) prescribed by the Local Government in this behalf and the stamp (if any) which may be required by law, shall write the instrument, or cause the same to be written under his superintendence, and after reading the same aloud or causing it to be so read in the hearing of the parties shall require them to execute it in his presence.

Every instrument so written and executed shall at the time of execution be attested by the Village-Registrar, and also, if any of the parties thereto is unable to read such instrument, by two respectable witnesses.

58. Every Village-Registrar shall keep a register of instruments executed before him in such form as shall, from time to time, be prescribed by the Inspector-General of Registration.

As soon as all the parties to any instrument have executed it before a Village-Registrar, he shall make a copy of it or cause a copy of it to be made in his register, and shall deliver the original instrument to the party entitled to the custody of the same, and a certified copy thereof to the other party, or to each of the other parties if there be more than one.

Previous to delivery, the original instrument and each such copy shall be endorsed under the Village-Registrar's signature with the date of registration, the name and residence of the Village-Registrar and the volume and page of the register in which the instrument has been registered.

59. In every instrument written by or under the superintendence of the Village-Registrar, the amount and nature of the consideration, if any, shall be fully stated.

The Village-Registrar shall also endorse upon the instrument a note under his hand, recording whether or not the transfer of the consideration stated therein, or of any part thereof, took place in his presence.

If the instrument modifies, or wholly or partly supersedes, a previous instrument, such previous instrument shall be produced before the Village-Registrar and shall be fully described in the instrument to be executed, and shall be marked by the Village-Registrar under his hand for identification.

60. Every instrument executed and registered in accordance with the foregoing provisions shall be deemed to have been duly registered under the provisions of the Indian Registration Act, 1877 ; and no instrument which ought to have been executed before a Village-Registrar but has been otherwise executed shall be registered by any officer acting under the said Act, or in any public office, or shall be authenticated by any public officer.

61. The Inspector-General of Registration shall exercise, by himself and his subordinates, a general superintendence over all Village-Registrars, and may, from time to time, with the previous sanction of the Local Government, make rules consistent with this Act for regulating their proceedings and for providing for the custody of their records.

62. Nothing in this Act shall be deemed to require any instrument to which the Government or any officer of Government in his official capacity is a party to be executed before a Village-Registrar.

63. The Local Government may, from time to time, make rules regulating the appointment, suspension, dismissal and remuneration of Village-Registrars, and prescribing the fees to be levied by them.

#### CHAPTER IX.

##### OF RECEIPTS AND STATEMENTS OF ACCOUNT.

64. The person to whom any agriculturist makes any payment of money in liquidation of a debt shall, at the time of such payment, tender to such agriculturist, whether he demand the same or not, a written receipt for the amount of such payment.

If such payment is made under any instrument executed before a Village-Registrar, the receipt shall, if the agriculturist so require, be endorsed on the copy of the instrument furnished to him under section fifty-eight.

65. Any agriculturist by whom any money is due under any instrument shall, on such date in each year as the Local Government, having regard to local custom, may from time to time, by notification in the official Gazette, fix, be entitled to receive, on demand, from the person claiming under such instrument, a statement up to that date of his account under such instrument.

66. Any agriculturist in whose name an account is kept by any trader or money-lender shall be entitled to receive from such trader or money-lender, on demand, a pass-book, and to require, from time to time, that his account up to date be written therein and authenticated by the signature or mark of the said trader or money-lender.

An entry so made in any such pass-book of any payment made to the trader or money-lender shall be deemed to be equivalent, for the purposes of section sixty-four, to the grant of a receipt for the amount so entered.

No person whose account has been written in a pass-book as required by this section shall be entitled also to demand an account under section sixty-five.

67. Any person who, in contravention of section sixty-four, sixty-five or sixty-six, refuses or neglects to tender a receipt or a statement of account or a pass-book, or to write, or cause to be written, any account or any part of an account in a pass-book, or to attest the same when so written, shall be punished for each such offence with fine which may extend to one hundred rupees.

#### CHAPTER X.

##### LEGAL PRACTITIONERS.

68. No pleader, vakíl, or mukhtár, and no advocate or attorney of High Court, shall be permitted to appear on behalf of any party to any case before a Conciliator or a Village-Munsif, or to any case cognizable by a Subordinate Judge under this Act, the subject-matter whereof does not exceed in amount or value one hundred rupees :

Provided that any party to any such case may be permitted, on reasonable cause being shown to the satisfaction of the Conciliator, Village-Munsif or Subordinate Judge, to employ any relative, servant or dependent who is not, and has not previously been, a pleader, vakíl, or mukhtár, or an advocate or attorney of a High Court, to appear either conjointly with, or in lieu of, such party :

Provided also that a Subordinate Judge may permit a pleader, vakíl or mukhtár, or an advocate or attorney of a High Court, to appear before him on behalf of any party to any case of the description aforesaid in which, for reasons to be recorded by him in writing, he deems it desirable that the party should have such assistance.

When a relative, servant or dependent appears in lieu of a party, he shall be furnished by him with a power-of-attorney defining the extent to which he is empowered to act.

69. When in any suit or proceeding before a Subordinate Judge under this Act to which an agriculturist is a party any pleader, vakíl or mukhtár, or any advocate or attorney of a High Court, appears on behalf of any party opposed to such agriculturist, the Subordinate Judge, if he is of opinion that such agriculturist has not the means of obtaining proper professional assistance, may, with the consent of such agriculturist, direct the Government pleader or any other fit person (who is willing so to do) to appear on his behalf.

#### CHAPTER XI.

##### MISCELLANEOUS.

70. No mortgage, lien or charge of or upon any immovable property belonging to an agriculturist shall be valid unless it is created by an instrument in writing under the hand of the person creating such mortgage, lien or charge.

Nothing in this section shall apply to any mortgage, lien or charge created by mere opera-

tion of law, or in favour of the Government or of any officer of the Government in his official capacity.

71. Every instrument executed before this Act comes into force and purporting to create any mortgage, lien

All mortgages hitherto executed to be registered.

or charge of or upon any immoveable property belonging to an agriculturist shall be deemed to be an instrument required by section 17 of the Indian Registration Act, 1877, to be registered; and any such instrument which before the passing of this Act was not so required to be registered may, notwithstanding anything contained in the said Indian Registration Act, 1877, be registered under that Act within one year from the date on which this Act comes into force.

Every Village-Registrar appointed under this Act shall be deemed to be a Sub-Registrar for the purpose of so registering such instruments; and the local area for which he is appointed shall be deemed for such purpose to be his sub-district.

Nothing in this section applies to an instrument purporting to create a mortgage, lien or charge in favour of the Government or of any officer of the Government in his official capacity.

72. In any suit against an agriculturist under this Act for the recovery of money the following periods of limitation shall be deemed to be substituted for those prescribed in the second column of the second schedule annexed to the Indian Limitation Act, 1877 (that is to say) :—

(a) when such suit is based on a written instrument registered under this Act or any law in force at the date of the execution of such instrument,—twelve years;

(b) in any other case,—six years :

Provided that nothing herein contained shall revive the right to bring any suit which would have been barred by limitation if it had been instituted immediately before this Act comes into force.

73. The decision of any Court of first instance that any person is or is not an agriculturist shall for the purposes of this Act be final.

Decision as to whether person is an agriculturist final.

74. Except in so far as it is inconsistent with this Act, the Code of Civil Procedure shall apply in all suits and proceedings before Subordinate Judges under this Act.

Civil Procedure Code to apply in Subordinate Judges' Courts.

75. The Local Government may, from time to time, make all such rules as it may deem necessary for carrying out the provisions herein contained.

Additional power to make rules.

76. All rules made by the Local Government under this Act shall be published in the official Gazette, and shall thereupon, in so far as they are consistent with this Act, have the force of law.

Rules to be published.

D. FITZPATRICK,  
Secy. to the Govt. 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 October, 1879, and was promulgated for general information in the *Gazette of India* on the 1st November 1879 :—

**Act No. XVIII. of 1879.**  
**THE LEGAL PRACTITIONERS**  
**ACT, 1879.**

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*An Act to consolidate and amend the law relating to Legal Practitioners.*

WHEREAS it is expedient to consolidate and amend the law relating to Legal Practitioners in the Lower Provinces of Bengal, the North-Western Provinces, the Panjáb, Oudh, the Central Provinces and Assam, and to empower each of the Local Governments of the rest of British India to extend to the territories administered by it such portions of this Act as such Government may think fit; It is hereby enacted as follows :—

**CHAPTER I.—Preliminary.**

1. This Act may be called "The Legal Practitioners Act, 1879": and shall come into force on the first day of January 1880.

Preamble. amend the law relating to  
Legal Practitioners in the  
Local extent. This section and section two extend to the whole of British India.

The rest of this Act extends, in the first instance, only to the territories respectively administered by the Lieutenant-Governors of the Lower Provinces of Bengal, the North-Western Provinces and the Panjáb, and the Chief Commissioners of Oudh, the Central Provinces and Assam. But any other Local Government may, from time to time, by notification in the official Gazette, extend all or any of the provisions of the rest of this Act to the whole or any part of the territories under its administration.

2. On and from the first day of January 1880, the enactments mentioned in the first schedule hereto annexed shall be repealed to the extent specified therein.

All rules and appointments made, penalties prescribed, fees fixed, persons admitted, names enrolled, certificates issued, sanctions given and orders passed under any enactment hereby repealed shall be deemed to be respectively made, prescribed, fixed, admitted, enrolled, issued, given and passed under this Act.

All references made to any enactment hereby repealed, in any Act or Regulation passed, or notification published, shall be read as if made to the corresponding provisions of this Act.

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

“Judge” means the presiding judicial officer in every civil and criminal Court, by whatever title he is designated :

“Subordinate Court” means all Courts subordinate to the High Court, including Courts of small causes established under Act No. IX of 1850 or Act No. XI of 1865 :

“Revenue-office” includes all Courts (other than civil Courts) trying suits under any Act for the time being in force relating to landholders and their tenants or agents :

“Legal practitioner” means an Advocate, Vakíl or Attorney of any High Court, a Pleader, Mukhtár or Revenue-agent.

#### CHAPTER II.—Of Advocates, Vakíls and Attorneys.

4. Every person now or hereafter entered as an Advocate or Vakíl on the roll of any High Court under the Letters Patent constituting such Court, or as an Advocate on the roll of the Chief Court of the Panjáb, shall be entitled to practise in all the Courts subordinate to the Court on the roll of which he is entered, and in all Revenue-offices situate within the local limits of the appellate jurisdiction of such Court, subject, nevertheless, to the rules in force relating to the language in which the Court or office is to be addressed by Pleaders or Revenue-agents ; and any person so entered who ordinarily practises in the Court on the roll of which he is entered or some Court subordinate thereto shall, notwithstanding anything herein contained, be entitled, as such, to practise in any Court in British India other than a High Court on whose roll he is not entered, or, with the permission of the Court, in any High Court on whose roll he is not entered, and in any Revenue-office :

Provided that no such Vakíl shall be entitled to practise under this section before a Judge of the High Court, Division Court or High Court exercising original jurisdiction in a Presidency-town.

5. Every person now or hereafter entered as an Attorney on the roll of any High Court shall be entitled to practise in all the Courts subordinate to such High Court and in all Revenue-offices situate within the local limits of the appellate jurisdiction of such High Court, and every person so entered who ordinarily practises in the Court on the roll of which he is so entered or some Court subordinate thereto shall, notwithstanding anything herein contained, be entitled, as such, to practise in any Court in British India other than a High Court established by Royal Charter on the roll of which he is not entered, and in any Revenue-office.

The High Court of the Province in which an Attorney practises under this section may, from time to time, make rules declaring what shall be deemed to be the functions, powers and duties of an Attorney so practising.

#### CHAPTER III.—Of Pleaders and Mukhtárs.

6. The High Court may, from time to time, make rules consistent with this Act as to the following matters (namely) :—

(a) the qualifications, admission and certificates of proper persons to be Pleaders of the subordinate Courts, and of the Revenue-offices situate within the local limits of its appellate jurisdiction, and, in the case of a High Court not established by Royal Charter, of such Court ;

(b) the qualifications, admission and certificates of proper persons to be Mukhtárs of the subordinate Courts, and, in the case of a High Court not established by Royal Charter, of such Court ;

(c) the fees to be paid for the examination and admission of such persons ; and

(d) the suspension and dismissal of such Pleaders and Mukhtárs.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law : Provided that in the case of rules made by a High Court not established by Royal Charter such rules have been previously approved by the Local Government.

7. On the admission, under section six, of any person as a Pleader or Mukhtár, the High Court shall cause a certificate, signed by such officer as the Court from time to time appoints in this behalf, to be issued to such person authorizing him to practise up to the end of the current year in the Courts, and, in the case of a Pleader, also the Revenue-offices specified therein.

At the expiration of such period, the holder of the certificate, if he desires to continue to practise, shall, subject to any rules consistent with this Act which may, from time to time, be made by the



High Court in this behalf, be entitled to have his certificate renewed by the Judge of the District Court within the local limits of whose jurisdiction he then ordinarily practises, or by such officer as the High Court, from time to time, appoints in this behalf.

On every such renewal, the certificate then in possession of such Pleader or Mukhtár shall be cancelled and retained by such Judge or officer.

Every certificate so renewed, shall be signed by such Judge or officer, and shall continue in force up to the end of the current year.

Every Judge or officer so renewing a certificate shall notify such renewal to the High Court.

8. Every Pleader holding a certificate issued under section seven may apply to be enrolled in any Court or Revenue-office mentioned therein

Pleaders on enrolment may practise in Courts and Revenue-offices.

and situate within the local limits of the appellate jurisdiction of the High Court by which he has been admitted; and, subject to such rules consistent with this Act as the High Court or the Chief Controlling Revenue authority may, from time to time, make, in this behalf, the presiding Judge or officer shall enrol him accordingly; and thereupon he may appear, plead and act in such Court or office and in any Court or Revenue-office subordinate thereto.

9. Every Mukhtár holding a certificate issued under section seven may apply to be enrolled in any civil or criminal

Mukhtárs on enrolment may practise in Courts.

Court mentioned therein and situate within the same limits; and, subject to such rules as the High Court may from time to time make in this behalf, the presiding Judge shall enrol him accordingly; and thereupon he may practise as a Mukhtár in any such civil Court and any Court subordinate thereto, and may (subject to the provisions of the Code of Criminal Procedure) appear, plead and act in any such criminal Court and any Court subordinate thereto.

10. Except as provided by this Act or any

No person to practise as Pleader or Mukhtár unless qualified.

other enactment for the time being in force, no person shall practise as a Pleader or Mukhtár in any Court not established by Royal Charter unless he holds a certificate issued under section seven and has been enrolled in such Court or in some Court to which it is subordinate:

Provided that persons who have been admitted

Revenue-agents may appear, plead and act in Munsifs' Courts in suits under Bengal Act VIII of 1869.

as Revenue-agents before the first day of January 1880, and hold certificates, as such, under this Act in the territories administered by the Lieutenant-Governor of Bengal may be enrolled in manner provided by section nine in any Munsif's Court in the said territories, and on being so enrolled may appear, plead and act in such Court in suits under Bengal Act No. VIII of 1869 (*to amend the procedure in suits between Landlord and Tenant*) or under any other Act for the time being in force regulating

the procedure in suits between landholders and their tenants and agents.

11. Notwithstanding anything contained in

Power to declare functions of Mukhtárs.

the Code of Civil Procedure, the High Court may, from time to time, make rules declaring what shall be deemed to be the functions, powers and duties of Mukhtárs practising in the subordinate Courts, and, in the case of a High Court not established by Royal Charter, in such Court.

12. The High Court may suspend or dismiss any Pleader or Mukhtár

Suspension and dismissal of Pleaders and Mukhtárs convicted of criminal offence.

holding a certificate issued under section seven who is convicted of any criminal offence implying a defect of character which unfits him to be a Pleader or Mukhtár, as the case may be.

Suspension and dismissal of Pleaders and Mukhtárs guilty of unprofessional conduct.

13. The High Court may also, after such enquiry as it thinks fit, suspend or dismiss

any Pleader holding a certificate as aforesaid who takes instructions in any case except from the party on whose behalf he is retained, or a private servant of such party, or some person who is the recognized agent of such party within the meaning of the Code of Civil Procedure, or

any Pleader or Mukhtár holding a certificate as aforesaid who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or for any other reasonable cause.

14. If any such Pleader or Mukhtár practising

Procedure when charge of unprofessional conduct is brought in subordinate Court or Revenue-office.

in any subordinate Court or in any Revenue-office is charged in such Court or office with taking instructions except as aforesaid or with any such misconduct as aforesaid, the presiding officer shall send him a copy of the charge and also a notice that, on a day to be therein appointed, such charge will be taken into consideration.

Such copy and notice shall be served upon the Pleader or Mukhtár at least fifteen days before the day so appointed.

On such day or on any subsequent day to which the enquiry may be adjourned, the presiding officer shall receive and record all evidence properly produced in support of the charge, or by the Pleader or Mukhtár, and shall proceed to adjudicate on the charge.

If such officer finds the charge established and considers that the Pleader or Mukhtár should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and shall report the same to the High Court; and the High Court may acquit, suspend or dismiss the Pleader or Mukhtár.

Any District Judge, or with his sanction any

Suspension pending investigation.

Judge subordinate to him, any District Magistrate, or with his sanction any Magistrate subordinate to him, and any Revenue

authority not inferior to a Collector, or with the Collector's sanction any Revenue-officer subordinate to him, may, pending the investigation and the orders of the High Court, suspend from practise any Pleader or Mukhtár charged before him or it under this section.

Every report made to the High Court under this section shall

(a) when made by any Civil Judge subordinate to the District Judge, be made through such Judge;

(b) when made by a Magistrate subordinate to the Magistrate of the District, be made through the Magistrate of the District and the Sessions Judge;

(c) when made by the Magistrate of the District, be made through the Sessions Judge;

(d) when made by any Revenue-officer subordinate to the Chief Controlling Revenue Authority, be made through such Revenue authorities as the Chief Controlling Revenue Authority may, from time to time, direct.

Every such report shall be accompanied by the opinion of each Judge, Magistrate or Revenue authority through whom or which it is made.

15. The High Court, in any case in which a Pleader or Mukhtár has been acquitted under section 14, may call for the record and pass such order thereon as it thinks fit.

16. Notwithstanding anything contained in any Letters Patent or in the Code of Civil Procedure, section 37, clause

(a), any High Court established by Royal Charter may, from time to time, make rules consistent with this Act as to the following matters (namely):—

(a) the qualifications and admission of proper persons to be Mukhtárs practising on the Appellate side of such Court;

(b) the fees to be paid for the examination and admission of such persons;

(c) the security which they may be required to give for their honesty and good conduct.

(d) the suspension and dismissal of such Mukhtárs; and

(e) declaring what shall be deemed to be their functions, powers and duties;

and may prescribe and impose fines for the infringement of such rules not exceeding in any case five hundred rupees; and such fines, when imposed, may be recovered as if they had been imposed in the exercise of the High Court's ordinary original criminal jurisdiction.

#### CHAPTER IV.—Of Revenue-agents.

17. The Chief Controlling Revenue Authority may, from time to time, make rules consistent with this Act as to the following matters (namely):—

(a) the qualifications, admission and certificates of proper persons to be Revenue-agents;

(b) the fees to be paid for the examination and admission of such persons;

(c) the suspension and dismissal of such Revenue-agents; and

(d) declaring what shall be deemed to be their functions, powers and duties.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

18. On the admission of any person as a Revenue-agent under section seventeen, the Chief Controlling Revenue Authority shall cause a certificate, signed by such officer as such authority from time to time appoints in this behalf, to be issued to such person, authorizing him to practise up to the end of the current year in such Revenue-offices as may be specified therein.

At the expiration of such period, the holder of the certificate, if he desires to continue to practise, shall be entitled to have his certificate renewed by the Secretary of the Chief Controlling Revenue Authority, or by any other officer authorized by such authority in that behalf.

On every such renewal, the certificate then in the possession of such Revenue-agent shall be cancelled and retained by such Secretary or other officer.

Every certificate so renewed shall be signed by such Secretary or other officer and shall continue in force to the end of the current year.

Every officer so renewing a certificate shall notify the renewal to the Chief Controlling Revenue Authority.

19. Every Revenue-agent holding a certificate issued under section eighteen may apply to be enrolled in any Revenue-office mentioned therein and situate within the limits of the territory under the Chief Controlling Revenue Authority; and, subject to such rules as the Chief Controlling Revenue Authority may, from time to time, make in this behalf, the officer presiding in such office shall enrol him accordingly, and thereupon he may practise as a Revenue-agent in such office and in any Revenue-office subordinate thereto.

20. Except as provided by this Act or any other enactment for the time being in force, no person, other than a Pleader duly qualified under the provisions hereinbefore contained, shall practise as a Revenue-agent in any Revenue-office, unless he holds a certificate issued under section eighteen and has been enrolled in such office or some other office to which it is subordinate:

Provided that any person duly authorized in this behalf may, with the sanction of the Chief Controlling Revenue Authority, or of an officer empowered by the Local Government in this behalf, transact all or any business in which his principal may be concerned in any Revenue-office.

The sanction mentioned in this section may be general or special, and may at any time be revoked or suspended by the Authority or officer granting the same.

21. The Chief Controlling Revenue Authority may suspend or dismiss any Revenue-agent holding a certificate issued under this Act who is convicted of any criminal offence implying a defect of character which unfits him to be a Revenue-agent.

22. The Chief Controlling Revenue Authority may also, after making such enquiry as it thinks fit, suspend or dismiss any Revenue-agent holding a certificate issued under this Act who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or for any other reasonable cause.

23. If any Revenue-agent holding a certificate issued under this Act is charged with any such conduct in any office subordinate to the Chief Controlling Revenue Authority, or in the Court of any Munsif, the officer at the head of such office, or such Munsif, as the case may be, shall send him a copy of the charge, and also a notice that, on a day to be therein appointed, such charge will be taken into consideration.

Such copy and notice shall be served upon the person charged at least fifteen days before the day so appointed. On such day or on any other day to which the enquiry may be adjourned, the officer or Munsif shall receive all evidence properly produced in support of the charge, or by the person charged, and shall proceed to adjudicate on the charge.

If the officer or Munsif finds the charge established, and considers that the person charged should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and report the same to the Chief Controlling Revenue authority; and such Authority shall proceed to acquit, suspend, or dismiss him.

Any Revenue officer not inferior to a Collector, and with the Collector's sanction, any Revenue-officer subordinate to him, or any Munsif in his district, may, pending the investigation and the orders of the Chief Controlling Revenue Authority suspend from practice any Revenue-agent charged before him under this section.

Where any officer acting under this section is subordinate to the Commissioner of a Division, he shall transmit the report through such Commissioner, who shall forward with the same an expression of his own opinion on the case.

24. The Chief Controlling Revenue authority, in any case in which a Revenue-agent has been acquitted under section twenty-three otherwise than by an order of the Chief Controlling Revenue

authority, may call for the record and pass such order thereon as seems fit.

#### CHAPTER V.—Of Certificates.

25. Every certificate, whether original or renewed, issued under this Act shall be written upon stamped paper of the value prescribed therefor in the second schedule hereto annexed:

Provided that a certificate issued on or after the first day of July in any year may be written on stamped paper of half the value so prescribed.

26. When any Pleader, Mukhtár or Revenue-agent is suspended or dismissed under this Act, he shall forthwith deliver up his certificate to the Court or officer at the head of the office before or in which he was practising at the time he was so suspended or dismissed, or to any Court or officer to which the High Court or Chief Controlling Revenue Authority (as the case may be) orders him to deliver the same.

#### CHAPTER VI.—Of the Remuneration of Pleaders, Mukhtárs and Revenue-agents.

27. The High Court shall, from time to time, fix and regulate the fees payable by any party in respect of the fees of his adversary's Advocate, Pleader, Vakíl, Mukhtár or Attorney upon all proceedings (a) on the Appellate Side of such Court, (b) in the case of a High Court not established by Royal Charter, on its Original Side, and (c) in subordinate Courts.

The Chief Controlling Revenue Authority shall, from time to time, fix and regulate the fees payable upon all proceedings in the Revenue-offices by any party in respect of the fees of his adversary's Advocate, Pleader, Vakíl, Attorney, Mukhtár or Revenue-agent.

Tables of the fees so fixed shall be published in the local official Gazette.

Nothing in this section applies to the Agents mentioned in the proviso to section twenty.

28. No agreement entered into by any Pleader, Mukhtár or Revenue-agent with any person retaining or employing him respecting the amount and manner of payment for the whole or any part of any past or future services, fees, charges, or disbursements in respect of business done or to be done by such Pleader, Mukhtár or Revenue-agent, shall be valid unless it is made in writing signed by such person, and is, within fifteen days from the day on which it is executed, filed in the District Court or in some Court in which some portion of the business in respect of which it has been executed has been or is to be done.

29. Where a suit is brought to enforce any such agreement, if the agreement is not proved to be fair and reasonable, the Court may reduce the amount payable thereunder or order it to be cancelled, and the costs, fees, charges and disbursements, in respect of the

business done to be ascertained in the same manner as if no such agreement had been made.

30. Such an agreement shall exclude any further claim of the Pleader, Mukhtár or Revenue-agent beyond the terms of the agreement with respect to any services, fees, charges or disbursements in relation to the conduct and completion of the business in respect of which the agreement is made, except such services, fees, charges or disbursements, if any, as are expressly excepted by the agreement.

31. A provision in any such agreement that the Pleader, Mukhtár or Revenue-agent shall not be liable for negligence or that he shall be relieved from any responsibility to which he would otherwise be subject as such Pleader, Mukhtár or Revenue-agent, shall be wholly void.

#### CHAPTER VII.—Penalties.

32. Any person who practises in any Court or Revenue-office in contravention of the provisions of section ten or section twenty shall be liable, by order of such Court or the officer at the head of such office, to a fine not exceeding ten times the amount of the stamp required by this Act for a certificate authorizing him so to practise in such Court or office, and, in default of payment, to imprisonment in the civil jail for a term which may extend to six months.

He shall also be incapable of maintaining any suit for, or enforcing any lien with respect to, any fee or reward for, or with respect to, anything done or any disbursement made by him as Pleader, Mukhtár or Revenue-agent whilst he has been contravening the provisions of either of such sections.

33. Any Pleader, Mukhtár or Revenue-agent failing to deliver up his certificate as required by section twenty-six shall be liable, by order of the Court, Authority or officer to which or to whom, or according to whose orders the delivery should be made, to a fine not exceeding two hundred rupees, and, in default of payment, to imprisonment in the civil jail for a term which may extend to three months.

34. Any Pleader, Mukhtár or Revenue-agent who, under the provisions of this Act, has been suspended or dismissed, and who, during such suspension or after such dismissal, practises as a Pleader, Mukhtár or Revenue-agent in any Court or Revenue-office, shall be liable by order of such Court or the officer at the head of such office, to a fine not exceeding five hundred rupees and, in default of payment, to imprisonment in the civil jail for a term which may extend to six months.

35. Every order under section thirty-two, thirty-three or thirty-four shall be subject to revision of fines.

sion by the High Court where the order has been passed by a subordinate Court, and by the Chief Controlling Revenue authority where the order has been passed by an officer subordinate to such Authority.

Penalty for receiving or giving commission.

36. Whoever commits any of the following offences:—

(a) solicits or receives from any legal practitioner any gratification in consideration of procuring or having procured his employment in any legal business;

(b) retains any gratification out of remuneration paid or delivered or agreed to be paid or delivered to any legal practitioner for such employment;

(c) being a legal practitioner, tenders, gives or consents to the retention of any gratification for procuring or having procured the employment in any legal business of himself or any other legal practitioner,

shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

#### CHAPTER VIII.—Miscellaneous.

37. To facilitate the ascertainment of the qualifications mentioned in sections six and seventeen respectively, the Local Government shall, from time to time, appoint persons to be examined for the purposes aforesaid, and may, from time to time, make regulations for conducting such examinations.

38. Except as provided by sections four, five, six, seven, ten, twenty-seven, thirty-two and thirty-six, nothing in this Act applies to Advocates, Vakils and Attorneys admitted and enrolled by any High Court under the Letters Patent by which such Court is constituted, or to Mukhtárs practising in such Court, or to Advocates enrolled by the Chief Court of the Panjáb.

39. When any person who holds a certificate as a Mukhtár under section seven and a certificate as a Revenue-agent under section eighteen is suspended or dismissed in one of such capacities, he shall be deemed to be suspended or dismissed, as the case may be, also in the other.

40. Notwithstanding anything hereinbefore contained, no Pleader, Mukhtár or Revenue-agent shall be suspended or dismissed under this Act unless he has been allowed an opportunity of defending himself before the authority suspending or dismissing him.

41. In the Panjab Courts Act, 1877, after section forty-one, the following shall be inserted (that is to say):—

“42. The Chief Court may, from time to time, with the previous sanction of the Local Govern-

ment, make rules as to the qualifications and admission of proper persons to be Advocates of such Court.

Subject to such rules, the Chief Court may admit and enrol such and so many Advocates as it thinks fit; and such Advocates shall be entitled to appear for the suitors of such Court, and to plead or to act, or to plead and act, for such suitors according as such Court may by its rules determine, and subject to such rules.

The Chief Court may dismiss any Advocate so enrolled or suspend him from practice :

Provided that no such Advocate shall be dismissed or suspended under this section unless he has been allowed an opportunity of defending himself before the Chief Court."

### FIRST SCHEDULE.

#### ENACTMENTS REPEALED.

(See section 2.)

Number and date of enactments.	Title.	Extent of repeal.
Act XX of 1865...	To amend the law relating to Pleaders and Mukhtárs.	The whole.
Act XXIX of 1865	To amend the Pleaders, Mukhtárs and Revenue-agents Act, 1865.	So much as has not been repealed.
Act IX of 1866...	To extend to the Sudder Court of the North-Western Provinces certain provisions of "The Pleaders, Mukhtárs and Revenue-agents Act, 1865," and of Act No. XXIX of 1865.	The whole.
Act IV of 1876 ...	To authorize Revenue-agents to practise in certain suits in the Munsifs' Courts of the Lower Provinces of Bengal.	The whole.
Act XVII of 1877	The Panjáb Courts Act, 1877.	Sections forty-two, forty-three, forty-four and forty-five.

### SECOND SCHEDULE.

#### VALUE OF STAMPS FOR CERTIFICATES.

(See section 25.)

#### I.

For a certificate authorizing the holder to practise as a Pleader—

(a) In the High Court and any subordinate Court—rupees fifty :

(b) In any Court of Small Causes in a Presidency-town—rupees twenty-five :

(c) In all other subordinate Courts—rupees twenty-five :

(d) In the Courts of Subordinate Judges Munsifs, Assistant Commissioners, Extra Assistant Commissioners and Tahsildárs, in Courts of Small Causes outside the Presidency-towns and in all Criminal Courts subordinate to the High Court—rupees fifteen :

(e) In the Courts of Munsifs and any Civil or Criminal Court of first instance not hereinbefore specifically mentioned—rupees five.

#### II.

For a certificate authorizing the holder to practise as a Mukhtár—

(f) In the High Court and any subordinate Court—rupees twenty-five :

(g) In any Court of Small Causes in a Presidency-town—rupees fifteen :

(h) In all other subordinate Courts—rupees fifteen :

(i) In the Courts of Subordinate Judges, Munsifs, Assistant Commissioners, Extra Assistant Commissioners and Tahsildárs, in Courts of Small Causes outside the Presidency-towns—and in all Criminal Courts subordinate to the High Court—rupees ten :

(j) In the Courts of Munsifs and any Civil or Criminal Court of first instance not hereinbefore specifically mentioned—rupees five.

#### III.

For a certificate authorizing the holder to practise as a Revenue-agent—

(k) In the office of the Chief Controlling Revenue Authority and in any Revenue-office subordinate to such Authority—rupees fifteen :

(l) In the office of a Commissioner and in any Revenue-office subordinate to a Commissioner—rupees ten :

(m) In the office of a Collector and in any Revenue-office subordinate to a Collector—rupees five.

D. FITZPATRICK,

Secy. to the Govt. of India,  
Legislative Department.

[Published with the ~~GOA~~ Bombay Government Gazette" on the 20th November 1879.]

## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 29th October 1879, and was promulgated for general information in the *Gazette of India* on the 1st November 1879:—

Act No. XVII of 1879.

#### THE DEKKHAN AGRICULTURISTS RELIEF ACT, 1879.

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*An Act for the Relief of Indebted Agriculturists in certain parts of the Dekkhan.*

WHEREAS it is expedient to relieve the agricultural classes in certain parts of the Dekkhan from indebtedness ; It is hereby enacted as follows :—

## CHAPTER I.

## PRELIMINARY.

1. This Act may be cited as "The Dekkhan Agriculturists Relief Act, 1879":

and it shall come into force on the first day of November, 1879.

Sections eleven, fifty-six, sixty and sixty-two extend to the whole of British India. The rest of this Act extends only to the districts of Puna, Satára, Sholapur and Ahmadnagar.

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

(1) "money" includes agricultural produce, implements and stock :

(2) "agriculturist" means a person who earns his livelihood wholly or principally by agriculture carried on within the limits of the said districts ; and every agriculturist shall be deemed to "reside" where he so earns his livelihood.

## CHAPTER II.

## OF THE HEARING OF CERTAIN SUITS BY SUBORDINATE JUDGES.

Application of this chapter, 3. The provisions of this chapter shall apply to—

(a) suits for an account instituted on or after the first day of November, 1879, by an agriculturist in the Court of a Subordinate Judge under the provisions hereinafter contained, and

(b) suits of the descriptions next hereinafter mentioned and instituted on or after the same date—

(1) when such suits are heard by Subordinate Judges of the first class and the subject-matter thereof does not exceed in amount or value five hundred rupees, or

(2) when such suits are heard by Subordinate Judges of the second class and the subject-matter thereof does not exceed in amount or value one hundred rupees, or

(3) when such suits are heard by Subordinate Judges of the second class and the subject-matter thereof exceeds one hundred rupees, but does not exceed five hundred rupees, in amount or value, and the parties to the suits agree that such provisions shall apply thereto.

The descriptions of suits referred to in clause (b) are the following (namely) :—

(w) suits for the recovery of money alleged to be due to the plaintiff—

on account of money lent or advanced to, or paid for, the defendant, or

as the price of goods sold, or

on an account stated between the plaintiff and defendant, or

on a written or unwritten engagement for the payment of money not heretofore provided for ;

(x) suits for the recovery of money due on contracts other than the above and suits for rent or for moveable property, or for the value of such property, or for damages ; and

(y) suits for foreclosure or for the possession of mortgaged property, or for sale of such property, or foreclosure or sale, when the defendant, or any one of the defendants not being merely a surety for the principal debtor, is an agriculturist ; and

(z) suits for the redemption of mortgaged property when the plaintiff, or, where there are several plaintiffs, any one of the plaintiffs, is an agriculturist.

4. Where a Subordinate Judge of the first class and a Subordinate Judge of the second class have ordinary jurisdiction in the same local area, every suit referred to in section three, clause (b), and instituted in such local area shall, if the amount or value of the subject-matter of such suit exceeds one hundred rupees and does not exceed five hundred rupees, be instituted in the Court of the Subordinate Judge of the first class.

5. Notwithstanding anything contained in the Bombay Civil Courts Act, 1869, section 28, no Subordinate Judge shall be invested with the jurisdiction of a Judge of a Court of Small Causes ; and any such jurisdiction heretofore conferred on any Subordinate Judge shall be deemed, except as regards suits instituted before the said first day of November, 1879, to have been withdrawn.

6. The Local Government may, from time to time, by notification in the local Gazette, direct that any class of suits which a Subordinate Judge would be precluded from hearing by section 12 of Act XI of 1865 (to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature) shall be heard and determined by him and not otherwise, and may, by a like notification, cancel any such direction.

7. In every case in which it seems to the Court possible to dispose of a suit at the first hearing, the summons shall be for the final disposal of the suit.

In every suit the Court shall examine the defendant as a witness unless, for reasons to be recorded by it in writing, it deems it unnecessary so to do.

8. In suits of the descriptions mentioned in section three, clauses (w) and (x), no party shall be entitled without the permission of the Court to file a written statement.

9. When the subject-matter of any suit does not exceed ten rupees in amount or value, it shall not be necessary to take down the evidence or make a memorandum thereof in manner provided by the Code of Civil Procedure ; but in cases where the evidence is not so taken down and no memorandum is so made, the substance of the evidence shall be stated in the judgment.

10. No appeal shall lie from any decree or order passed in any suit to which this chapter applies.

## CHAPTER III.

## OF SUITS AND OTHER PROCEEDINGS TO WHICH AGRICULTURISTS ARE PARTIES.

11. Every suit of the description mentioned in section three, clause (w), may, if the defendant, or, when there are several defendants, one only of such defendants, is an agriculturist, be instituted and tried in a Court within the local limits of whose jurisdiction such defendant resides and not elsewhere.

Every such suit in which there are several defendants who are agriculturists may be instituted and tried in a Court within the local limits of whose jurisdiction any one of such defendants resides and not elsewhere.



Nothing herein contained shall affect sections 22 to 25 (both inclusive) of the Code of Civil Procedure.

12. In any suit of the description mentioned in section three, clause (w) in which the defendant or any one of the defendants, not being merely a surety of the principal debtor, is an agriculturist,

and in any suit of the descriptions mentioned in section three, clause (y) or clause (z),

the Court shall, if the amount of the creditor's claim is disputed, enquire into the history and merits of the case, from the commencement of the transactions between the parties and the persons (if any) through whom they claim out of which the suit has arisen, first, with a view to ascertaining whether there is any defence to the suit on the ground of fraud, mistake, accident, undue influence or otherwise, and secondly, with a view to taking an account between such parties in manner hereinafter provided.

When the amount of the claim is admitted and the Court for reasons to be recorded by it in writing believes that such admission is true and is made by the debtor with a full knowledge of his legal rights as against the creditor, the Court shall not be bound so to enquire, but may do so if it thinks fit.

In other cases in which the amount of the claim is admitted the Court shall be bound to enquire as aforesaid.

Section IX, clause first, of Bombay Regulation V of 1827 is repealed so far as regards any suit to which this section applies.

Nothing herein contained shall affect the right of the parties to require that any matter in difference between them be referred to arbitration.

13. When the Court enquires into the history and merits of a case under section twelve, it shall—

notwithstanding any agreement between the parties or the persons (if any) through whom they claim as to allowing compound interest or setting off the profits of mortgaged property without an account in lieu of interest or otherwise determining the manner of taking the account,

and notwithstanding any statement or settlement of account or any contract purporting to close previous dealings and create a new obligation,

open the account between the parties from the commencement of the transactions and take that account according to the following rules (that is to say) :—

(a) separate accounts of principal and interest shall be taken :

(b) in the account of principal there shall be debited to the debtor such money as may from time to time have been actually received by him or on his account from the creditor and the price of goods, if any, sold to him by the creditor as part of the transactions ;

(c) in the account of principal there shall not be debited to the debtor any money which he may have agreed to pay in contravention of section 257A of the Code of Civil Procedure :

(d) in the account of principal there shall not be debited to the debtor any accumulated interest which has been converted into principal at any statement or settlement of account or by any contract made in the course of the transactions, unless the Court, for reasons to be recorded by it in writing, deemed such debit to be reasonable :

(e) in the account of interest there shall be debited to the debtor monthly simple interest on the balance of principal for the time being outstanding at the rate allowed by the Court as hereinafter provided :

(f) all money paid by or on account of the debtor to the creditor or on his account, and all profits, service or other advantages of every description, received by the creditor in the course of the transactions (estimated, if necessary, at such money value as the Court in its discretion, or with the aid of arbitrators appointed by it, may determine) shall be credited first in the account of interest ; and when any payment is more than sufficient to discharge the balance of interest due at the time it is made, the residue of such payment shall be credited to the debtor in the account of principal :

(g) the accounts of principal and interest shall be made up to the date of instituting the suit, and the aggregate of the balances (if any) appearing due on both such accounts against the debtor on that date shall be deemed to be the amount due at that date except when the balance appearing due on the interest account exceeds that appearing due on the principal account, in which case double the latter balance shall be deemed to be the amount then due.

14. The interest to be awarded in taking an account according to the rules set forth in section thirteen shall be—

(a) the rate, if any, agreed upon between the parties, or the persons (if any) through whom they claim, unless such rate is deemed by the Court to be unreasonable ; or

(b) if such rate is deemed by the Court unreasonable, or if no rate was agreed upon, or when any agreement between the parties, or the persons (if any) through whom they claim, to set-off profits without an account in lieu of interest has been set aside by the Court, such rate as the Court deems reasonable.

15. Instead of enquiring into the history and merits of a case under section twelve, or if upon so enquiring the Court is unable to satisfy itself as to the amount which should be allowed on account of principal or interest or both, the Court may, of its own motion, direct that such amount be ascertained by arbitration.

If the parties are willing to nominate arbitrators, the arbitrators shall be nominated by them in such manner as may be agreed upon between them : if the parties are unwilling to nominate arbitrators or cannot agree in respect of such nomination, the Court shall appoint any three persons it thinks fit :

Provided that if all the parties reside in the same village, town or city, and, in the opinion of the Court, three fit persons can be found among the residents of such village, town or city, it shall appoint residents of such village, town or city.

The provisions of sections 508 to 522 (both inclusive) of the Code of Civil Procedure shall apply to every reference to arbitration under this section.

16. Any agriculturist may sue for an account of money lent or advanced to or paid for him by a creditor or due by him to the creditor as the price of goods sold or on a written or unwritten engagement for the payment of money and of money paid by him to the creditor, and for a decree declaring the amount, if any, still payable by him to the creditor.

When any such suit is brought, the amount (if any) payable by the plaintiff shall be determined under the same rules as would be applicable under this Act if the creditor had him sued for recovery of the debt.

17. A decree passed under section sixteen may, besides declaring the amount due, direct that such amount shall be paid by instalments, with or without interest; and, when any such decree so directs, the plaintiff may pay the amount of such decree, or the amount of each instalment fixed by such decree, as it falls due, into court, in default whereof execution of the decree may be enforced by the defendant in the same manner as if he had obtained the decree in a suit to recover the debt.

18. The plaintiff in any suit instituted under section sixteen may at any stage of such suit deposit in court such sum of money as he considers a satisfaction in full of the defendant's claim against him.

Notice of the deposit shall be given by the Court to the defendant, and the amount of the deposit shall (unless the Court otherwise directs) be paid to the defendant on his application.

No interest shall be allowed to the defendant on any sum so deposited from the date of the receipt of such notice, whether the sum deposited be in full of the claim or fall short thereof.

19. When a decree has been passed, whether before or after this Act comes into force, under which any sum less than fifty rupees is recoverable from an agriculturist, the Court may, either in the course of execution of such decree or otherwise, if it is satisfied that there is no other claim against him and that he is unable to pay the whole of such sum, direct the payment of such portion of the same, as it considers him able to pay, and grant him a discharge from the balance.

When the sum payable under the decree amounts to fifty rupees or upwards, or when there are other debts due by the debtor which together with such sum amount to fifty rupees or upwards, the Court may direct proceedings to be taken with respect to him as nearly as may be as if he had applied to be declared an insolvent under the provisions hereinafter contained.

20. The Court may at any time direct that the amount of any decree passed, whether before or after this Act comes into force, against an agriculturist or the portion of the same which it directs under section nineteen to be paid, shall be paid by instalments with or without interest.

21. No agriculturist shall be arrested or imprisoned in execution of a decree for money.

22. No agriculturist's immoveable property shall be attached or sold in execution of any decree or order unless it has been specifically mortgaged for the repayment of the debt to which such decree or order relates, and the security still subsists.

But the Court may, when passing a decree against an agriculturist or at any subsequent time, direct the Collector to take possession, for any period not exceeding seven years, of any such property of the judgment-debtor to the possession of which he is entitled, and which, in the opinion of the Collector, is not required for his support and the support of the members of his family dependent on him, and the Collector shall thereupon take possession of such property and deal with the same for the benefit of the decree-holder in manner provided by section twenty-nine.

The provisions of section thirty-one shall *mutatis mutandis* apply to any property so dealt with.

23. No provision of this chapter shall apply to the proceedings in the Courts of Village-Munsifs unless such provision has been specially extended thereto under the power hereinafter conferred.

#### CHAPTER IV.

##### OF INSOLVENCY.

24. Every Subordinate Judge shall have the powers conferred by sections 344 to 359 (both inclusive) of the Code of Civil Procedure, as modified by the provisions next hereinafter contained, for the purpose of dealing with applications under the Code of Civil Procedure or under this Act to have agriculturists residing within the local limits of his ordinary jurisdiction declared insolvent and proceedings taken under orders passed under the second clause of section nineteen; and, except as provided in chapter VII of

this Act, no such application or proceeding shall be dealt with by any other Court.

25. Any agriculturist whose debts (if any) amount to fifty rupees or upwards may apply to any Subordinate Judge within the local limits of whose ordinary jurisdiction he resides to be declared an insolvent, though he has not been arrested or imprisoned, and though no order of attachment has issued against his property, in execution of a decree.

*Agriculturist may apply for adjudication in cases not provided for by Code.*

26. Notwithstanding anything contained in section 351 of the Code of Civil Procedure, the Court shall declare an agriculturist an insolvent if it is satisfied that he is in insolvent circumstances, and that the application to have him declared an insolvent has been properly made under section 344 of the said Code or section twenty-five of this Act.

*Modification of section 351 of the Code.*

27. No person other than the Nazir of the Receiver. Court shall be appointed as receiver, and no receiver shall be entitled to commission.

28. In determining under section 352 of the said Code the amount of any claim of the nature referred to in section twelve of this Act due by an insolvent agriculturist, the Court shall proceed in the manner prescribed by sections twelve to fifteen of this Act, both inclusive.

*Proof of debts.*

29. No immoveable property of the insolvent shall vest in the receiver; but the Court may direct the Collector to take into his possession, for any period not exceeding seven years from the date on which the receiver has been appointed, any immoveable property to the possession of which the insolvent is entitled, and which, in the opinion of the Collector, is not required for the support of the insolvent and the members of his family dependent on him, and, subject to any rules the Local Government may from time to time make in this behalf, to manage the same for the benefit of the creditors, by letting it on lease or otherwise:

*Immoveable property not to vest in receiver, but may be managed for benefit of creditors.*

Provided that if the insolvent or his representative in interest at any time pays into court the balance of the scheduled debts then unpaid, he shall, subject to any rights created in favour of other persons by the Collector, be entitled to recover possession of such property.

A Collector managing property under this section shall during the management have all the powers which the owner might as such have legally exercised, and shall receive and recover all rents and profits of such property, and for the purpose of recovering such rents and profits shall have, in addition to any powers possessed by an owner, all powers possessed by a Collector for securing and recovering the land-revenue due to Government except the powers mentioned in the Bombay Land-Revenue Code, 1879, section 150, clauses (b), (d) and (e).

Nothing in this section shall authorize the Court to direct the Collector to take into his possession any houses or other buildings belonging to and occupied by an agriculturist.

30. When any scheduled debt is secured by a mortgage of any portion of the insolvent's immoveable property, the Court may direct the Collector, if he can obtain a premium equal to the amount of such debt by letting such property for a term not exceeding twenty years, to let such property, and, if he cannot so obtain such premium, to sell such property under section 325 of the Code of Civil Procedure.

*Secured debts.*

Where property is let under this section, the premium shall be applied to the payment of the debt, and the rent, if any, shall for a period of seven years from the date of such letting be paid to the receiver and thereafter to the insolvent or his representative in interest.

When property is sold under this section, the sale proceeds shall be applied, first, to the payment of the debt; and the balance, if any, shall be paid to the receiver.

31. So long as any management under section twenty-nine or letting under section thirty continues, the insolvent and his representative in interest shall be incompetent to mortgage, charge, lease or alienate the property managed or let or any part thereof.

*Insolvent incompetent to sell, &c., property dealt with under sections 29 and 30.*

32. When the balance available for distribution among the scheduled creditors under section 356 of the said Code has been distributed, the claims of such creditors shall be deemed to have been discharged, except as regards the right to share in the profits of any property managed by the Collector under section twenty-nine or let by him under section thirty.

*Scheduled debts discharged.*

33. No appeal shall lie from any order passed under this chapter except orders passed in exercise of the power conferred by section 359 of the Code of Civil Procedure.

*Appeals barred.*

## CHAPTER V.

### OF VILLAGE-MUNSIFS.

34. The Local Government may from time to time appoint any Patel of a village or any other person possessing local influence in a village to be a Village-Munsif for such village or for such village and for any other villages, the sites of which are situate in the same district not more than two miles from the site of such village, and may cancel any such appointment.

*Appointment of Village-Munsifs.*

35. Every Village-Munsif so appointed shall take cognizance of suits of the description mentioned in section three, clause (w), when the subject-matter thereof does not exceed ten rupees in amount or value, and all the defendants at the time of the commencement of the suit actually

*Suits triable by them.*

and voluntarily reside or carry on business or personally work for gain within the local area of which such Village-Munsif is appointed.

Notwithstanding anything hereinbefore contained, a suit cognizable by a Village-Munsif shall not be heard by any other Court:

Provided that the District Judge may, from time to time, transfer any suit instituted before a Village-Munsif to his own Court or any other Civil Court in the district for trial:

Provided also that no Village-Munsif shall try any suit to or in which he is a party or is personally interested, or shall adjudicate upon any proceeding connected with or arising out of such suit.

36. The District Judge may on a petition being presented within thirty days from the date of any decree or order of a Village-Munsif by any party deeming himself aggrieved by such decree or order, set aside such decree or order on the ground of corruption, gross partiality or misconduct of the Village-Munsif and pass such other decree or order as he thinks fit.

Except as provided in this Act and in section 622 of the Code of Civil Procedure, every decree and order of a Village-Munsif shall be final.

37. The Local Government may, from time to time, by notification in the official Gazette, make rules consistent with this Act for regulating the procedure of Village-Munsifs and for conferring on them or any of them all or any of the powers for the trial of suits or the execution of decrees exercised by a Civil Court under the Code of Civil Procedure or any other enactment for the time being in force.

## CHAPTER VI.

### OF CONCILIATION.

38. The Local Government may from time to time appoint any person other than an officer of police to be a Conciliator and may cancel any such appointment.

Every Conciliator appointed under this section shall be appointed only for a term not exceeding three years, but may on the expiration of the period for which he has been appointed be again appointed for a further term not exceeding three years.

Every Conciliator so appointed shall exercise his functions under this Act in respect of matters affecting agriculturists residing within such local area as the Local Government may, from time to time, prescribe.

39. When any dispute arises as to, or there is a prospect of litigation regarding, any matter within the cognizance of a Civil Court between two or more parties, one of whom is an agriculturist residing within any

local area for which a Conciliator has been appointed, or when application for execution of any decree in any suit to which any such agriculturist is a party, and which was passed before the date on which this Act comes into force is contemplated, any of the parties may apply to such Conciliator to effect an amicable settlement between them.

40. If the application be made by one of the parties only, the Conciliator shall take down, or cause to be taken down, in writing a concise statement of the applicant's case, and shall thereupon, by summons or by such other means as he deems fit, invite the person against whom such application is made to attend before him at a time and place to be fixed for this purpose, and shall direct the applicant also to be present at such time and place.

If the said person fails to appear at the time first fixed, the Conciliator may, if he thinks fit, from time to time extend the period for his appearance.

41. Whenever all the parties are present, the Conciliator shall call upon each in turn to explain his case regarding the matter in question, and shall use his best endeavours to induce them to agree to an amicable settlement or to submit such matter to arbitration.

42. The Conciliator shall hear but shall not record the statement of any witness and shall peruse any book of account or other document produced by the parties, or so much thereof as may be necessary, and, if any party or witness consents in writing to affirm any statement upon oath in any form not repugnant to justice or decency and not purporting to affect any third person, shall provide for such oath being duly taken in the presence of all the parties.

43. If on the day on which the case is first heard by the Conciliator or on any subsequent day to which he may adjourn the hearing, the parties come to any agreement, either finally disposing of the matter or for referring it to arbitration, such agreement shall be forthwith reduced to writing, and shall be read and explained to the parties, and shall be signed or otherwise authenticated by the Conciliator and the parties respectively.

*Explanation.*—A Conciliator may be appointed arbitrator under this section.

44. When the agreement is one finally disposing of the matter, the Conciliator shall forward the same in original to the Court of the Subordinate Judge of lowest grade having jurisdiction in the place where the agriculturist who is a party thereto resides;

and shall at the same time deliver to each of the parties a written notice to show cause before such Judge, within one month from the date of such delivery, why such agreement ought not to be filed in such Court.

The Court which receives the agreement shall after the expiry of the said period of one month, unless cause has been shown as aforesaid, order such agreement to be filed; and it shall then take effect as if it were a decree of the said Court passed on the day on which it is ordered to be filed and from which no appeal lies.

45. When the agreement is one for referring the matter to arbitration, the Conciliator shall forward it to the Court having jurisdiction in the matter, and such Court shall cause it to be filed and proceed thereon in manner provided by sections 523 and 524 of the Code of Civil Procedure.

46. If the person against whom any application is made before a Conciliator cannot after reasonable search be found, or if he refuses or neglects, after a reasonable period has been allowed for his appearance, to appear before the Conciliator, or if he appears but the endeavour to induce the parties to agree to an amicable settlement or to submit the matter in question to arbitration fails, the Conciliator shall, on demand, give to the applicant, or when there are several applicants to each applicant, a certificate under his hand to that effect.

47. No suit and no application for execution of a decree passed before the date on which this Act comes into force to which any agriculturist residing within any local area for which a Conciliator has been appointed is a party shall be entertained by any Civil Court, unless the plaintiff produces such certificate as aforesaid in reference thereto.

48. In computing the period of limitation prescribed for any such suit the time intervening between the application made by the plaintiff under section thirty-nine and the grant of the certificate under section forty-six shall be excluded.

49. The Local Government may from time to time make rules—

(a) regulating the procedure before Conciliators in matters not provided for by this Act; -

(b) fixing the charges to be made by Conciliators for anything done by them under this chapter; and

(c) determining what record and accounts shall be kept by Conciliators and what returns shall be framed and furnished by them.

## CHAPTER VII.

### SUPERINTENDENCE AND REVISION.

50. The District Judge shall inspect, supervise and control the proceedings, under chapter II and chapter IV of this Act, of all Subordinate Judges and the proceedings of all Village-Munsifs and Conciliators.

51. The District Judge may—

(a) transfer to his own file, any suit or other matter pending before the Court of any Subordinate Judge under chapter II or chapter IV of this Act, and may dispose of the same as if he were a Subordinate Judge; or

(b) stay the proceedings in any such suit or matter, and sit together with such Judge as a Bench to dispose of such suit or matter in accordance with the provisions of this Act.

If the members of any Bench sitting under this section differ in opinion, the opinion of the District Judge shall prevail.

52. The Local Government shall appoint an Assistant or Subordinate Judge to inspect and supervise, subject to the control of the District Judge, the proceedings of all Subordinate Judges, under chapter II and chapter IV of this Act, and of all Village-Munsifs and Conciliators in each of the said districts of Poona, Sátára, Sholápur and Ahmednagar:

Provided that, if the local Government thinks fit, the same Assistant or Subordinate Judge may be so appointed for two or more such districts.

Any Assistant or Subordinate Judge appointed under this section may in any district for which he is so appointed, if the District Judge so directs, exercise the powers of the District Judge under section fifty-one of this Act, and transfer any suit under section twenty-five of the Code of Civil Procedure.

53. The District Judge may, for the purpose of satisfying himself of the legality or propriety of any decree or order passed by a Subordinate Judge in any suit or other matter under chapter II or chapter IV of this Act, and as to the regularity of the proceedings therein, call for and examine the record of such suit or matter, and pass such decree or order thereon as he thinks fit;

and any Assistant Judge or Subordinate Judge appointed by the Local Government under section fifty-two may similarly, in any district for which he is appointed, call for and examine the record of any such suit or matter, and if he see cause therefor, may refer the same, with his remarks thereon, to the District Judge and the District Judge may pass such decree or order on the case as he thinks fit:

Provided that no decree or order shall be reversed or altered for any error or defect, or otherwise, unless a failure of justice appears to have taken place.

54. The Local Government may, and if the Government of India so direct, shall appoint an officer, as Special Judge, to discharge in the place of the District Judge all the functions of the District Judge under this Act, in respect of the proceedings of all Subordinate Judges, Village-Munsifs and Conciliators, and may cancel any such appointment.

Such Special Judge shall not, without the previous sanction of the Government of India, discharge any public function, except those which he is empowered by this Act to discharge.

If any conflict of authority arises between the Special Judge and the District Judge the High Court shall pass such order thereon consistent with this Act as it thinks fit.

No appeal shall lie from any decree or order passed by the District Judge under this chapter, or by the Special Judge, or by an Assistant or Subordinate Judge appointed under section fifty-two, or by a Bench, in any suit or proceeding under this Act.

## CHAPTER VIII.

### REGISTRATION BY VILLAGE-REGISTRARS.

55. The Local Government may, from time to time,—

(a) appoint such persons as it thinks fit, whether public officers or not, to be Village-Registrars, for such local areas as it may from time to time prescribe ;

(b) direct that the Village-Registrar for any local area to discharge the functions of a Village-Registrar for any other local areas concurrently with the Village-Registrars of such other local areas ; and

(c) delegate to any person by name or in virtue of his office the powers conferred on it by this section ; and may cancel any such appointment, direction, or delegation.

56. No instrument which purports to create, modify, transfer, evidence or extinguish an obligation for the payment of money or a charge upon any property, or to be a conveyance or lease, and which is executed after this Act comes into force by an agriculturist residing in any local area for which a Village-Registrar has been appointed, shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence, or shall be acted upon by any such person or by any public officer unless such instrument is written by, or under the superintendence of, and is attested by a Village-Registrar :

Provided that nothing herein contained shall prevent the admission of any instrument in evidence in any criminal proceeding.

57. When any persons, one of whom is an agriculturist residing in any such local area, desire to execute any such instrument, they shall present themselves before the Village-Registrar appointed by the Local Government for the area in which such agriculturist, or, when there are several such agriculturists, any one of such agriculturists, resides, and such Registrar, after satisfying himself in such manner as he deems fit as to the identity of the parties and

receiving from them the fee (if any) prescribed by the Local Government in this behalf and the stamp (if any) which may be required by law, shall write the instrument, or cause the same to be written under his superintendence, and after reading the same aloud or causing it to be so read in the hearing of the parties shall require them to execute it in his presence.

Every instrument so written and executed shall at the time of execution be attested by the Village-Registrar, and also, if any of the parties thereto is unable to read such instrument, by two respectable witnesses.

58. Every Village-Registrar shall keep a register of instruments executed before him in such form as shall, from time to time, be prescribed by the Inspector-General of Registration.

As soon as all the parties to any instrument have executed it before a Village-Registrar, he shall make a copy of it or cause a copy of it to be made in his register, and shall deliver the original instrument to the party entitled to the custody of the same, and a certified copy thereof to the other party, or to each of the other parties if there be more than one.

Previous to delivery, the original instrument and each such copy shall be endorsed under the Village-Registrar's signature with the date of registration, the name and residence of the Village-Registrar and the volume and page of the register in which the instrument has been registered.

59. In every instrument written by or under the superintendence of the Village-Registrar, the amount and nature of the consideration, if any, shall be fully stated.

The Village-Registrar shall also endorse upon the instrument a note under his hand, recording whether or not the transfer of the consideration stated therein, or of any part thereof, took place in his presence.

If the instrument modifies, or wholly or partly supersedes, a previous instrument, such previous instrument shall be produced before the Village-Registrar and shall be fully described in the instrument to be executed, and shall be marked by the Village-Registrar under his hand for identification.

60. Every instrument executed and registered in accordance with the foregoing provisions shall be deemed to have been duly registered under the provisions of the Indian Registration Act, 1877 ; and no instrument which ought to have been executed before a Village-Registrar but has been otherwise executed shall be registered by any officer acting under the said Act, or in any public office, or shall be authenticated by any public officer.

61. The Inspector-General of Registration shall exercise, by himself and his subordinates, a general superintendence over all Village-Registrars, and may, from time to time, with the previous sanction of the Local Government, make rules consistent with this Act for regulating their proceedings and for providing for the custody of their records.

62. Nothing in this Act shall be deemed to require any instrument to which the Government or any officer of Government in his official capacity is a party to be executed before a Village-Registrar.

63. The Local Government may, from time to time, make rules regulating the appointment, suspension, dismissal and remuneration of Village-Registrars, and prescribing the fees to be levied by them.

#### CHAPTER IX.

##### OF RECEIPTS AND STATEMENTS OF ACCOUNT.

64. The person to whom any agriculturist makes any payment of money in liquidation of a debt shall, at the time of such payment, tender to such agriculturist, whether he demand the same or not, a written receipt for the amount of such payment.

If such payment is made under any instrument executed before a Village-Registrar, the receipt shall, if the agriculturist so require, be endorsed on the copy of the instrument furnished to him under section fifty-eight.

65. Any agriculturist by whom any money is due under any instrument shall, on such date in each year as the Local Government, having regard to local custom, may from time to time, by notification in the official Gazette, fix, be entitled to receive, on demand, from the person claiming under such instrument, a statement up to that date of his account under such instrument.

66. Any agriculturist in whose name an account is kept by any trader or money-lender shall be entitled to receive from such trader or money-lender, on demand, a pass-book, and to require, from time to time, that his account up to date be written therein and authenticated by the signature or mark of the said trader or money-lender.

An entry so made in any such pass-book of any payment made to the trader or money-lender shall be deemed to be equivalent, for the purposes of section sixty-four, to the grant of a receipt for the amount so entered.

No person whose account has been written in a pass-book as required by this section shall be entitled also to demand an account under section sixty-five.

67. Any person who, in contravention of section sixty-four, sixty-five or sixty-six, refuses or neglects to tender a receipt or a statement of account or a pass-book, or to write, or cause to be written, any account or any part of an account in a pass-book, or to attest the same when so written, shall be punished for each such offence with fine which may extend to one hundred rupees.

#### CHAPTER X.

##### LEGAL PRACTITIONERS.

68. No pleader, vakíl, or mukhtár, and no Pleaders, &c., excluded in certain cases. advocate or attorney of a High Court, shall be permitted to appear on behalf of any party to any case before a Conciliator or a Village-Munsif, or to any case cognizable by a Subordinate Judge under this Act, the subject-matter whereof does not exceed in amount or value one hundred rupees :

Provided that any party to any such case may be permitted, on reasonable cause being shown to the satisfaction of the Conciliator, Village-Munsif or Subordinate Judge, to employ any relative; servant or dependent who is not, and has not previously been, a pleader, vakíl or mukhtár, or an advocate or attorney of a High Court, to appear either conjointly with, or in lieu of, such party :

Provided also that a Subordinate Judge may permit a pleader, vakíl or mukhtár, or an advocate or attorney of a High Court, to appear before him on behalf of any party to any case of the description aforesaid in which, for reasons to be recorded by him in writing, he deems it desirable that the party should have such assistance.

When a relative, servant or dependent appears in lieu of a party, he shall be furnished by him with a power-of-attorney defining the extent to which he is empowered to act.

69. When in any suit or proceeding before a Subordinate Judge under this Act to which an agriculturist is a party any pleader, vakíl or mukhtár, or any advocate or attorney of a High Court, appears on behalf of any party opposed to such agriculturist, the Subordinate Judge, if he is of opinion that such agriculturist has not the means of obtaining proper professional assistance, may, with the consent of such agriculturist, direct the Government pleader or any other fit person (who is willing so to do) to appear on his behalf.

#### CHAPTER XI.

##### MISCELLANEOUS.

70. No mortgage, lien or charge of or upon any immoveable property belonging to an agriculturist shall be valid unless it is created by an instrument in writing under the hand of the person creating such mortgage, lien or charge.

Nothing in this section shall apply to any mortgage, lien or charge created by mere opera-

tion of law, or in favour of the Government or of any officer of the Government in his official capacity.

71. Every instrument executed before this Act comes into force and purporting to create any mortgage, lien or charge of or upon any immovable property belonging to an agriculturist shall be deemed to be an instrument required by section 17 of the Indian Registration Act, 1877, to be registered; and any such instrument which before the passing of this Act was not so required to be registered may, notwithstanding anything contained in the said Indian Registration Act, 1877, be registered under that Act within one year from the date on which this Act comes into force.

Every Village-Registrar appointed under this Act shall be deemed to be a Sub-Registrar for the purpose of so registering such instruments; and the local area for which he is appointed shall be deemed for such purpose to be his sub-district.

Nothing in this section applies to an instrument purporting to create a mortgage, lien or charge in favour of the Government or of any officer of the Government in his official capacity.

72. In any suit against an agriculturist under this Act for the recovery of money the following periods of limitation shall be deemed to be substituted for those prescribed in the second column of the second schedule annexed to the Indian Limitation Act, 1877 (that is to say) :—

(a) when such suit is based on a written instrument registered under this Act or any law in force at the date of the execution of such instrument,—twelve years;

(b) in any other case,—six years :

Provided that nothing herein contained shall revive the right to bring any suit which would have been barred by limitation if it had been instituted immediately before this Act comes into force.

73. The decision of any Court of first instance that any person is or is not an agriculturist shall for the purposes of this Act be final.

74. Except in so far as it is inconsistent with this Act, the Code of Civil Procedure shall apply in all suits and proceedings before Subordinate Judges under this Act.

75. The Local Government may, from time to time, make all such rules as it may deem necessary for carrying out the provisions herein contained.

76. All rules made by the Local Government under this Act shall be published in the official Gazette, and shall thereupon, in so far as they are consistent with this Act, have the force of law.

D. FITZPATRICK,  
*Secy. to the Govt. 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 October, 1879, and was promulgated for general information in the *Gazette of India* on the 1st November 1879 :—

**Act No. XVIII. of 1879.**

**THE LEGAL PRACTITIONERS  
ACT, 1879.**

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*An Act to consolidate and amend the law relating to Legal Practitioners.*

WHEREAS it is expedient to consolidate and amend the law relating to Legal Practitioners in the Lower Provinces of Bengal, the North-Western Provinces, the Panjáb, Oudh, the Central Provinces and Assam, and to empower each of the Local Governments of the rest of British India to extend to the territories administered by it such portions of this Act as such Government may think fit; It is hereby enacted as follows :—

**CHAPTER I.—Preliminary.**

1. This Act may be called "The Legal Practitioners Act, 1879": and shall come into force on the first day of January 1880.

Local extent.

This section and section two extend to the whole of British India.

The rest of this Act extends, in the first instance, only to the territories respectively administered by the Lieutenant-Governors of the Lower Provinces of Bengal, the North-Western Provinces and the Panjáb, and the Chief Commissioners of Oudh, the Central Provinces and Assam. But any other Local Government may, from time to time, by notification in the official Gazette, extend all or any of the provisions of the rest of this Act to the whole or any part of the territories under its administration.

2. On and from the first day of January 1880, the enactments mentioned in the first schedule hereto annexed shall be repealed to the extent specified therein.

All rules and appointments made, penalties prescribed, fees fixed, persons admitted, names enrolled, certificates issued, sanctions given and orders passed under any enactment hereby repealed shall be deemed to be respectively made, prescribed, fixed, admitted, enrolled, issued, given and passed under this Act.

All references made to any enactment hereby repealed, in any Act or Regulation passed, or notification published, shall be read as if made to the corresponding provisions of this Act.

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

“Judge” means the presiding judicial officer in every civil and criminal Court, by whatever title he is designated :

“Subordinate Court” means all Courts subordinate to the High Court, including Courts of small causes established under Act No. IX of 1850 or Act No. XI of 1865 :

“Revenue-office” includes all Courts (other than civil Courts) trying suits under any Act for the time being in force relating to landholders and their tenants or agents :

“Legal practitioner” means an Advocate, Vakíl or Attorney of any High Court, a Pleader, Mukhtár or Revenue-agent.

#### CHAPTER II.—Of Advocates, Vakíls and Attorneys.

4. Every person now or hereafter entered as an Advocate or Vakíl on the roll of any High Court under the Letters Patent constituting such Court, or as an Advocate on the roll of the Chief Court of the Panjáb, shall be entitled to practise in all the Courts subordinate to the Court on the roll of which he is entered, and in all Revenue-offices situate within the local limits of the appellate jurisdiction of such Court, subject, nevertheless, to the rules in force relating to the language in which the Court or office is to be addressed by Pleaders or Revenue-agents ; and any person so entered who ordinarily practises in the Court on the roll of which he is entered or some Court subordinate thereto shall, notwithstanding anything herein contained, be entitled, as such, to practise in any Court in British India other than a High Court on whose roll he is not entered, or, with the permission of the Court, in any High Court on whose roll he is not entered, and in any Revenue-office :

Provided that no such Vakíl shall be entitled to practise under this section before a Judge of the High Court, Division Court or High Court exercising original jurisdiction in a Presidency-town.

5. Every person now or hereafter entered as an Attorney on the roll of any High Court shall be entitled to practise in all the Courts subordinate to such High Court and in all Revenue-offices situate within the local limits of the appellate jurisdiction of such High Court, and every person so entered who ordinarily practises in the Court on the roll of which he is so entered or some Court subordinate thereto shall, notwithstanding anything herein contained, be entitled, as such, to practise in any Court in British India other than a High Court established by Royal Charter on the roll of which he is not entered, and in any Revenue-office.

The High Court of the Province in which an Attorney practises under this section may, from time to time, make rules declaring what shall be deemed to be the functions, powers and duties of an Attorney so practising.

#### CHAPTER III.—Of Pleaders and Mukhtárs.

6. The High Court may, from time to time, make rules consistent with this Act as to the following matters (namely) :—

(a) the qualifications, admission and certificates of proper persons to be Pleaders of the subordinate Courts, and of the Revenue-offices situate within the local limits of its appellate jurisdiction, and, in the case of a High Court not established by Royal Charter, of such Court ;

(b) the qualifications, admission and certificates of proper persons to be Mukhtárs of the subordinate Courts, and, in the case of a High Court not established by Royal Charter, of such Court ;

(c) the fees to be paid for the examination and admission of such persons ; and

(d) the suspension and dismissal of such Pleaders and Mukhtárs.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law : Provided that in the case of rules made by a High Court not established by Royal Charter such rules have been previously approved by the Local Government.

7. On the admission, under section six, of any person as a Pleader or Mukhtár, the High Court shall cause a certificate, signed by such officer as the Court from time to time appoints in this behalf, to be issued to such person authorizing him to practise up to the end of the current year in the Courts, and, in the case of a Pleader, also the Revenue-offices specified therein.

At the expiration of such period, the holder of the certificate, if he desires to continue to practise, shall, subject to any rules consistent with this Act which may, from time to time, be made by the

High Court in this behalf, be entitled to have his certificate renewed by the Judge of the District Court within the local limits of whose jurisdiction he then ordinarily practises, or by such officer as the High Court, from time to time, appoints in this behalf.

On every such renewal, the certificate then in possession of such Pleader or Mukhtár shall be cancelled and retained by such Judge or officer.

Every certificate so renewed, shall be signed by such Judge or officer, and shall continue in force up to the end of the current year.

Every Judge or officer so renewing a certificate shall notify such renewal to the High Court.

8. Every Pleader holding a certificate issued under section seven may apply to be enrolled in any Court or Revenue-office mentioned therein and situate within the local limits of the appellate jurisdiction of the High Court by which he has been admitted; and, subject to such rules consistent with this Act as the High Court or the Chief Controlling Revenue authority may, from time to time, make, in this behalf, the presiding Judge or officer shall enrol him accordingly; and thereupon he may appear, plead and act in such Court or office and in any Court or Revenue-office subordinate thereto.

9. Every Mukhtár holding a certificate issued under section seven may apply to be enrolled in any civil or criminal Court mentioned therein and situate within the same limits; and, subject to such rules as the High Court may from time to time make in this behalf, the presiding Judge shall enrol him accordingly; and thereupon he may practise as a Mukhtár in any such civil Court and any Court subordinate thereto, and may (subject to the provisions of the Code of Criminal Procedure) appear, plead and act in any such criminal Court and any Court subordinate thereto.

10. Except as provided by this Act or any other enactment for the time being in force, no person shall practise as a Pleader or Mukhtár in any Court not established by Royal Charter unless he holds a certificate issued under section seven and has been enrolled in such Court or in some Court to which it is subordinate:

Provided that persons who have been admitted as Revenue-agents before the first day of January 1880, and hold certificates, as such, under this Act in the territories administered by the Lieutenant-Governor of Bengal may be enrolled in manner provided by section nine in any Munsif's Court in the said territories, and on being so enrolled may appear, plead and act in such Court in suits under Bengal Act No. VIII of 1869 (to amend the procedure in suits between Landlord and Tenant) or under any other Act for the time being in force regulating

the procedure in suits between landholders and their tenants and agents.

11. Notwithstanding anything contained in the Code of Civil Procedure, the High Court may, from time to time, make rules declaring what shall be deemed to be the functions, powers and duties of Mukhtárs practising in the subordinate Courts, and, in the case of a High Court not established by Royal Charter, in such Court.

12. The High Court may suspend or dismiss any Pleader or Mukhtár holding a certificate issued under section seven who is convicted of any criminal offence implying a defect of character which unfits him to be a Pleader or Mukhtár, as the case may be.

13. The High Court may also, after such enquiry as it thinks fit, suspend or dismiss

any Pleader holding a certificate as aforesaid who takes instructions in any case except from the party on whose behalf he is retained, or a private servant of such party, or some person who is the recognized agent of such party within the meaning of the Code of Civil Procedure, or

any Pleader or Mukhtár holding a certificate as aforesaid who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or for any other reasonable cause.

14. If any such Pleader or Mukhtár practising in any subordinate Court or in any Revenue-office is charged in such Court or office with taking instructions except as aforesaid or with any such misconduct as aforesaid, the presiding officer shall send him a copy of the charge and also a notice that, on a day to be therein appointed, such charge will be taken into consideration.

Such copy and notice shall be served upon the Pleader or Mukhtár at least fifteen days before the day so appointed.

On such day or on any subsequent day to which the enquiry may be adjourned, the presiding officer shall receive and record all evidence properly produced in support of the charge, or by the Pleader or Mukhtár, and shall proceed to adjudicate on the charge.

If such officer finds the charge established and considers that the Pleader or Mukhtár should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and shall report the same to the High Court; and the High Court may acquit, suspend or dismiss the Pleader or Mukhtár.

Any District Judge, or with his sanction any Judge subordinate to him, any District Magistrate, or with his sanction any Magistrate subordinate to him, and any Revenue

authority not inferior to a Collector, or with the Collector's sanction any Revenue-officer subordinate to him, may, pending the investigation and the orders of the High Court, suspend from practise any Pleader or Mukhtár charged before him or it under this section.

Every report made to the High Court under this section shall

(a) when made by any Civil Judge subordinate to the District Judge, be made through such Judge;

(b) when made by a Magistrate subordinate to the Magistrate of the District, be made through the Magistrate of the District and the Sessions Judge;

(c) when made by the Magistrate of the District, be made through the Sessions Judge;

(d) when made by any Revenue-officer subordinate to the Chief Controlling Revenue Authority, be made through such Revenue authorities as the Chief Controlling Revenue Authority may, from time to time, direct.

Every such report shall be accompanied by the opinion of each Judge, Magistrate or Revenue authority through whom or which it is made.

15. The High Court, in any case in which a Pleader or Mukhtár has been acquitted under section fourteen otherwise than by an order of the High Court, may call for the record and pass such order thereon as it thinks fit.

16. Notwithstanding anything contained in any Letters Patent or in the Code of Civil Procedure, section 37, clause

(a), any High Court established by Royal Charter may, from time to time, make rules consistent with this Act as to the following matters (namely) :—

(a) the qualifications and admission of proper persons to be Mukhtárs practising on the Appellate side of such Court;

(b) the fees to be paid for the examination and admission of such persons;

(c) the security which they may be required to give for their honesty and good conduct;

(d) the suspension and dismissal of such Mukhtárs; and

(e) declaring what shall be deemed to be their functions, powers and duties;

and may prescribe and impose fines for the infringement of such rules not exceeding in any case five hundred rupees; and such fines, when imposed, may be recovered as if they had been imposed in the exercise of the High Court's ordinary original criminal jurisdiction.

#### CHAPTER IV.—Of Revenue-agents.

17. The Chief Controlling Revenue Authority may, from time to time, make rules consistent with this Act as to the following matters (namely) :—

(a) the qualifications, admission and certificates of proper persons to be Revenue-agents;

(b) the fees to be paid for the examination and admission of such persons;

(c) the suspension and dismissal of such Revenue-agents; and

(d) declaring what shall be deemed to be their functions, powers and duties.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

Publication of rules.

18. On the admission of any person as a Revenue-agent under section seventeen, the Chief Controlling Revenue Authority shall cause a certificate, signed by such officer as such authority from time to time appoints in this behalf, to be issued to such person, authorizing him to practise up to the end of the current year in such Revenue-offices as may be specified therein.

At the expiration of such period, the holder of the certificate, if he desires to continue to practise, shall be entitled to have his certificate renewed by the Secretary of the Chief Controlling Revenue Authority, or by any other officer authorized by such authority in that behalf.

On every such renewal, the certificate then in the possession of such Revenue-agent shall be cancelled and retained by such Secretary or other officer.

Every certificate so renewed shall be signed by such Secretary or other officer and shall continue in force to the end of the current year.

Every officer so renewing a certificate shall notify the renewal to the Chief Controlling Revenue Authority.

19. Every Revenue-agent holding a certificate issued under section eighteen may apply to be enrolled in any Revenue-office mentioned therein and situate within the limits of the territory under the Chief Controlling Revenue Authority; and, subject to such rules as the Chief Controlling Revenue Authority may, from time to time, make in this behalf, the officer presiding in such office shall enrol him accordingly, and thereupon he may practice as a Revenue-agent in such office and in any Revenue-office subordinate thereto.

20. Except as provided by this Act or any other enactment for the time being in force, no person, other than a Pleader duly qualified under the provisions hereinbefore contained, shall practise as a Revenue-agent in any Revenue-office, unless he holds a certificate issued under section eighteen and has been enrolled in such office or some other office to which it is subordinate :

No person to act as agent in Revenue-offices unless qualified.

Provided that any person duly authorized in this behalf may, with the sanction of the Chief Controlling Revenue Authority, or of an officer empowered by the Local Government in this behalf, transact all or any business in which his principal may be concerned in any Revenue-office.

The sanction mentioned in this section may be general or special, and may at any time be revoked or suspended by the Authority or officer granting the same.

21. The Chief Controlling Revenue Authority may suspend or dismiss any Revenue-agent holding a certificate issued under this Act who is convicted of any criminal offence implying a defect of character which unfits him to be a Revenue-agent.

Dismissal of Revenue-agent convicted of criminal offence. s. 21. acs.

22. The Chief Controlling Revenue Authority may also, after making such enquiry as it thinks fit, suspend or dismiss any Revenue-agent holding a certificate issued under this Act who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or for any other reasonable cause.

Dismissal of Revenue-agent guilty of unprofessional conduct.

23. If any Revenue-agent holding a certificate issued under this Act is charged with any such conduct in any office subordinate to the Chief Controlling Revenue Authority, or in the Court of any Munsif, the officer at the head of such office, or such Munsif, as the case may be, shall send him a copy of the charge, and also a notice that, on a day to be therein appointed, such charge will be taken into consideration.

Procedure when Revenue-agent is so charged in subordinate office.

Such copy and notice shall be served upon the person charged at least fifteen days before the day so appointed. On such day or on any other day to which the enquiry may be adjourned, the officer or Munsif shall receive all evidence properly produced in support of the charge, or by the person charged, and shall proceed to adjudicate on the charge.

If the officer or Munsif finds the charge established, and considers that the person charged should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and report the same to the Chief Controlling Revenue authority; and such Authority shall proceed to acquit, suspend, or dismiss him.

Any Revenue officer not inferior to a Collector, and with the Collector's sanction, any Revenue-officer subordinate to him, or any Munsif in his district, may, pending the investigation and the orders of the Chief Controlling Revenue Authority suspend from practice any Revenue-agent charged before him under this section.

Where any officer acting under this section is subordinate to the Commissioner of a Division, he shall transmit the report through such Commissioner, who shall forward with the same an expression of his own opinion on the case.

24. The Chief Controlling Revenue authority, in any case in which a Revenue-agent has been acquitted under section twenty-three otherwise than by an order of the Chief Controlling Re-

Power to Chief Controlling Revenue authority to call for record.

venue authority, may call for the record and pass such order thereon as seems fit.

#### CHAPTER V.—Of Certificates.

25. Every certificate, whether original or renewed, issued under this Act shall be written upon stamped paper of the value prescribed therefor in the second schedule hereto annexed:

Fee for certificates.

Provided that a certificate issued on or after the first day of July in any year may be written on stamped paper of half the value so prescribed.

26. When any Pleader, Mukhtár or Revenue-agent is suspended or dismissed under this Act, he shall forthwith deliver up his certificate to the Court or officer at the head of the office before or in which he was practising at the time he was so suspended or dismissed, or to any Court or officer to which the High Court or Chief Controlling Revenue Authority (as the case may be) orders him to deliver the same.

Dismissed practitioners to surrender certificates.

#### CHAPTER VI.—Of the Remuneration of Pleaders, Mukhtárs and Revenue-agents.

27. The High Court shall, from time to time, fix and regulate the fees payable by any party in respect of the fees of his adversary's Advocate, Pleader, Vakíl, Mukhtár or Attorney upon all proceedings (a) on the Appellate Side of such Court, (b) in the case of a High Court not established by Royal Charter, on its Original Side, and (c) in subordinate Courts.

High Court and Chief Controlling Revenue Authority to fix fees on civil and revenue proceedings.

The Chief Controlling Revenue Authority shall, from time to time, fix and regulate the fees payable upon all proceedings in the Revenue-offices by any party in respect of the fees of his adversary's Advocate, Pleader, Vakíl, Attorney, Mukhtár or Revenue-agent.

Tables of the fees so fixed shall be published in the local official Gazette.

Nothing in this section applies to the Agents mentioned in the proviso to section twenty.

Exception as to Agents mentioned in section 20.

28. No agreement entered into by any Pleader, Mukhtár or Revenue-agent with any person retaining or employing him respecting the amount and manner of payment for the whole or any part of any past or future services, fees, charges, or disbursements in respect of business done or to be done by such Pleader, Mukhtár or Revenue-agent, shall be valid unless it is made in writing signed by such person, and is, within fifteen days from the day on which it is executed, filed in the District Court or in some Court in which some portion of the business in respect of which it has been executed has been or is to be done.

Agreements with clients.

29. Where a suit is brought to enforce any such agreement, if the agreement is not proved to be fair and reasonable, the Court may reduce the amount payable thereunder or order it to be cancelled, and the costs, fees, charges and disbursements, in respect of the

Power to modify or cancel agreements.



ment, make rules as to the qualifications and admission of proper persons to be Advocates of such Court.

Subject to such rules, the Chief Court may admit and enrol such and so many Advocates as it thinks fit; and such Advocates shall be entitled to appear for the suitors of such Court, and to plead or to act, or to plead and act, for such suitors according as such Court may by its rules determine, and subject to such rules.

The Chief Court may dismiss any Advocate so enrolled or suspend him from practice :

Provided that no such Advocate shall be dismissed or suspended under this section unless he has been allowed an opportunity of defending himself before the Chief Court."

### FIRST SCHEDULE.

#### ENACTMENTS REPEALED.

(See section 2.)

Number and date of enactments.	Title.	Extent of repeal.
Act XX of 1865...	To amend the law relating to Pleaders and Mukhtárs.	The whole.
Act XXIX of 1865	To amend the Pleaders, Mukhtárs and Revenue-agents Act, 1865.	So much as has not been repealed.
Act IX of 1866...	To extend to the Sudder Court of the North-Western Provinces certain provisions of "The Pleaders, Mukhtárs and Revenue-agents Act, 1865," and of Act-No. XXIX of 1865.	The whole.
Act IV of 1876 ...	To authorize Revenue-agents to practise in certain suits in the Munsifs' Courts of the Lower Provinces of Bengal.	The whole.
Act XVII of 1877	The Panjáb Courts Act, 1877.	Sections forty-two, forty-three, forty-four and forty-five.

### SECOND SCHEDULE.

#### VALUE OF STAMPS FOR CERTIFICATES.

(See section 25.)

#### I.

For a certificate authorizing the holder to practise as a Pleader—

(a) In the High Court and any subordinate Court—rupees fifty :

(b) In any Court of Small Causes in a Presidency-town—rupees twenty-five :

(c) In all other subordinate Courts—rupees twenty-five :

(d) In the Courts of Subordinate Judges, Munsifs, Assistant Commissioners, Extra Assistant Commissioners and Tahsildárs, in Courts of Small Causes outside the Presidency-towns and in all Criminal Courts subordinate to the High Court—rupees fifteen :

(e) In the Courts of Munsifs and any Civil or Criminal Court of first instance not hereinbefore specifically mentioned—rupees five.

#### II.

For a certificate authorizing the holder to practise as a Mukhtár—

(f) In the High Court and any subordinate Court—rupees twenty-five :

(g) In any Court of Small Causes in a Presidency-town—rupees fifteen :

(h) In all other subordinate Courts—rupees fifteen :

(i) In the Courts of Subordinate Judges, Munsifs, Assistant Commissioners, Extra Assistant Commissioners and Tahsildárs, in Courts of Small Causes outside the Presidency-towns—and in all Criminal Courts subordinate to the High Court—rupees ten :

(j) In the Courts of Munsifs and any Civil or Criminal Court of first instance not hereinbefore specifically mentioned—rupees five.

#### III.

For a certificate authorizing the holder to practise as a Revenue-agent—

(k) In the office of the Chief Controlling Revenue Authority and in any Revenue-office subordinate to such Authority—rupees fifteen :

(l) In the office of a Commissioner and in any Revenue-office subordinate to a Commissioner—rupees ten :

(m) In the office of a Collector and in any Revenue-office subordinate to a Collector—rupees five.

D. FITZPATRICK,

*Secy. to the Govt. of India,  
Legislative Department.*

THE



# Bombay Government Gazette.

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Published by Authority.

THURSDAY, 27<sup>TH</sup> NOVEMBER 1879.

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

## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

LEGISLATIVE DEPARTMENT.

*Bombay Castle, 21st November 1879.*

No. 369.—*Erratum.*—In line 12 of Section 127 of “The Bombay Land Revenue Code, 1879,” as published in the *Government Gazettes* of the 17th, 24th and 31st July 1879, for “Act” read “Acts.”

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

C. G. W. MACPHERSON,  
Acting Under Secretary to Government.



## ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 14th November 1879, and was promulgated for general information in the *Gazette of India* on the 15th November 1879 :—

### Act No. XX. of 1879.

#### *An Act to provide for the better prevention of Glanders and Farcy among Horses.*

WHEREAS it is expedient to provide for the better prevention of glanders and farcy among horses; It is hereby enacted as follows :—

1. This Act may be called "The Glanders and Farcy Act, 1879."

It extends to the whole of British India, except the territories respectively administered by the Governor of Fort St. George in Council, the Governor of Bombay in Council and the Lieutenant-Governor of Bengal ;

and it shall come into force at once.

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

"horse" includes also ponies, asses, mules and jennets :

"diseased" means affected with glanders or farcy.

3. The Local Government may, by notification in the official Gazette, apply this Act, or any provision of this Act, to any local area, to be specified in such notification, within the territories administered by it, and may in like manner amend or cancel any such notification.

4. When this Act has been so applied to any local area, the Local Government may, by notification in the official Gazette, appoint either by name or by virtue of their office such persons as it thinks fit to be Inspectors under this Act and to exercise and perform, within the whole of such local area or such portions thereof as it may from time to time prescribe, the powers conferred and the duties imposed by this Act on such officers.

Every person so appointed may be suspended or dismissed by the Local Government which appointed him.

Every person so appointed shall be deemed a public servant within the meaning of the Indian Penal Code.

5. Within the local limits for which he is so appointed, any such Inspector may seize any horse which he has reason to believe, from personal knowledge or from information given by any person and taken down in writing, is diseased.

6. For the purpose of making such seizure, such Inspector may, subject to such rules as the Local Government may from time to time make in this behalf, enter and search any field, building or other place where he has reason to believe that any such horse is to be found.

7. On any such seizure, the Inspector shall cause the horse so seized to be examined as soon as possible by such Veterinary Surgeon as the Local Government may from time to time appoint in this behalf.

8. If such Surgeon certifies in writing that such horse is diseased, the Inspector shall cause the same to be immediately destroyed; but if such Surgeon does not so certify, the Inspector shall at once deliver the same to the person entitled to the possession thereof.

9. When any diseased horse has been in any building, shed or other enclosed place, or in any open lines, the Inspector may issue a notice to the owner of such building, shed, place or lines, or the person in charge thereof, directing him to have the same disinfected, and the internal fittings thereof, or such other things found therein or near thereto as the Local Government may from time to time by rule prescribe, destroyed.

On the failure or neglect of such owner or other person to comply with such notice within a reasonable time, the Inspector shall cause such building, shed, place or lines to be disinfected, and such fittings or other things to be destroyed, and the expense (if any) thereby incurred may be recovered from such owner or other person as if it were a fine.

10. The owner or any person in charge of a diseased horse shall give immediate information of such horse being diseased to the Inspector or to some officer of Police.

11. No person in charge of any horse which has been in the same field, building or place or in contact with a diseased horse shall move such horse, except in good faith for the purpose

of preventing infection or under a license to be granted by the Inspector and subject to the conditions of such license.

12. Any Inspector who, without reasonable ground of suspicion, enters or searches any field, building or other place, or vexatiously and unnecessarily seizes or detains any horse on the pretence that it is diseased, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

No prosecution under this section shall be instituted after the expiry of three months from the date on which the offence has been committed.

13. Any person who refuses or neglects to comply with any notice issued by the Inspector under section 9; or who moves any horse in contravention of section eleven, shall be punished with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

14. The Local Government may, from time to time, make rules, consistent with this Act,—

(a) for regulating entries and searches by Inspectors under this Act;

(b) for regulating the destruction of horses certified under section eight to be diseased, and the disposal of the carcasses of such horses;

(c) for regulating the disinfecting of buildings and places in which diseased horses have been, and for prescribing what things found therein or near thereto shall be destroyed;

(d) for regulating the grant of licenses under section eleven, and the conditions on which such licenses shall be granted; and

(e) generally for carrying out the purposes of this Act.

All such rules shall be published in the official Gazette, and shall thereupon have the force of law.

Any person breaking a rule made under this section shall be punished with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

15. All diseased horses destroyed under the orders of the Governor General in Council or the Local Government in the districts of Ráwalpindí and Pesháwar previous to the passing of this Act shall be deemed to have been destroyed in accordance with law.

D. FITZPATRICK,

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 November 1879, and was promulgated for general information in the *Gazette of India* on the 15th November 1879:—

Act No. XXI. of 1879.

THE FOREIGN JURISDICTION AND EXTRADITION ACT, 1879.

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*An Act to provide for the trial of offences committed in places beyond British India and for the Extradition of Criminals.*

WHEREAS by treaty, capitulation, agreement, grant, usage, sufferance and other lawful means the Governor General of India in Council has power and jurisdiction within divers places beyond the limits of British India; and whereas such power and jurisdiction have, from time to time, been delegated to Political Agents and others acting under the authority of the Governor General in Council; and whereas, doubts having arisen how far the exercise of such power and jurisdiction, and the delegation thereof, were controlled by and dependent on the laws of British India, the Foreign Jurisdiction and Extradition Act, 1872, was passed to remove such doubts, and also to consolidate and amend the law relating to the exercise and delegation of such power and jurisdiction, and to offences committed by British subjects beyond the limits of British India, and to the extradition of criminals; and whereas it is expedient to repeal that Act and re-enact it with the amendments hereinafter appearing; It is hereby enacted as follows.

CHAPTER I.

PRELIMINARY.

1.\* This Act may be called "The Foreign Jurisdiction and Extradition Act, 1879":

Short title.

Extent.

It extends to the whole of British India;

to all Native Indian subjects of Her Majesty beyond the limits of British India; and

to all European British subjects within the dominions of Princes and States in alliance with Her Majesty;

Commencement.

and it shall come into force on the passing thereof.

But nothing contained in this Act shall affect the provisions of any law or treaty for the time being in force as to the extradition of offenders; and the procedure provided by any such law or treaty shall be followed in every case to which it applies.

2. The Foreign Jurisdiction and Extradition Act, 1872, is repealed; but all existing appointments, delegations, certificates, requisitions and rules made, and all existing notifications, summonses, warrants, orders and directions issued, under that Act shall, in so far as they are consistent herewith, be deemed to have been respectively made and issued hereunder.

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

“Political Agent” means and includes—

(1) the principal officer representing the British Indian Government in any territory or place beyond the limits of British India :

(2) any officer in British India appointed by the Governor General in Council, or the Governor in Council of the Presidency of Fort St. George or Bombay, to exercise all or any of the powers of a Political Agent under this Act for any place not forming part of British India : and

“European British subject” means a European British subject as defined in the Code of Criminal Procedure.

## CHAPTER II.

### POWERS OF BRITISH OFFICERS IN PLACES BEYOND BRITISH INDIA.

4. The Governor General in Council may exercise any power or jurisdiction which he for the time being has within any country or place beyond the limits of British India, and may delegate the same to any servant of the British Indian Government, in such manner and to such extent as the Governor General in Council from time to time thinks fit.

5. A notification in the *Gazette of India* of the exercise by the Governor General in Council of any such power or jurisdiction, and of the delegation thereof by him to any person or class of persons, and of the rules of procedure or other conditions to which such persons are to conform, and of the local area within which their powers are to be exercised, shall be conclusive proof of the truth of the matters stated in the notification.

6. The Governor General in Council may appoint any European British subject, either by name or by virtue of his office, in any such country or place to be a Justice of the Peace; and every

such Justice of the Peace shall have in proceedings against European British subjects, or persons accused of having committed offences conjointly with such subjects, all the powers conferred by the Code of Criminal Procedure on Magistrates of the first class who are Justices of the Peace and European British subjects.

The Governor General in Council may direct to what Court having jurisdiction over European British subjects any such Justice of the Peace is to commit for trial.

7. All Political Agents and all Justices of the Peace appointed before the twenty-fifth day of April 1872, by the Governor General in Council or the Governor in Council of the Presidency of Fort St. George or Bombay, in or for any such country or place as aforesaid, shall be deemed to be and to have been appointed, and to have and to have had jurisdiction, under the provisions of this Act.

8. The law relating to offences and to criminal procedure for the time being in force in British India shall, subject as to procedure to such modifications as the Governor General in Council from time to time directs, extend—

(a) to all European British subjects in the dominions of Princes and States in India in alliance with Her Majesty; and

(b) to all Native Indian subjects of Her Majesty in any place beyond the limits of British India.

## CHAPTER III.

### INQUIRIES IN BRITISH INDIA INTO CRIMES COMMITTED BY BRITISH SUBJECTS IN PLACES BEYOND BRITISH INDIA.

9. When a European British subject commits an offence in the dominions of a Prince or State in India in alliance with Her Majesty, or

when a Native Indian subject of Her Majesty commits an offence at any place beyond the limits of British India,

he may be dealt with in respect of such offence as if it had been committed at any place within British India at which he may be found :

Provided that no charge as to any such offence shall be inquired into in British India unless the Political Agent, if there be such, for the territory in which the offence is alleged to have been committed, certifies that, in his opinion, the charge is one which ought to be inquired into in British India :

Provided also that any proceedings taken against any person under this section which would be a bar to subsequent proceedings against such person for the same offence if such offence had been committed in British India shall be a bar

against further proceedings against him under this Act in respect of the same offence at any place beyond the limits of British India.

10. Whenever any such offence as is referred to in section nine is being inquired into or tried, the Local Government may, if it thinks fit, direct that copies of depositions made or exhibits produced before the Political Agent or a judicial officer in or for the place in which such offence is alleged to have been committed shall be received as evidence by the Court holding such inquiry or trial in any case in which such Court might issue a commission for taking evidence as to the matters to which such depositions or exhibits relate.

Power to direct copies of depositions and exhibits to be received in evidence.

to in section nine is being inquired into or tried, the Local Government may, if it thinks fit, direct that copies of depositions made

or exhibits produced before the Political Agent or a judicial officer in or for the place in which such offence is alleged to have been committed shall be received as evidence by the Court holding such inquiry or trial in any case in which such Court might issue a commission for taking evidence as to the matters to which such depositions or exhibits relate.

#### CHAPTER IV.

##### EXTRADITION.

11. When an offence has been committed or

is supposed to have been committed in any State against the law of such State by a person not being a European British subject, and such person escapes into or is in British India, the Political Agent for such State may issue a warrant for his arrest and delivery at a place and to a person to be named in the warrant—

If such Political Agent thinks that the offence is one which ought to be inquired into in such State ;

and if the act said to have been done would, if done in British India, have constituted an offence against any of the sections of the Indian Penal Code, mentioned in the schedule hereto annexed, or under any other section of the said Code, or any other law, which may, from time to time, be specified by the Governor General in Council by a notification in the *Gazette of India*.

12. Such warrant may be directed to the

Magistrate of any district in which the accused person is believed to be, and shall be executed in the manner provided by the law for the time being in force with reference to the execution of warrants; and the accused person, when arrested, shall be forwarded to the place and delivered to the officer named in the warrant.

13. Such Political Agent may either dispose

of the case himself, or, if he is generally or specially directed to do so by the Governor General in Council, or by the

Governor of the Presidency of Fort St. George in Council or by the Governor of the Presidency of Bombay in Council, may give over the person so forwarded, whether he be a Native Indian subject of Her Majesty or not, to be tried by the ordinary Courts of the State in which the offence was committed.

14. Whenever a requisition is made to the

Governor General in Council or any Local Government by or by the authority of the persons for the time being administering the Executive Government of any part of the dominions of Her Majesty, or the territory of any Foreign Prince or State, that any person accused of having committed an offence in such dominions or territory should be given up, the Governor General in Council or such Local Government, as the case may be, may issue an order to any Magistrate who would have had jurisdiction to inquire into the offence if it had been committed within the local limits of his jurisdiction, directing him to inquire into the truth of such accusation.

Requisitions for extradition by the Executive of any part of British dominions or Foreign power.

The Magistrate so directed shall issue a summons or warrant for the arrest of such person, according as the offence named appears to be one for which a summons or warrant would ordinarily issue; and shall enquire into the truth of such accusation, and shall report thereon to the Government by which he was directed to hold the said inquiry. If, upon receipt of such report, such Government is of opinion that the accused person ought to be given up to the persons making such requisition, it may issue a warrant for the custody and removal of such accused person and for his delivery at a place and to a person to be named in the warrant.

The provisions of section ten shall apply to inquiries held under this section.

15. Whenever any person accused or suspected

of having committed an offence out of British India is within the local limits of the jurisdiction of a Magistrate in British India, and it appears to such Magistrate that the Political Agent for any State could, under the provisions of section eleven, issue a warrant for the arrest of such person, or that the persons for the time being administering the Executive Government of any part of the dominions of Her Majesty or the territory of any Foreign Prince or State could demand his surrender, such Magistrate may, if he thinks fit, issue a warrant for the arrest of such person, on such information or complaint and such evidence as would, in his opinion, justify the issue of such a warrant if the offence had been committed within the local limits of his jurisdiction.

Any Magistrate issuing a warrant under this section shall, when the offence appears or is alleged to have been committed in a State for which there is a Political Agent, send immediate information of his proceedings to such Agent, and in other cases shall at once report his proceedings to the Local Government.

Magistrate to inform Political Agent or Local Government.

Magistrate to inform Political Agent or Local Government.

16. No person arrested on a warrant issued

by a Magistrate under section fifteen shall be detained more than two months from the date of his arrest, unless within such period the Magistrate receives a warrant under section eleven from the

Person arrested to be released after certain time if not proceeded against.

Political Agent for any State for the delivery of such person, or an order with reference to him under section fourteen from the Governor General in Council or Local Government, or such person is in accordance with law delivered up to some Foreign Prince or State.

At any time before the receipt of such a warrant or order the Magistrate, if he thinks fit, may, and the Magistrate if so directed by the Local Government shall, discharge the accused person.

17. The provisions of the Code of Criminal Procedure in respect of Bail shall apply in the case of any person arrested under section fifteen in the same manner as if such person were accused of committing in British India the offence with which he is charged.

## CHAPTER V.

### MISCELLANEOUS.

18. The Governor General in Council may, from time to time, make rules to provide for—  
Power to make rules.

(1) the confinement, diet and prison discipline of British subjects, European or Native, imprisoned by Political Agents under this Act;

(2) the removal of accused persons under this Act, and their control and maintenance until such time as they are handed over to the persons named in the warrant as entitled to receive them; and

(3) generally to carry out the purposes of this Act.

19. The testimony of any witness may be obtained in relation to any criminal matter pending in any Court or tribunal in the territory of any Foreign Prince or State in like manner as it may be obtained in relation to any civil matter under the Code of Civil Procedure, Chapter XXV.; and the provisions of that chapter shall be construed as if the term "suit" included a proceeding against a criminal; Provided that nothing in this section shall apply in the case of any criminal matter of a political character.

## THE SCHEDULE.

### SECTIONS OF THE INDIAN PENAL CODE REFERRED TO IN SECTION ELEVEN.

Sections 206, 208 and 224; Sections 230 to 263, both inclusive; Sections 299 to 304, both inclusive; Sections 307, 310 and 311; Sections 312 to 317, both inclusive; Sections 323 to 333, both inclusive; Sections 347 and 348; Sections 360 to 373, both inclusive; Sections 375 to 377, both inclusive; Sections 378 to 414, both inclusive; Sections 435 to 440, both inclusive; Sections 443 to 446, both inclusive; Sections 464 to 468, both inclusive; Sections 471 to 477, both inclusive.

D. FITZPATRICK,  
Secy. to the Govt. of India,  
Legislative Department.

[Published with the <sup>\* P.U.V.</sup> Bombay Government Gazette on the 4th December 1879.]

## PART IV.

### ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

#### LEGISLATIVE DEPARTMENT.

*Bombay Castle, 21st November 1879.*

No. 369.—*Erratum.*—In line 12 of Section 127 of “The Bombay Land Revenue Code, 1879,” as published in the *Government Gazettes* of the 17th, 24th, and 31st July 1879, for “Act” read “Acts.”

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

C. G. W. MACPHERSON,  
Acting Under Secretary to Government.

## ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 14th November 1879, and was promulgated for general information in the *Gazette of India* on the 15th November 1879 :—

### Act No. XX. of 1879.

*An Act to provide for the better prevention of Glanders and Farcy among Horses.*

WHEREAS it is expedient to provide for the better prevention of glanders and farcy among horses; It is hereby enacted as follows :—

1. This Act may be called "The Glanders and Farcy Act, 1879 :"

It extends to the whole of British India, except the territories respectively administered by the Governor of Fort St. George in Council, the Governor of Bombay in Council and the Lieutenant-Governor of Bengal ;

and it shall come into force at once.

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

"horse" includes also ponies, asses, mules and jennets :  
"diseased." "diseased" means affected with glanders or farcy.

3. The Local Government may, by notification in the official Gazette, apply this Act, or any provision of this Act, to any local area, to be specified in such notification, within the territories administered by it, and may in like manner amend or cancel any such notification.

4. When this Act has been so applied to any local area, the Local Government may, by notification in the official Gazette, appoint either by name or by virtue of their office such persons as it thinks fit to be Inspectors under this Act and to exercise and perform, within the whole of such local area or such portions thereof as it may from time to time prescribe, the powers conferred and the duties imposed by this Act on such officers.

Every person so appointed may be suspended or dismissed by the Local Government which appointed him.

Every person so appointed shall be deemed a public servant within the meaning of the Indian Penal Code.

IV.—53 b

5. Within the local limits for which he is so appointed, any such Inspector may seize any horse which he has reason to believe, from personal knowledge or from information given by any person and taken down in writing, is diseased.

6. For the purpose of making such seizure, such Inspector may, subject to such rules as the Local Government may from time to time make in this behalf, enter and search any field, building or other place where he has reason to believe that any such horse is to be found.

7. On any such seizure, the Inspector shall cause the horse so seized to be examined as soon as possible by such Veterinary Surgeon as the Local Government may from time to time appoint in this behalf.

8. If such Surgeon certifies in writing that such horse is diseased, the Inspector shall cause the same to be immediately destroyed; but if such Surgeon does not so certify, the Inspector shall at once deliver the same to the person entitled to the possession thereof.

9. When any diseased horse has been in any building, shed or other enclosed place, or in any open lines, the Inspector may issue a notice to the owner of such building, shed, place or lines, or the person in charge thereof, directing him to have the same disinfected, and the internal fittings thereof, or such other things found therein or near thereto as the Local Government may from time to time by rule prescribe, destroyed.

On the failure or neglect of such owner or other person to comply with such notice within a reasonable time, the Inspector shall cause such building, shed, place or lines to be disinfected, and such fittings or other things to be destroyed, and the expense (if any) thereby incurred may be recovered from such owner or other person as if it were a fine.

10. The owner or any person in charge of a diseased horse shall give immediate information of such horse being diseased to the Inspector or to some officer of Police.

11. No person in charge of any horse which has been in the same field, building or place or in contact with a diseased horse shall move such horse, except in good faith for the purpose



of preventing infection or under a license to be granted by the Inspector and subject to the conditions of such license.

12. Any Inspector who, without reasonable ground of suspicion, enters or searches any field, building or other place, or vexatiously and unnecessarily seizes or detains any horse on the pretence that it is diseased, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

No prosecution under this section shall be instituted after the expiry of three months from the date on which the offence has been committed.

13. Any person who refuses or neglects to comply with any notice issued by the Inspector under section 9, or who moves any horse in contravention of section eleven, shall be punished with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

14. The Local Government may, from time to time, make rules, consistent with this Act,—

(a) for regulating entries and searches by Inspectors under this Act;

(b) for regulating the destruction of horses certified under section eight to be diseased, and the disposal of the carcasses of such horses;

(c) for regulating the disinfecting of buildings and places in which diseased horses have been, and for prescribing what things found therein or near thereto shall be destroyed;

(d) for regulating the grant of licenses under section eleven, and the conditions on which such licenses shall be granted; and

(e) generally for carrying out the purposes of this Act.

All such rules shall be published in the official Gazette, and shall thereupon have the force of law.

Any person breaking a rule made under this section shall be punished with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

15. All diseased horses destroyed under the orders of the Governor General in Council or the Local Government in the districts of Ráwalpindí and Pesháwar previous to the passing of this Act shall be deemed to have been destroyed in accordance with law.

D. FITZPATRICK,  
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 November 1879, and was promulgated for general information in the *Gazette of India* on the 15th November 1879 :—

**Act No. XXI. of 1879.**

**THE FOREIGN JURISDICTION AND EXTRADITION ACT, 1879.**

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*An Act to provide for the trial of offences committed in places beyond British India and for the Extradition of Criminals.*

WHEREAS by treaty, capitulation, agreement, grant, usage, sufferance and other lawful means the Governor General of India in Council has power and jurisdiction within divers places beyond the limits of British India; and whereas such power and jurisdiction have, from time to time, been delegated to Political Agents and others acting under the authority of the Governor General in Council; and whereas, doubts having arisen how far the exercise of such power and jurisdiction, and the delegation thereof, were controlled by and dependent on the laws of British India, the Foreign Jurisdiction and Extradition Act, 1872, was passed to remove such doubts, and also to consolidate and amend the law relating to the exercise and delegation of such power and jurisdiction, and to offences committed by British subjects beyond the limits of British India, and to the extradition of criminals; and whereas it is expedient to repeal that Act and re-enact it with the amendments hereinafter appearing; It is hereby enacted as follows.

**CHAPTER I.**

**PRELIMINARY.**

1. This Act may be called "The Foreign Jurisdiction and Extradition Act, 1879.":

Extent. It extends to the whole of British India;

to all Native Indian subjects of Her Majesty beyond the limits of British India; and

to all European British subjects within the dominions of Princes and States in alliance with Her Majesty;

and it shall come into force on the passing thereof.

Commencement.

But nothing contained in this Act shall affect the provisions of any law or treaty for the time being in force as to the extradition of offenders; and the procedure provided by any such law or treaty shall be followed in every case to which it applies.

2. The Foreign Jurisdiction and Extradition Act, 1872, is repealed; but all existing appointments, delegations, certificates, requisitions and rules made, and all existing notifications, summonses, warrants, orders and directions issued under that Act shall, in so far as they are consistent herewith, be deemed to have been respectively made and issued hereunder.

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

“Political Agent.” “Political Agent” means and includes—

(1) the principal officer representing the British Indian Government in any territory or place beyond the limits of British India:

(2) any officer in British India appointed by the Governor General in Council, or the Governor in Council of the Presidency of Fort St. George or Bombay, to exercise all or any of the powers of a Political Agent under this Act for any place not forming part of British India: and

“European British subject” means a European British subject as defined in the Code of Criminal Procedure.

## CHAPTER II.

### POWERS OF BRITISH OFFICERS IN PLACES BEYOND BRITISH INDIA.

4. The Governor General in Council may exercise any power or jurisdiction which he for the time being has within any country or place beyond the limits of British India, and may delegate the same to any servant of the British Indian Government, in such manner and to such extent as the Governor General in Council from time to time thinks fit.

5. A notification in the *Gazette of India* of the exercise by the Governor General in Council of any such power or jurisdiction, and of the delegation thereof by him to any person or class of persons, and of the rules of procedure or other conditions to which such persons are to conform, and of the local area within which their powers are to be exercised, shall be conclusive proof of the truth of the matters stated in the notification.

6. The Governor General in Council may appoint any European British subject, either by name or by virtue of his office, in any such country or place to be a Justice of the Peace; and every

such Justice of the Peace shall have in proceedings against European British subjects, or persons accused of having committed offences conjointly with such subjects, all the powers conferred by the Code of Criminal Procedure on Magistrates of the first class who are Justices of the Peace and European British subjects.

The Governor General in Council may direct to what Court having jurisdiction over European British subjects any such Justice of the Peace is to commit for trial.

7. All Political Agents and all Justices of the Peace appointed before the twenty-fifth day of April 1872, by the Governor General in Council or the Governor in Council of the Presidency of Fort St. George or Bombay, in or for any such country or place as aforesaid, shall be deemed to be and to have been appointed, and to have and to have had jurisdiction, under the provisions of this Act.

8. The law relating to offences and to criminal procedure for the time being in force in British India shall, subject as to procedure to such modifications as the Governor General in Council from time to time directs, extend—

(a) to all European British subjects in the dominions of Princes and States in India in alliance with Her Majesty; and

(b) to all Native Indian subjects of Her Majesty in any place beyond the limits of British India.

## CHAPTER III.

### INQUIRIES IN BRITISH INDIA INTO CRIMES COMMITTED BY BRITISH SUBJECTS IN PLACES BEYOND BRITISH INDIA.

9. When a European British subject commits an offence in the dominions of a Prince or State in India in alliance with Her Majesty, or

when a Native Indian subject of Her Majesty commits an offence at any place beyond the limits of British India,

he may be dealt with in respect of such offence as if it had been committed at any place within British India at which he may be found:

Provided that no charge as to any such offence shall be inquired into in British India unless the Political Agent, if there be such, for the territory in which the offence is alleged to have been committed, certifies that, in his opinion, the charge is one which ought to be inquired into in British India:

Provided also that any proceedings taken against any person under this section which would be a bar to subsequent proceedings against such person for the same offence if such offence had been committed in British India shall be a bar

against further proceedings against him under this Act in respect of the same offence at any place beyond the limits of British India.

10. Whenever any such offence as is referred to in section nine is being inquired into or tried, the

Power to direct copies of depositions and exhibits to be received in evidence.

Local Government may, if it thinks fit, direct that copies of depositions made or exhibits produced before the Political Agent or a judicial officer in or for the place in which such offence is alleged to have been committed shall be received as evidence by the Court holding such inquiry or trial in any case in which such Court might issue a commission for taking evidence as to the matters to which such depositions or exhibits relate.

## CHAPTER IV.

### EXTRADITION.

11. When an offence has been committed or

is supposed to have been committed in any State against the law of such State by a person not being a European British subject, and such person escapes into or is in British India, the Political Agent for such State may issue a warrant for his arrest and delivery at a place and to a person to be named in the warrant—

If such Political Agent thinks that the offence is one which ought to be inquired into in such State ;

and if the act said to have been done would, if done in British India, have constituted an offence against any of the sections of the Indian Penal Code mentioned in the schedule hereto annexed, or under any other section of the said Code, or any other law, which may, from time to time, be specified by the Governor General in Council by a notification in the *Gazette of India*.

12. Such warrant may be directed to the

Direction and execution of warrant.

Magistrate of any district in which the accused person is believed to be, and shall be executed in the manner provided by the law for the time being in force with reference to the execution of warrants; and the accused person, when arrested, shall be forwarded to the place and delivered to the officer named in the warrant.

13. Such Political Agent may either dispose

Political Agent may himself dispose of case, or make over person to ordinary Courts for trial.

of the case himself, or, if he is generally or specially directed to do so by the Governor General in Council, or by the Governor of the Presidency of Fort St. George in Council or by the Governor of the Presidency of Bombay in Council, may give over the person so forwarded; whether he be a Native Indian subject of Her Majesty or not, to be tried by the ordinary Courts of the State in which the offence was committed.

14. Whenever a requisition is made to the Governor General in Council or any Local Government by or by the authority of the persons for the time being administering the Executive Government of any part of the dominions of Her Majesty, or the territory of any Foreign Prince or State, that any person accused of having committed an offence in such dominions or territory should be given up, the Governor General in Council or such Local Government, as the case may be, may issue an order to any Magistrate who would have had jurisdiction to inquire into the offence if it had been committed within the local limits of his jurisdiction, directing him to inquire into the truth of such accusation.

The Magistrate so directed shall issue a summons or warrant for the arrest of such person, according as the offence named appears to be one for which a summons or warrant would ordinarily issue; and shall enquire into the truth of such accusation, and shall report thereon to the Government by which he was directed to hold the said inquiry. If, upon receipt of such report, such Government is of opinion that the accused person ought to be given up to the persons making such requisition, it may issue a warrant for the custody and removal of such accused person and for his delivery at a place and to a person to be named in the warrant.

The provisions of section ten shall apply to inquiries held under this section.

15. Whenever any person accused or suspected of having committed an offence out of British India is within the local limits of the jurisdiction of a Magistrate in British India, and it appears to

Magistrate may in certain cases issue warrant for arrest of person accused of having committed an offence out of British India.

such Magistrate that the Political Agent for any State could, under the provisions of section eleven, issue a warrant for the arrest of such person, or that the persons for the time being administering the Executive Government of any part of the dominions of Her Majesty or the territory of any Foreign Prince or State could demand his surrender, such Magistrate may, if he thinks fit, issue a warrant for the arrest of such person, on such information or complaint and such evidence as would, in his opinion, justify the issue of such a warrant if the offence had been committed within the local limits of his jurisdiction.

Any Magistrate issuing a warrant under this section shall, when the offence appears or is alleged to have been committed in a State for which there is a Political Agent, send immediate information of his proceedings to such Agent, and in other cases shall at once report his proceedings to the Local Government.

Magistrate to inform Political Agent or Local Government.

16. No person arrested on a warrant issued by a Magistrate under section fifteen shall be detained more than two months from the date of his arrest, unless within such period the Magistrate receives a warrant under section eleven from the

Person arrested to be released after certain time if not proceeded against.

Political Agent for any State for the delivery of such person, or an order with reference to him under section fourteen from the Governor General in Council or Local Government, or such person is in accordance with law delivered up to some Foreign Prince or State.

At any time before the receipt of such a warrant or order the Magistrate, if he thinks fit, may, and the Magistrate if so directed by the Local Government shall, discharge the accused person.

17. The provisions of the Code of Criminal Procedure in respect of bail shall apply in the case of any person arrested under section fifteen in the same manner as if such person were accused of committing in British India the offence with which he is charged.

## CHAPTER V.

### MISCELLANEOUS.

18. The Governor General in Council may, from time to time, make rules to provide for—

(1) the confinement, diet and prison discipline of British subjects, European or Native, imprisoned by Political Agents under this Act;

(2) the removal of accused persons under this Act, and their control and maintenance until such time as they are handed over to the persons named in the warrant as entitled to receive them; and

(3) generally to carry out the purposes of this Act.

19. The testimony of any witness may be obtained in relation to any criminal matter pending in any Court or tribunal in the territory of any Foreign Prince or State in like manner as it may be obtained in relation to any civil matter under the Code of Civil Procedure, Chapter XXV.; and the provisions of that chapter shall be construed as if the term "suit" included a proceeding against a criminal: Provided that nothing in this section shall apply in the case of any criminal matter of a political character.

## THE SCHEDULE.

### SECTIONS OF THE INDIAN PENAL CODE REFERRED TO IN SECTION ELEVEN.

Sections 206, 208 and 224; Sections 230 to 263, both inclusive; Sections 299 to 304, both inclusive; Sections 307, 310 and 311; Sections 312 to 317, both inclusive; Sections 323 to 333, both inclusive; Sections 347 and 348; Sections 360 to 373, both inclusive; Sections 375 to 377, both inclusive; Sections 378 to 414, both inclusive; Sections 435 to 440, both inclusive; Sections 443 to 446, both inclusive; Sections 464 to 468, both inclusive; Sections 471 to 477, both inclusive.

D. FITZPATRICK,  
Secy. to the Govt. of India,  
Legislative Department.

*[Published with the "Bombay Government Gazette" on the 11th December 1879.]*

**PART IV.**

**ACTS PASSED BY THE GOVERNMENT OF BOMBAY.**

**LEGISLATIVE DEPARTMENT.**

*Bombay Castle, 21st November 1879.*

No. 369.—*Erratum.*—In line 12 of Section 127 of "The Bombay Land Revenue Code, 1879," as published in the *Government Gazettes* of the 17th, 24th, and 31st July 1879, for "Act" read "Acts."

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

**C. G. W. MACPHERSON,**  
Acting Under Secretary to Government.

## ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 14th November 1879, and was promulgated for general information in the *Gazette of India* on the 15th November 1879:—

### Act No. XX. of 1879.

*An Act to provide for the better prevention of Glanders and Farcy among Horses.*

WHEREAS it is expedient to provide for the better prevention of glanders and farcy among horses; It is hereby enacted as follows:—

1. This Act may be called "The Glanders and Farcy Act, 1879."

It extends to the whole of British India, except the territories respectively administered by the Governor of Fort St. George in Council, the Governor of Bombay in Council and the Lieutenant-Governor of Bengal;

and it shall come into force at once.

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

"horse" includes also ponies, asses, mules and jennets:

"diseased," "diseased" means affected with glanders or farcy.

3. The Local Government may, by notification in the official Gazette, apply this Act, or any provision of this Act, to any local area, to be specified in such notification, within the territories administered by it, and may in like manner amend or cancel any such notification.

4. When this Act has been so applied to any local area, the Local Government may, by notification in the official Gazette, appoint either by name or by virtue of their office such persons as it thinks fit to be Inspectors under this Act and to exercise and perform, within the whole of such local area or such portions thereof as it may from time to time prescribe, the powers conferred and the duties imposed by this Act on such officers.

Every person so appointed may be suspended or dismissed by the Local Government which appointed him.

Every person so appointed shall be deemed a public servant within the meaning of the Indian Penal Code,

5. Within the local limits for which he is so appointed, any such Inspector may seize any horse which he has reason to believe, from personal knowledge or from information given by any person and taken down in writing, is diseased.

6. For the purpose of making such seizure, such Inspector may, subject to such rules as the Local Government may from time to time make in this behalf, enter and search any field, building or other place where he has reason to believe that any such horse is to be found.

7. On any such seizure, the Inspector shall cause the horse so seized to be examined as soon as possible by such Veterinary Surgeon as the Local Government may from time to time appoint in this behalf.

8. If such Surgeon certifies in writing that such horse is diseased, the Inspector shall cause the same to be immediately destroyed; but if such Surgeon does not so certify, the Inspector shall at once deliver the same to the person entitled to the possession thereof.

9. When any diseased horse has been in any building, shed or other enclosed place, or in any open lines, the Inspector may issue a notice to the owner of such building, shed, place or lines, or the person in charge thereof, directing him to have the same disinfected, and the internal fittings thereof, or such other things found therein or near thereto as the Local Government may from time to time by rule prescribe, destroyed.

On the failure or neglect of such owner or other person to comply with such notice within a reasonable time, the Inspector shall cause such building, shed, place or lines to be disinfected, and such fittings or other things to be destroyed, and the expense (if any) thereby incurred may be recovered from such owner or other person as if it were a fine.

10. The owner or any person in charge of a diseased horse shall give immediate information of such horse being diseased to the Inspector or to some officer of Police.

11. No person in charge of any horse which has been in the same field, building or place or in contact with a diseased horse shall move such horse, except in good faith for the purpose

of preventing infection or under a license to be granted by the Inspector and subject to the conditions of such license.

12. Any Inspector who, without reasonable ground of suspicion, enters or searches any field, building or other place, or vexatiously and unnecessarily seizes or detains any horse on the pretence that it is diseased, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

No prosecution under this section shall be instituted after the expiry of three months from the date on which the offence has been committed.

13. Any person who refuses or neglects to comply with any notice issued by the Inspector under section 9; or who moves any horse in contravention of section eleven, shall be punished with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

14. The Local Government may, from time to time, make rules, consistent with this Act,—

(a) for regulating entries and searches by Inspectors under this Act;

(b) for regulating the destruction of horses certified under section eight to be diseased, and the disposal of the carcasses of such horses;

(c) for regulating the disinfecting of buildings and places in which diseased horses have been, and for prescribing what things found therein or near thereto shall be destroyed;

(d) for regulating the grant of licenses under section eleven, and the conditions on which such licenses shall be granted; and

(e) generally for carrying out the purposes of this Act.

All such rules shall be published in the official Gazette, and shall thereupon have the force of law.

Any person breaking a rule made under this section shall be punished with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

15. All diseased horses destroyed under the orders of the Governor General in Council or the Local Government in the districts of Ráwalpindi and Pesháwar previous to the passing of this Act shall be deemed to have been destroyed in accordance with law.

D. FITZPATRICK,

Secretary to the Government of India,  
Legislative Department.