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ACT No. I OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 1st February, 1923.)

An Act further to amend the Criminal Tribes Act, 1911.

III of 1911. WHEREAS it is expedient further to amend the Criminal Tribes Act, 1911; It is hereby enacted as follows:—

1. This Act may be called the Criminal Tribes Short title. (Amendment) Act, 1923.

III of 1911. 2. In section 2 of the Criminal Tribes Act, 1911 Amendment of section 2, Act III of 1911. (hereinafter referred to as the said Act),—

(a) after clause (1) the following clauses shall be inserted, namely:—

“(1a) ‘district’ includes a Presidency-town and the town of Rangoon;

“(1b) ‘District Magistrate’ means, in the case of a Presidency-town or the town of Rangoon, the Commissioner of Police”; and

(b) after clause (2) the following clause shall be inserted, namely:—

“(2a) ‘Superintendent of Police’ means, in the case of a Presidency-town or the town of Rangoon, any officer appointed by the Local Government to perform the duties of a Superintendent of Police under this Act.”

3. In section 4 of the said Act, the words “or of any part thereof” shall be omitted. Amendment of section 4, Act III of 1911.

4. In

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[Price two annas and three pies.]

Criminal Tribes (Amendment). [ACT I

Amendment
of section 5,
Act III of
1911.

4. In section 5 of the said Act,—
- (a) for the words “a notice” the word “notice” shall be substituted;
 - (b) the words “or of such part thereof as is directed to be registered” shall be omitted; and
 - (c) in the proviso, the words “or part thereof” shall be omitted, and after the word “registration” the words “and may cancel any such exemption” shall be added.

Amendment
of section 13,
Act III of
1911.

5. In section 13 of the said Act, after the word “settled” the following shall be added, namely:—

“and any officer empowered in this behalf by the Local Government may, by order in writing, vary any notification made under section 11 or under this section by directing the restriction of such criminal tribe to another area, or, as the case may be, its settlement in another place, in the same district.”

Insertion of
new section
13A in Act
III of 1911.
Power of
Local
Government
to restrict or
settle criminal
tribe in
another
province.

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

“13A. Any notification made by the Local Government under section 11 or section 13 may, specify, as the area to which the criminal tribe shall be restricted or as the place in which it shall be settled, an area or place situated in any other province, provided that the consent of the Local Government of that province shall first have been obtained.”

Substitution
of new section
for section 15,
Act III of
1911.

7. For section 15 of the said Act, the following section shall be substituted, namely:—

Application
of Act when
criminal tribe
is transferred
from one
province or
district to
another.

“15. (1) Where a criminal tribe is restricted in its movements to an area, or is settled in a place of residence, situated in a province other than that by the Local Government of which the notification under section 3 relating to such criminal tribe was issued, all the provisions of this Act and the rules made hereunder shall apply to the criminal tribe as if the notification

OF 1923.] *Criminal Tribes (Amendment).*

notification had been issued by the Local Government of such other province.

(2) If a criminal tribe, having been registered under section 4 in any district, is restricted in its movements to an area, or is settled in a place of residence, situated in another district (whether in the same province or not), the register or any relevant entries or entry therein shall be transferred to the Superintendent of Police of the last-mentioned district, and all the provisions of this Act and the rules made hereunder shall apply as if such criminal tribe had been registered in that district, and the District Magistrate of that district shall have power to cancel any exemption granted under section 5."

8. In section 16 of the said Act, the words "Governor General in Council or the" and the words "or any part thereof" shall be omitted; and to the same section the following proviso shall be added, namely:—

Amendment
of section 16,
Act III of
1911.

"Provided that no criminal tribe shall be placed in a settlement unless the necessity for so placing it has been established to the satisfaction of the Local Government, after an inquiry held by such authority and in such manner as may be prescribed."

9. In section 18 of the said Act,—

Amendment
of section 18,
Act III of
1911.

(a) after the words "Local Government" the words "or any officer authorised by it in this behalf" shall be inserted; and

(b) in clause (b), the word "like" shall be omitted.

10. In sub-section (2) of section 20 of the said Act,—

Amendment
of section 20,
Act III of
1911.

(a) after clause (e) the following clause shall be inserted, namely:—

"(ee) the circumstances in which members of a criminal tribe shall be required to

Criminal Tribes (Amendment). [ACT I

to possess and produce for inspection certificates of identity, and the manner in which such certificates shall be granted ;” and

(b) after clause (h) the following clause shall be inserted, namely :—

“(hh) the authority by whom and the manner in which the inquiry referred to in section 16 shall be held.”

Amendment of section 22, Act III of 1911.

11. In section 22 of the said Act, —

(a) to sub-section (1) the words “or with fine which may extend to five hundred rupees, or with both” shall be added ;

(b) in sub-section (2), for the words “a rule made under any other clause of” the words “any other rule made under” shall be substituted ; and

(c) after sub-section (2) the following sub-section shall be added, namely :—

“(3) Any person who commits or is reasonably suspected of having committed an offence made punishable by this section which is not a cognizable offence within the meaning of the Code of Criminal Procedure, 1898, may be arrested without a warrant by any officer in charge of a police-station or by any police-officer not below the rank of a sub-inspector.”

Insertion of new sections 27A and 27B in Act III of 1911.

Power to deport certain criminal tribes to States in India.

12. After section 27 of the said Act the following sections shall be inserted, under the heading “Supplemental”, namely :—

“27A. The Local Government, if it is satisfied that adequate provision has been made by the law of any State in India for the restriction of the movements or the settlement in a place of residence of persons such as are referred to in section 3, and for securing the welfare of persons so restricted or settled, may, with the consent of the Prince or Chief of that State, direct the removal to that State of

any

OF 1923.] *Criminal Tribes (Amendment).*

any criminal tribe for the time being in the province, and may authorise the taking of all measures necessary to effect such removal :

Provided that no person shall be so removed if the Local Government is satisfied that he is a subject of His Majesty.

27B. The references to a criminal tribe in sections 4, 5, 14, 17 and 27A, shall be deemed to be references to a criminal tribe or any part thereof, and the like references in sections 11, 13, 13A, 15 and 16 shall be deemed to be references to a criminal tribe or any part or member thereof." References to a criminal tribe to include references to part thereof in certain cases.

CALCUTTA
SUPERINTENDENT GOVERNMENT PRINTING, INDIA
8, HASTINGS STREET

ACT No. II OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 16th
February, 1923.)

An Act to supplement the Malabar (Completion of Trials) Act, 1922.

Mad. Act I
of 1923.

WHEREAS it is expedient to supplement the Malabar (Completion of Trials) Act, 1922 ; It is hereby enacted as follows :—

1. This Act may be called the Malabar (Com- Short title.
pletion of Trials) Supplementing Act, 1923.

III of 1922. 2. On the expiration of the Malabar (Completion Appeals to lie
of Trials) Ordinance, 1922, and notwithstanding such notwithstanding
expiration, an appeal shall lie to the High Court of expiration
Judicature at Madras in any case in which an appeal of Ordinance
would have lain to that Court but for such expiration, III of 1922.
and every such appeal and every appeal presented to
the High Court under that Ordinance before the date
of such expiration shall be heard and decided by the
High Court.

[Price one anna only.]

CALCUTTA
SUPERINTENDENT GOVERNMENT PRINTING, INDIA
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Mad. Act I
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WHEREAS it is expedient to supplement the Malabar (Completion of Trials) Act, 1922 ; It is hereby enacted as follows :—

1. This Act may be called the Malabar (Completion of Trials) Supplementing Act, 1923. Short title.

III of 1922.

2. On the expiration of the Malabar (Completion of Trials) Ordinance, 1922, and notwithstanding such expiration, an appeal shall lie to the High Court of Judicature at Madras in any case in which an appeal would have lain to that Court but for such expiration, and every such appeal and every appeal presented to the High Court under that Ordinance before the date of such expiration shall be heard and decided by the High Court. Appeals to lie notwithstanding expiration of Ordinance III of 1922.

[Price one anna only.]

SUPERINTENDENT GOVERNMENT PRINTING, INDIA
8, HASTINGS STREET
CALCUTTA

ACT No. III OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 23rd
February, 1923.)

An Act to provide for the restriction and control of the transport of cotton in certain circumstances.

WHEREAS it is expedient for the purpose of maintaining the quality and reputation of the cotton grown in certain areas in British India to enable the restriction and control of the transport by rail and the import of cotton into those areas; It is hereby enacted as follows:—

1. (1) This Act may be called the Cotton Short title and extent. Transport Act, 1923.

(2) It extends to the whole of British India.

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

(a) “certified copy,” in relation to a licence, means a copy of the licence certified in the manner described in section 76 of the Indian Evidence Act, 1872, by the authority by which the licence was granted;

(b) “cotton” means every kind of unmanufactured cotton, that is to say, ginned and unginned cotton, cotton waste and cotton seed;

(c) “cotton waste” means droppings, stripings, fly and other waste products of a cotton-mill other than yarn waste;

(d) “licence” means a licence granted under this Act;

(e) “notified

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I of 1872.

[Price two annas.]

- (e) "notified station" means a railway station specified in a notification under section 3;
- (f) "prescribed" means prescribed by rules made under this Act; and
- (g) "protected area" means an area into which the import of cotton or of any kind of cotton has been prohibited by a notification under section 3.

Power to issue notification prohibiting import of cotton into protected area.

3. (1) The Local Government may, for the purpose of maintaining the quality or reputation of the cotton grown in any area in the Province, by notification in the local official Gazette, prohibit the import of cotton or of any specified kind of cotton into that area save under, and in accordance with the conditions of, a licence :

Provided that no such notification shall be deemed to prohibit the import into any protected area of packages containing any kind of cotton and not exceeding ten pounds avoirdupois weight.

(2) Any such notification may prohibit the delivery to, and the taking of delivery by, any person, at any specified railway station situated in the protected area, of any cotton, the import of which into that area is prohibited when such cotton has been consigned from a railway station not situated in that area, unless such person holds a licence for the import of the cotton into that area.

Refusal to carry unlicensed cotton.

4. (1) Notwithstanding anything contained in the Indian Railways Act, 1890, or any other law for IX of 1890. the time being in force, the station master of any railway station or any other railway servant responsible for the booking of goods or parcels at that station may refuse to receive for carriage at, or to forward or allow to be carried on the railway from, that station any cotton consigned to a notified station, being cotton of a kind of which the delivery at such notified station has been prohibited unless both stations are in the same protected area, or unless the consignor produces a certified copy of a licence

for

for the import of the cotton into the protected area in which such notified station is situated.

(2) Every certified copy of a licence when so produced shall be attached to the invoice or way-bill, as the case may be, and shall accompany the consignment to its destination, and shall there be dealt with in the prescribed manner.

(3) Where by or under any law in force in the territories of any State in India the import into any area, or the delivery at any railway station, of cotton or of any kind of cotton has been prohibited, the Governor General in Council may, by notification in the Gazette of India, declare that the provisions of sub-section (1) shall apply in respect of cotton consigned to any such station as if such area and such station were respectively a protected area and a notified station, and as if any licence granted under such law were a licence granted under this Act.

5. (1) Where any cotton, the import of which Procedure where cotton arrives at notified station. into any protected area has been prohibited, has been consigned to and arrives at a notified station in any such protected area, the station master or other railway servant responsible for the receipt and delivery to the consignee of goods or parcels, as the case may be, at that station shall, unless both the notified station and the railway station from which the cotton has been consigned are situated in the same protected area, refuse to deliver the cotton until he is satisfied that the consignee holds a licence for the import of the cotton into the protected area in which such notified station is situated; and, if he is not so satisfied, or if within fourteen days the consignee or some person acting on his behalf does not appear in order to take delivery, shall return the cotton to the railway station from which it was consigned, together with an intimation that delivery of the cotton has been refused or has not been taken, as the case may be.

(2) Any station master or other railway servant receiving any cotton returned under sub-section (1), or returned with a like intimation from a railway station

station specified in a notification under sub-section (3) of section 4, shall cause to be served on the consignor in any manner authorised by section 141 of the Indian Railways Act, 1890, a notice stating that ^{IX of 1890.} the cotton has been so returned and requiring the consignor to pay any rate, terminal or other charges due in respect of the carriage of the cotton to and from the railway station to which it was consigned, and such charges shall be deemed to be due from the consignor for all the purposes of section 55 of that Act.

Penalties.

6. Any person who, in contravention of the provisions of this Act or of any notification or rule made hereunder, knowingly takes delivery of any cotton from a notified station or imports, or attempts to import, any cotton into a protected area, and any station master or other railway servant who, in contravention of the provisions of sub-section (1) of section 5, without reasonable excuse, the burden of proving which shall lie upon him, delivers any cotton to a consignee or other person, shall be liable to a fine not exceeding one thousand rupees, and upon any subsequent conviction to imprisonment which may extend to three months, or to fine which may extend to five thousand rupees, or to both.

Power to make rules.

7. (1) The Local Government may, by notification in the local official Gazette, make rules to provide for any of the following matters, namely:—

- (a) the prevention of the import into a protected area by road, river or sea, save under and in accordance with the conditions of a licence, of cotton the import of which into that area has been prohibited by a notification under section 3;
- (b) the terms and conditions to be contained in licences and the authorities by which they may be granted; and
- (c) the manner in which licences and certified copies thereof shall be dealt with on and after the delivery of the cotton to which they relate.

(2) Any

of 1923.]

Cotton Transport.

(2) Any such rules may provide that any contravention thereof or of the conditions of any licence, not otherwise made punishable by this Act, shall be punishable with fine which may extend to five hundred rupees.

8. No notification under section 3 or rule under section 7 shall be issued by the Local Government of any Governor's Province, unless it has been laid in draft before the Legislative Council of the Province, and has been approved by a Resolution of the Legislative Council, either with or without modification or addition, but upon such approval being given the notification or rule, as the case may be, may be issued in the form in which it has been so approved.

Previous approval of Local Legislature to issue of notifications and rules.

9. No suit or other legal proceeding shall be instituted against any person in respect of anything which is in good faith done or intended to be done under this Act.

Protection for acts done under Act.

CALCUTTA
SUPERINTENDENT GOVERNMENT PRINTING, INDIA
8, HASTINGS STREET

ACT No. IV OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor-General on the 23rd February, 1923.)

An Act to amend and consolidate the law relating to the regulation and inspection of mines.

WHEREAS it is expedient to amend and consolidate the law relating to the regulation and inspection of mines; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Indian Mines Act, 1923. Short title, extent and commencement.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) It shall come into force on the first day of July, 1924.

2. Nothing in this Act shall be construed to affect the provisions of the Upper Burma Ruby Regulation, 1887. Saving of Reg. XII of 1887.

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

(a) “agent,” when used in relation to a mine, means any person appointed or acting as the representative of the owner in respect of the management of the mine or

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[Price seven annas.]

of any part thereof, and as such superior to a manager under this Act;

- (b) "Chief Inspector" means the Chief Inspector of Mines appointed under this Act;
- (c) "child" means a person under the age of thirteen years;
- (d) a person is said to be "employed" in a mine who works under appointment by or with the knowledge of the manager, whether for wages or not, in any mining operation, or in cleaning or oiling any part of any machinery used in or about the mine, or in any other kind of work whatsoever incidental to, or connected with, mining operations;
- (e) "Inspector" means an Inspector of Mines appointed under this Act, and includes a District Magistrate when exercising any power or performing any duty of an Inspector which he is empowered by this Act to exercise or perform;
- (f) "mine" means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on, and includes all works, machinery, tramways and sidings, whether above or below ground, in or adjacent to or belonging to a mine:
provided that it shall not include any part of such premises on which a manufacturing process is being carried on unless such process is a process for coke making or the dressing of minerals;
- (g) "owner," when used in relation to a mine, means any person who is the immediate proprietor or lessee or occupier of the mine or of any part thereof, but does not include a person who merely receives a
royalty,

royalty, rent or fine from the mine, or is merely the proprietor of the mine subject to any lease, grant or license for the working thereof, or is merely the owner of the soil and not interested in the minerals of the mine; but any contractor for the working of a mine or any part thereof shall be subject to this Act in like manner as if he were an owner, but not so as to exempt the owner from any liability;

(h) "prescribed" means prescribed by regulations, rules or bye-laws;

(i) "qualified medical practitioner" means any person registered under the Medical Act, 1858, or any Act amending the same or under any Act of any Legislature in British India providing for the maintenance of a register of medical practitioners, and included, in any area where no such last-mentioned Act is in force, any person declared by the Local Government, by notification in the local official Gazette, to be a qualified medical practitioner for the purposes of this Act;

(j) "regulations," "rules" and "bye-laws" mean respectively regulations, rules and bye-laws made under this Act;

(k) "serious bodily injury" means any injury which involves, or in all probability will involve, the permanent loss of the use of, or permanent injury to, any limb, or the permanent loss of or injury to the sight or hearing, or the fracture of any limb or the enforced absence of the injured person from work for a period exceeding twenty days; and

(l) "week" means the period between midnight on Saturday night and midnight on the succeeding Saturday night.

21 & 22 Vict.
c. 90.

CHAPTER II.

INSPECTORS.

Chief Inspector and Inspectors.

4. (1) The Governor General in Council may, by notification in the Gazette of India, appoint a duly qualified person to be Chief Inspector of Mines for the whole of British India, and duly qualified persons to be Inspectors of Mines subordinate to the Chief Inspector.

(2) No person shall be appointed to be Chief Inspector or an Inspector, or, having been appointed shall continue to hold such office who is or becomes directly or indirectly interested in any mine or mining rights in India.

(3) The District Magistrate may exercise the powers and perform the duties of an Inspector subject to the general or special orders of the Local Government :

Provided that nothing in this sub-section shall be deemed to empower a District Magistrate to exercise any of the powers conferred by section 19 or section 32.

(4) The Chief Inspector and every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code.

XLV of 1860.

Functions of Inspectors.

5. (1) The Chief Inspector may, by order in writing, prohibit or restrict the exercise by any Inspector named, or any class of Inspectors specified, in the order of any power conferred on Inspectors by this Act, and shall, subject as aforesaid, declare the local area or areas within which, or the group or class of mines with respect to which, Inspectors shall exercise their respective powers.

(2) The Inspector shall give information to owners, agents and managers of mines, situate within the local area or areas or belonging to the group or class of mines, in respect of which he exercises powers under sub-section (1) as to all regulations and rules which concern them respectively and as to the

the places where copies of such regulations and rules may be obtained.

6. The Chief Inspector and any Inspector may— Powers of Inspectors of Mines.

- (a) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and of the regulations, rules and bye-laws and of any orders made thereunder are observed in the case of any mine;
- (b) with such assistants (if any) as he thinks fit, enter, inspect and examine any mine or any part thereof at any reasonable time by day or night, but not so as unreasonably to impede or obstruct the working of the mine;
- (c) examine into, and make inquiry respecting, the state and condition of any mine or any part thereof, the ventilation of the mine, the sufficiency of the bye-laws for the time being in force relating to the mine, and all matters and things connected with or relating to the safety of the persons employed in the mine.

7. Any person in the service of the Government duly authorised by a special order in writing of the Chief Inspector or of an Inspector in this behalf may, for the purpose of surveying, levelling or measuring in any mine, after giving not less than three days' notice to the manager of such mine, enter the mine and may survey, level or measure the mine or any part thereof at any reasonable time by day or night, but not so as unreasonably to impede or obstruct the working of the mine. Powers of special officer to enter, measure, etc.

8. Every owner, agent and manager of a mine shall afford the Chief Inspector and every Inspector and every person authorised under section 7 all reasonable facilities for making any entry, inspection, survey, measurement, examination or inquiry under this Act. Facilities to be afforded to Inspectors.

9. (1) All

Secrecy of
information
obtained.

9. (1) All copies of, and extracts from, registers or other records appertaining to any mine, and all other information acquired by the Chief Inspector or an Inspector or by any one assisting him, in the course of the inspection of any mine under this Act or acquired by any person authorised under section 7 in the exercise of his duties thereunder, shall be regarded as confidential.

(2) If the Chief Inspector, or an Inspector or any other person referred to in sub-section (1) discloses to any one, other than a Magistrate or an officer to whom he is subordinate, any such information as aforesaid without the consent of the Governor General in Council or of the Local Government, he shall be guilty of a breach of official trust, and shall be punishable in the manner provided by section 4 of the Indian Official Secrets Act, 1889.

(3) No Court shall proceed to the trial of any offence under this section except on complaint made by order of, or under authority from, the Governor General in Council or the Local Government, or made by a person aggrieved by the offence.

CHAPTER III.

MINING BOARDS AND COMMITTEES.

Mining
Boards.

10. (1) The Local Government may constitute for the province, or for any part of the province, or for any group or class of mines in the province, a Mining Board consisting of—

- (a) a person in the service of the Government, not being the Chief Inspector or an Inspector, nominated by the Local Government to act as chairman;
- (b) the Chief Inspector or an Inspector;
- (c) two persons, neither of whom shall be the Chief Inspector or an Inspector nominated by the Local Government, of whom

whom one shall be a person qualified to represent the interests of persons employed in mines;

- (d) two persons nominated by owners of mines or their representatives in such manner as may be prescribed.

(2) The chairman shall appoint a person to act as secretary to the Board.

(3) The Local Government may give directions as to the payment of travelling expenses incurred by the secretary or any member of any such Mining Board in the performance of his duty as such secretary or member.

11. (1) Where under this Act any question relating to a mine is referred to a Committee, the Committee shall consist of—

(a) a chairman nominated by the Local Government or by such officer or authority as the Local Government may authorise in this behalf;

(b) a person nominated by the chairman and qualified by experience to dispose of the question referred to the Committee; and

(c) two persons of whom one shall be nominated by the owner, agent or manager of the mine concerned, and the other shall be nominated by the Local Government to represent the interests of the persons employed in the mine.

(2) No Inspector or person employed in or in the management of any mine concerned shall serve as chairman or member of a Committee appointed under this section.

(3) Where an owner, agent or manager fails to exercise his power of nomination under clause (c) of sub-section (1), the Committee may, notwithstanding such failure, proceed to inquire into and dispose of the matter referred to it.

(4) The

(4) The Committee shall hear and record such information as the Chief Inspector or the Inspector, or the owner, agent or manager of the mine concerned, may place before it, and shall intimate its decision to the Chief Inspector or the Inspector and to the owner, agent or manager of the mine, and shall report its decision to the Local Government.

(5) On receiving such report the Local Government shall pass orders in conformity therewith unless the Chief Inspector or the owner, agent or manager of the mine has lodged an objection to the decision of the Committee, in which case the Local Government may proceed to review such decision and to pass such orders in the matter as it may think fit. If an objection is lodged by the Chief Inspector, notice of the same shall forthwith be given to the owner, agent or manager of the mine.

(6) The Local Government may give directions as to the remuneration, if any, to be paid to the members of the Committee or any of them, and as to the payment of the expenses of the inquiry including such remuneration.

Powers of
Mining
Boards.

12. (1) Any Mining Board constituted under section 10 and any Committee constituted under section 11 may exercise such of the powers of an Inspector under this Act as it thinks necessary or expedient to exercise for the purpose of deciding or reporting upon any matter referred to it.

(2) Every Mining Board constituted under section 10 and every Committee appointed under section 11 shall have the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects; and every person required by any such Mining Board or Committee to furnish information before it shall be deemed to be legally bound to do so within the meaning of section 176 of the Indian Penal Code. v of 1908.

XLV of 1860.

Recovery of
expenses.

13. The Local Government may direct that the expenses of any inquiry conducted by a Mining Board

Board constituted under section 10 or by a Committee appointed under section 11 shall be borne in whole or in part by the owner or agent of the mine concerned, and the amount so directed to be paid may, on application by the Chief Inspector or an Inspector to a Magistrate having jurisdiction at the place where the mine is situated or where such owner or agent is for the time being resident, be recovered by the distress and sale of any moveable property within the limits of the Magistrate's jurisdiction belonging to such owner, agent or manager.

CHAPTER IV.

MINING OPERATIONS AND MANAGEMENT OF MINES.

14. The owner, agent or manager of a mine shall, in the case of an existing mine within one month from the commencement of this Act, or, in the case of a new mine, within three months after the commencement of mining operations, give to the District Magistrate of the district in which the mine is situated notice in writing in such form and containing such particulars relating to the mine as may be prescribed.

Notice to be given of mining operations.

15. (1) Save as may be otherwise prescribed, every mine shall be under one manager who shall have the prescribed qualifications and shall be responsible for the control, management and direction of the mine, and the owner or agent of every mine shall appoint himself or some other person, having such qualifications, to be such manager.

Managers.

(2) If any mine is worked without there being a manager for the mine as required by sub-section (1), the owner and agent shall each be deemed to have contravened the provisions of this section.

16. (1) The owner, agent and manager of every mine shall be responsible that all operations carried on in connection therewith are conducted in accordance with the provisions of this Act and of the regulations,

Duties and responsibilities of owners, agents and managers.

regulations, rules and bye-laws and of any orders made thereunder.

(2) In the event of any contravention of any such provisions by any person whomsoever, the owner, agent and manager of the mine shall each be deemed also to be guilty of such contravention unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing those provisions, to prevent such contravention :

Provided that the owner or agent shall not be so deemed if he proves—

(a) that he was not in the habit of taking, and did not in respect of the matter in question take, any part in the management of the mine; and

(b) that he had made all the financial and other provisions necessary to enable the manager to carry out his duties; and

(c) that the offence was committed without his knowledge, consent or connivance.

(3) Save as hereinbefore provided, it shall not be a defence in any proceedings brought against an owner or agent of a mine under this section that a manager of the mine has been appointed in accordance with the provisions of this Act.

CHAPTER V.

PROVISIONS AS TO HEALTH AND SAFETY.

Conservancy. 17. There shall be provided and maintained for every mine latrine and urinal accommodation of such kind and on such scale, and such supply of water fit for drinking, as may be prescribed.

Medical appliances. 18. At every mine in respect of which the Local Government may, by notification in the local official Gazette, declare this section to apply, such supply of ambulances or stretchers, and of splints, bandages and other medical requirements, as may be prescribed,

prescribed, shall be kept ready at hand in a convenient place and in good and serviceable order.

19. (1) If, in any respect which is not provided against by any express provision of this Act or of the regulations, rules or bye-laws or of any orders made thereunder, it appears to the Chief Inspector or the Inspector that any mine, or any part thereof or any matter, thing or practice in or connected with the mine, or with the control, management or direction thereof, is dangerous to human life or safety, or defective so as to threaten, or tend to, the bodily injury of any person, he may give notice in writing thereof to the owner, agent or manager of the mine, and shall state in the notice the particulars in which he considers the mine, or part thereof, or the matter, thing or practice, to be dangerous or defective and required the same to be remedied within such time as he may specify in the notice.

Powers of Inspectors when causes of danger not expressly provided against exist or when employment of persons is dangerous.

(2) If the Chief Inspector or an Inspector authorised in this behalf by general or special order in writing by the Chief Inspector is of opinion that there is urgent and immediate danger to the life or safety of any person employed in any mine or part thereof, he may, by an order in writing containing a statement of the grounds of his opinion, prohibit, until the danger is removed, the employment in or about the mine or part thereof of any person whose employment is not in his opinion reasonably necessary for the purpose of removing the danger.

(3) Where an order has been made under sub-section (2) by an Inspector, the owner, agent or manager of the mine may, within ten days after the receipt of the order, appeal against the same to the Chief Inspector who may confirm, modify or cancel the order.

(4) The Chief Inspector or the Inspector making a requisition under sub-section (1) or an order under sub-section (2), and the Chief Inspector making an order (other than an order of cancellation) in appeal under sub-section (3), shall forthwith report the same to the Local Government and shall inform the

owner,

owner, agent or manager of the mine that such report has been so made.

(5) If the owner, agent or manager of the mine objects to a requisition made under sub-section (1) or to an order made by the Chief Inspector under sub-section (2), or sub-section (3), he may, within twenty days after the receipt of the notice containing the requisition or of the order or after the date of the decision of the appeal, as the case may be, send his objection in writing, stating the grounds thereof, to the Local Government, which shall refer the same to a Committee.

(6) Every requisition made under sub-section (1), or order made under sub-section (2), or sub-section (3) to which objection is made under sub-section (5), shall be complied with pending the receipt at the mine of the decision of the Committee :

Provided that the Committee may, on the application of the owner, agent or manager, suspend the operation of a requisition under sub-section (1) pending its decision on the objection.

(7) Nothing in this section shall affect the powers of a Magistrate under section 144 of the Code of Criminal Procedure, 1898.

V of 1898.

Notice to be given of accidents.

20. When any accident occurs in or about a mine causing loss of life or serious bodily injury, or when an accidental explosion, ignition, outbreak of fire or irruption of water occurs in or about a mine, the owner, agent or manager of the mine shall give such notice of the occurrence to such authorities, and in such form, and within such time, as may be prescribed.

Power of Government to appoint court of inquiry in cases of accidents.

21. (1) When any accidental explosion, ignition, outbreak of fire or irruption of water or other accident has occurred in or about any mine, the Local Government, if it is of opinion that a formal inquiry into the causes of, and circumstances attending, the accident ought to be held, may appoint a competent person to hold such inquiry, and may also appoint any person or persons possessing legal or special knowledge

knowledge to act as assessor or assessors in holding the inquiry.

V of 1908. (2) The person appointed to hold any such inquiry shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects; and every person required by such person as aforesaid to furnish any information shall be deemed to be legally bound to do so within the meaning of XLV of 1860. section 176 of the Indian Penal Code.

(3) Any person holding an inquiry under this section may exercise such of the powers of an Inspector under this Act as he may think it necessary or expedient to exercise for the purposes of the inquiry.

(4) The person holding an inquiry under this section shall make a report to the Local Government stating the causes of the accident and its circumstances, and adding any observations which he or any of the assessors may think fit to make.

22. The Local Government may cause any report submitted by a Committee under section 11 or by a court of inquiry under section 21 to be published at such time and in such manner as it may think fit. ^{Publication of reports.}

CHAPTER VI.

HOURS AND LIMITATION OF EMPLOYMENT.

23. No person shall be employed in a mine— ^{Hours of employment.}

- (a) on more than six days in any one week,
- (b) if he works above ground, for more than sixty hours in any one week,
- (c) if he works below ground, for more than fifty-four hours in any one week.

24. Nothing in section 23 shall apply to persons who may by rules be defined to be persons holding positions of supervision or management or employed in a confidential capacity. ^{Supervising staff.}

25. In

Exemption from provisions regarding employment.

25. In case of an emergency involving serious risk to the safety of the mine or of persons employed therein, the manager may, subject to the provisions of section 19, permit persons to be employed in contravention of section 23 on such work as may be necessary to protect the safety of the mine or of the persons employed therein :

Provided that, where such occasion arises, a record of the fact shall immediately be made by the manager and shall be placed before the Chief Inspector or the Inspector at his next inspection of the mine.

Children.

26. No child shall be employed in a mine, or be allowed to be present in any part of a mine which is below ground.

Disputes as to age.

27. (1) If any question arises between the Chief Inspector or the Inspector and the manager of any mine as to whether any person is a child, the question shall, in the absence of a certificate as to the age of such person granted in the prescribed manner, be referred by the Chief Inspector or the Inspector for decision to a qualified medical practitioner.

(2) Every certificate as to the age of a person which has been granted in the prescribed manner and any certificate granted by a qualified medical practitioner on a reference under sub-section (1) shall, for the purposes of this Act, be conclusive evidence as to the age of the person to whom it relates.

Register of employees.

28. For every mine there shall be kept in the prescribed form and place a register of all persons employed in the mine, of their hours of work, of their days of rest, and of the nature of their respective employments.

CHAPTER VII.

REGULATIONS, RULES AND BYE-LAWS.

Power of Governor General in

29. The Governor General in Council may, by notification in the Gazette of India, make regulations

regulations consistent with this Act for all or any of the following purposes, namely:—

Council to
make regula-
tions.

- (a) for prescribing the qualifications to be required by a person for appointment as Chief Inspector or Inspector;
- (b) for prescribing and regulating the duties and powers of the Chief Inspector and of Inspectors in regard to the inspection of mines under this Act;
- (c) for prescribing the duties of owners, agents and managers of mines and of persons acting under them;
- (d) for prescribing the qualifications of managers of mines and of persons acting under them;
- (e) for regulating the manner of ascertaining, by examination or otherwise, the qualifications of managers of mines and persons acting under them, and the granting and renewal of certificates of competency;
- (f) for fixing the fees, if any, to be paid in respect of such examinations and of the grant and renewal of such certificates;
- (g) for determining the circumstances in which and the conditions subject to which it shall be lawful for more mines than one to be under a single manager, or for any mine or mines to be under a manager not having the prescribed qualifications;
- (h) for providing for the making of inquiries into charges of misconduct or incompetency on the part of managers of mines and persons acting under them and for the suspension and cancellation of certificates of competency;
- (i) for regulating, subject to the provisions of the Indian Explosives Act, 1884, and of any rules made thereunder, the storage and use of explosives;

(j) for

15

- (j) for prohibiting, restricting or regulating the employment in mines or in any class of mines of women either below ground or on particular kinds of labour which are attended by danger to the life, safety or health of such women;
- (k) for providing for the safety of the persons employed in a mine, their means of entrance thereinto and exit therefrom, the number of shafts or outlets to be furnished, and the fencing of shafts, pits, outlets, pathways and subsidences;
- (l) for providing for the safety of the roads and working places in mines, including the siting and maintenance of pillars and the maintenance of sufficient barriers between mine and mine;
- (m) for providing for the ventilation of mines and the action to be taken in respect of dust and noxious gases;
- (n) for providing for the care, and the regulation of the use, of all machinery and plant and of all electrical apparatus used for signalling purposes;
- (o) for requiring and regulating the use of safety lamps in mines;
- (p) for providing against dangers arising out of the accumulation of water in mines;
- (q) for prescribing the notices of accidents and dangerous occurrences, and the notices, reports and returns of mineral output, persons employed and other matters provided for by regulations, to be furnished by owners, agents and managers of mines, and for prescribing the forms of such notices, returns and reports, the persons and authorities to whom they are to be furnished, the particulars to be contained in them, and the time within which they are to be submitted;
- (r) for

- (r) for prescribing the plans to be kept by owners, agents and managers of mines and the manner and places in which such plans are to be kept for purposes of record;
- (s) for regulating the procedure on the occurrence of accidents or accidental explosions or ignitions in or about mines;
- (t) for prescribing the form of, and the particulars to be contained in, the notice to be given by the owner, agent or manager of a mine under section 14; and
- (u) for prescribing the notice to be given by the owner, agent or manager of a mine before mining operations are commenced at or extended to any point within fifty yards of any railway subject to the provisions of the Indian Railways Act, 1890, or of any public work or classes of public works which the Local Government may, by general or special order, specify in this behalf.

IX of 1890.

30. The Local Government may, subject to the control of the Governor General in Council, by notification in the local official Gazette, make rules consistent with this Act for all or any of the following purposes, namely :—

Power of
Local Govern-
ments to
make rules.

- (a) for providing for the appointment of chairmen and members of Mining Boards, and for regulating the procedure of such Boards;
- (b) for providing for the appointment of courts of inquiry under section 21, for regulating the procedure and powers of such courts, for the payment of travelling allowance to the members, and for the recovery of the expenses of such courts from the manager, owner or agent of the mine concerned;
- (c) for prescribing the scale of latrine and urinal accommodation to be provided at
mines,

mines, the provision to be made for the supply of drinking-water, the supply and maintenance of medical appliances and comforts, the formation and training of rescue brigades, and the training of men in ambulance work;

- (d) for defining the persons who shall, for the purposes of section 24, be deemed to be persons holding positions of supervision or management or employed in a confidential capacity;
- (e) for prohibiting the employment in mines of persons or any class of persons who have not been certified by a qualified medical practitioner to be more than thirteen years of age, and for prescribing the manner and the circumstances in which such certificates may be granted and revoked;
- (f) for prescribing the form of register required by section 28;
- (g) for prescribing abstracts of this Act and the vernacular in which the abstracts and the regulations, rules and bye-laws shall be posted as required by sections 32 and 33;
- (h) for requiring the fencing of any mine or part of a mine, whether the same is being worked or not, where such fencing is necessary for the protection of the public;
- (i) for the protection from injury, in respect of any mine when the workings are discontinued, of property vested in His Majesty or any local authority or railway company as defined in the Indian Railways Act, 1890;
- (j) for requiring notices, returns and reports in connection with any matters dealt with by rules to be furnished by owners, agents and managers of mines, and for prescribing

IX of 1890

prescribing the forms of such notices, returns and reports, the persons and authorities to whom they are to be furnished, the particulars to be contained in them, and the times within which they are to be submitted; and

- (k) generally to provide for any matter not provided for by this Act or the regulations, provision for which is required in order to give effect to this Act.

31. (1) The power to make regulations and rules ^{Prior publica-} conferred by sections 29 and 30 is subject to the ^{tion of regula-} condition of the regulations and rules being made ^{tions and} ^{rules.} after previous publication.

(2) The date to be specified in accordance with clause (3) of section 23 of the General Clauses Act, 1897, as that after which a draft of regulations or rules proposed to be made will be taken under consideration, shall not be less than three months from the date on which the draft of the proposed regulations or rules is published for general information.

X of 1897.

(3) Before the draft of any regulation or rule is published under this section it shall be referred in the case of a regulation to every Mining Board constituted in British India, and in the case of a rule to every Mining Board constituted in the province; and the regulation or rule shall not be so published until each such Board has had a reasonable opportunity of reporting as to the expediency of making the same and as to the suitability of its provisions.

(4) Regulations and rules shall be published in the Gazette of India and the local official Gazette, respectively, and, on such publication, shall have effect as if enacted in this Act.

32. (1) The owner, agent or manager of a mine ^{Bye-laws.} may, and shall, if called upon to do so by the Chief Inspector or Inspector, frame and submit to the Chief Inspector or Inspector a draft of such bye-laws, not being inconsistent with this Act or any regulations or rules for the time being in force, for

the

the control and guidance of the persons acting in the management of, or employed in, the mine as such owner, agent or manager may deem necessary to prevent accidents and provide for the safety, convenience and discipline of the persons employed in the mine.

(2) If any such owner, agent or manager—

- (a) fails to submit within two months a draft of bye-laws after being called upon to do so by the Chief Inspector or Inspector, or
- (b) submits a draft of bye-laws which is not in the opinion of the Chief Inspector or Inspector sufficient,

the Chief Inspector or Inspector may—

- (i) propose a draft of such bye-laws as appear to him to be sufficient, or
- (ii) propose such amendments in any draft submitted to him by the owner, agent or manager as will, in his opinion, render it sufficient,

and shall send such draft bye-laws or draft amendments to the owner, agent or manager, as the case may be, for consideration.

(3) If within a period of two months from the date on which any draft bye-laws or draft amendments are sent by the Chief Inspector or Inspector to the owner, agent or manager under the provisions of sub-section (2), the Chief Inspector or Inspector and the owner, agent or manager are unable to agree as to the terms of the bye-laws to be made under sub-section (1), the Chief Inspector or Inspector shall refer the draft bye-laws for settlement to the Mining Board or, where there is no Mining Board, to such officer or authority as the Local Government may, by general or special order, appoint in this behalf.

(4) (a) When such draft bye-laws have been agreed to by the owner, agent or manager and the Chief Inspector or Inspector, or, when they are unable to agree, have been settled by the Mining Board or such officer or authority as aforesaid, a copy of the draft
bye-laws

bye-laws shall be sent by the Chief Inspector or Inspector to the Local Government for approval.

(b) The Local Government may make such modifications of the draft bye-laws as it thinks fit.

(c) Before the Local Government approves the draft bye-laws, whether with or without modifications, there shall be published, in such manner as the Local Government may think best adapted for informing the persons affected, notice of the proposal to make the bye-laws and of the place where copies of the draft bye-laws may be obtained, and of the time (which shall not be less than thirty days) within which any objections with reference to the draft bye-laws, made by or on behalf of persons affected, should be sent to the Local Government.

(d) Every objection shall be in writing and shall state—

(i) the specific grounds of objection and

(ii) the omissions, additions or modifications asked for.

(e) The Local Government shall consider any objection made within the required time by or on behalf of persons appearing to it to be affected, and may approve the bye-laws either in the form in which they were published or after making such amendments thereto as it thinks fit.

(5) The bye-laws, when so approved by the Local Government, shall have effect as if enacted in this Act, and the owner, agent or manager of the mine shall cause a copy of the bye-laws, in English and in such vernacular or vernaculars as may be prescribed, to be posted up in some conspicuous place at or near the mine, where the bye-laws may be conveniently read or seen by the persons employed; and, as often as the same become defaced, obliterated or destroyed, shall cause them to be renewed with all reasonable despatch.

(6) The Local Government may, by order in writing, rescind, in whole or in part, any bye-law so
made,

made, and thereupon such bye-law shall cease to have effect accordingly.

Posting up of extracts from Act, regulations, etc.

33. There shall be kept posted up at or near every mine in English and in such vernacular or vernaculars as may be prescribed, the prescribed abstracts of the Act and of the regulations and rules.

CHAPTER VIII.

PENALTIES AND PROCEDURE.

Obstruction.

34. (1) Whoever obstructs the Chief Inspector, an Inspector or any person authorised under section 7 in the discharge of his duties under this Act, or refuses or wilfully neglects to afford the Chief Inspector, an Inspector or such person any reasonable facility for making any entry, inspection, examination or inquiry authorised by or under this Act in relation to any mine, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(2) Whoever refuses to produce on the demand of the Chief Inspector or Inspector any registers or other documents kept in pursuance of this Act, or prevents or attempts to prevent or does anything which he has reason to believe to be likely to prevent, any person from appearing before or being examined by an inspecting officer acting in pursuance of his duties under this Act, shall be punishable with fine which may extend to three hundred rupees.

Falsification of records, etc.

35. Whoever—

(a) counterfeits, or knowingly makes a false statement in, any certificate, or any official copy of a certificate, granted under this Act, or

(b) knowingly uses as true any such counterfeit or false certificate, or

(c) makes

- (c) makes or produces or uses any false declaration, statement or evidence knowing the same to be false, for the purpose of obtaining for himself or for any other person a certificate, or the renewal of a certificate, under this Act, or any employment in a mine, or
- (d) falsifies any plan or register or record the maintenance of which is required by or under this Act, or
- (e) makes, gives or delivers any plan, return, notice, record or report containing a statement, entry or detail which is not to the best of his knowledge or belief true,

shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

36. Any person who, without reasonable excuse the burden of proving which shall lie upon him, omits to make or furnish in the prescribed form or manner or at or within the prescribed time any plan, return, notice, register, record or report required by or under this Act to be made or furnished shall be punishable with fine which may extend to two hundred rupees.

Omission to furnish plans, etc.

37. Whoever, save as permitted by section 25, contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder prohibiting, restricting or regulating the employment or presence of persons in or about a mine shall be punishable with fine which may extend to five hundred rupees.

Contravention of provisions regarding employment of labour.

38. Whoever, in contravention of the provisions of section 20, fails to give notice of any accidental occurrence shall, if the occurrence results in serious bodily injury, be punishable with fine which may extend to five hundred rupees, or, if the occurrence results in loss of life, be punishable with imprisonment which may extend to three months or with fine

Notice of accidents.

which

which may extend to five hundred rupees, or with both.

Disobedience
of orders.

39. Whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder for the contravention of which no penalty is hereinbefore provided shall be punishable with fine which may extend to one thousand rupees, and, in the case of a continuing contravention, with a further fine which may extend to one hundred rupees for every day on which the offender is proved to have persisted in the contravention after the date of the first conviction.

Contraven-
tion of law
with danger-
ous results.

40. (1) Notwithstanding anything hereinbefore contained, whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder, shall be punishable, if such contravention results in loss of life, with imprisonment which may extend to one year, or with fine which may extend to two thousand rupees, or with both; or, if such contravention results in serious bodily injury, with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both; or, if such contravention otherwise causes injury or danger to workers or other persons in or about the mine, with imprisonment which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

(2) Where a person having been convicted under this section is again convicted thereunder, he shall be punishable with double the punishment provided by sub-section (1).

(3) Any Court imposing, or confirming in appeal, revision or otherwise, a sentence of fine passed under this section may, when passing judgment, order the whole or any part of the fine recovered to be paid as compensation to the person injured, or, in the case of his death, to his legal representative:

Provided that, if the fine is imposed in a case which is subject to appeal, no such payment shall

be

be made before the period allowed for presenting the appeal has elapsed, or, if an appeal has been presented, before the decision of the appeal.

41. No prosecution shall be instituted against any owner, agent or manager for any offence under this Act except at the instance of the Chief Inspector or of the District Magistrate or of an Inspector authorised in this behalf by general or special order in writing by the Chief Inspector.

Prosecution
of owner,
agent or
manager.

42. No Court shall take cognizance of any offence under this Act unless complaint thereof has been made within six months of the date on which the offence is alleged to have been committed.

Limitation of
prosecutions.

43. No Court inferior to that of a Presidency Magistrate or Magistrate of the first class shall try any offence under this Act which is alleged to have been committed by any owner, agent or manager of a mine or any offence which is by this Act made punishable with imprisonment.

Cognizance
of offences.

44. (1) If the Court trying any case instituted at the instance of the Chief Inspector or of the District Magistrate or of an Inspector under this Act is of opinion that the case is one which should, in lieu of a prosecution, be referred to a Mining Board or a Committee, it may stay the criminal proceedings, and report the matter to the Local Government with a view to such reference being made.

Reference
to Mining
Board or
Committee,
in lieu of
prosecution
in certain
cases.

(2) On receipt of a report under sub-section (1), the Local Government may refer the case to a Mining Board or a Committee, or may direct the Court to proceed with the trial.

CHAPTER IX.

MISCELLANEOUS.

45. If any question arises as to whether any excavation or working is a mine within the meaning of this Act, the Local Government may decide the question,

Decision of
question
whether a
mine is under
this Act.

question, and a certificate signed by a Secretary to the Local Government shall be conclusive on the point.

Power to exempt from operation of Act.

46. (1) The Governor General in Council may, by notification in the Gazette of India, exempt any local area or any mine or group or class of mines or any part of a mine or any class of persons from the operation of all or any specified provisions of this Act :

Provided that no local area or mine or group or class of mines shall be exempted from the provisions of section 26 unless it is also exempted from the operation of all the other provisions of this Act.

(2) On the occurrence of any public emergency, the Local Government may, by an order in writing, confer any exemption which might be conferred by the Governor General in Council under sub-section (1). When such an order is made, a copy thereof shall forthwith be sent to the Governor General in Council.

Power to alter or rescind orders.

47. The Governor General in Council and every Local Government may reverse or modify any order passed under this Act by any authority subject to his or its control, as the case may be.

Application of Act to Crown mines.

48. This Act shall apply to mines belonging to the Crown.

Saving.

49. No suit, prosecution or other legal proceeding whatever shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Repeals.

50. On and from the commencement of this Act, the enactments mentioned in the Schedule shall be repealed to the extent specified in the fourth column thereof.

THE SCHEDULE.

OF 1923.]

Indian Mines.

THE SCHEDULE.

(See section 50.)

ENACTMENTS REPEALED.

Year.	No.	Short title.	Extent of repeal.
1901	VIII	The Indian Mines Act, 1901.	The whole.
1914	IV	The Decentralisation Act, 1914.	So much of the Schedule as relates to the Indian Mines Act, 1901.
"	X	The Repealing and Amending Act, 1914.	So much of the Second Schedule as relates to the Indian Mines Act, 1901.

CALCUTTA
SUPERINTENDENT GOVERNMENT PRINTING, INDIA
8, HASTINGS STREET

ACT No. V OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 23rd February, 1923.)

An Act to consolidate and amend the law relating to steam-boilers.

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

1. (1) This Act may be called the Indian Boilers Act, 1923. Short title, extent and commencement.

(2) It extends to the whole of British India, including British Baluchistan and the Santhal Parganas.

(3) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

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

(a) “ accident ” means an explosion of a boiler or steam-pipe or any damage to a boiler or steam-pipe which is calculated to weaken the strength thereof so as to render it liable to explode;

(b) “ boiler ” means any closed vessel exceeding five gallons in capacity which is used expressly for generating steam under pressure for use outside such vessel, and includes any mounting or other fitting attached to such vessel which is wholly or partly under pressure when steam is shut off;

(c) “ Chief Inspector ” and “ Inspector ” mean, respectively, a person appointed to

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[Price five annas.]

to be a Chief Inspector and an Inspector under this Act;

- (d) "owner" includes any person using a boiler as agent of the owner thereof and any person using a boiler which he has hired or obtained on loan from the owner thereof;
- (e) "prescribed" means prescribed by regulations or rules made under this Act;
- (f) "steam-pipe" means any main pipe exceeding three inches in internal diameter through which steam passes directly from a boiler to a prime-mover or other first user, and includes any connected fitting of a steam-pipe; and
- (g) "structural alteration, addition or renewal" shall not be deemed to include any renewal or replacement of a petty nature when the part or fitting used for replacement is not inferior in strength, efficiency or otherwise to the replaced part or fitting.

Limitation of application.

3. (1) Nothing in this Act shall apply in the case of any boiler or steam-pipe—

- (a) in any steam-ship as defined in section 3 of the Indian Steam-ships Act, 1884, or in VII of 1884. any steam-vessel as defined in section 2 of the Inland Steam-vessels Act, 1917; I of 1917. or
- (b) belonging to or under the control of His Majesty's Navy or the Royal Indian Marine Service.

(2) The Governor General in Council may, by notification in the Gazette of India, declare that the provisions of this Act shall not apply in the case of boilers or steam-pipes, or of any specified class of boilers or steam-pipes, belonging to or under the control of any railway administered by the Government or by any railway company as defined

of 1923.] *Indian Boilers.*

IX of 1890. defined in clause (5) of section 3 of the Indian Railways Act, 1890.

4. The Governor General in Council may, by notification in the Gazette of India, exclude any specified area from the operation of all or any specified provisions of this Act. Power to limit extent.

5. (1) The Local Government may appoint such persons as it thinks fit to be Inspectors for the province for the purposes of this Act, and may define the local limits within which each Inspector shall exercise the powers and perform the duties conferred and imposed on Inspectors by or under this Act. Appointment of Chief Inspectors and Inspectors.

(2) The Local Government shall likewise appoint a person to be Chief Inspector for the province, who may, in addition to the powers and duties conferred or imposed on the Chief Inspector by or under this Act, exercise any power or perform any duty so conferred or imposed on Inspectors.

(3) Every Chief Inspector and every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code. XLV of 1860.

6. Save as otherwise expressly provided in this Act, no owner of a boiler shall use the boiler or permit it to be used— Prohibition of use of unregistered or uncertificated boiler.

- (a) unless it has been registered in accordance with the provisions of this Act;
- (b) in the case of any boiler which has been transferred from one province to another, until the transfer has been reported in the prescribed manner;
- (c) unless a certificate or provisional order authorising the use of the boiler is for the time being in force under this Act;
- (d) at a pressure higher than the maximum pressure recorded in such certificate or provisional order;
- (e) where the Local Government has made rules requiring that boilers shall be in charge of persons holding certificates of competency, unless the boiler is in

in charge of a person holding the certificate required by such rules :

Provided that any boiler registered, or any boiler certified or licensed, under any Act hereby repealed shall be deemed to have been registered or certified, as the case may be, under this Act :

Provided, further, that, until the expiration of twelve months from the commencement of this Act, nothing in this section shall be deemed to prohibit the use of any boiler in any local area in which the registration of, or a certificate or licence for the use of, a boiler was not previously required by law.

Registration:

7. (1) The owner of any boiler which is not registered under the provisions of this Act may apply to the Inspector to have the boiler registered. Every such application shall be accompanied by the prescribed fee.

(2) On receipt of an application under subsection (1), the Inspector shall fix a date, within thirty days or such shorter period as may be prescribed from the date of the receipt, for the examination of the boiler and shall give the owner thereof not less than ten days' notice of the date so fixed.

(3) On the said date the Inspector shall proceed to measure and examine the boiler and to determine in the prescribed manner the maximum pressure, if any, at which such boiler may be used, and shall report the result of the examination to the Chief Inspector in the prescribed form.

(4) The Chief Inspector, on receipt of the report, may—

(a) register the boiler and assign a register number thereto either forthwith or after satisfying himself that any structural alteration, addition or renewal which he may deem necessary has been made in or to the boiler or any steam-pipe attached thereto, or

(b) refuse to register the boiler :

Provided

Provided that where the Chief Inspector refuses to register a boiler, he shall forthwith communicate his refusal to the owner of the boiler together with the reasons therefor.

(5) The Chief Inspector shall, on registering the boiler, order the issue to the owner of a certificate in the prescribed form authorising the use of the boiler for a period not exceeding twelve months at a pressure not exceeding such maximum pressure as he thinks fit and as is in accordance with the regulations made under this Act.

(6) The Inspector shall forthwith convey to the owner of the boiler the orders of the Chief Inspector and shall in accordance therewith issue to the owner any certificate of which the issue has been ordered, and, where the boiler has been registered, the owner shall within the prescribed period cause the register number to be permanently marked thereon in the prescribed manner.

8. (1) A certificate authorising the use of a boiler shall cease to be in force—

Renewal of
certificate.

- (a) on the expiry of the period for which it was granted; or
- (b) when any accident occurs to the boiler; or
- (c) when the boiler is moved, the boiler not being a vertical boiler the heating surface of which is less than two hundred square feet, or a portable or vehicular boiler; or
- (d) when any structural alteration, addition or renewal is made in or to the boiler; or
- (e) if the Chief Inspector in any particular case so directs, when any structural alteration, addition or renewal is made in or to any steam-pipe attached to the boiler; or
- (f) on the communication to the owner of the boiler of an order of the Chief Inspector or Inspector prohibiting its use

use, on the ground that it or any steam-pipe attached thereto is in a dangerous condition.

(2) Where an order is made under clause (f) of sub-section (1), the grounds on which the order is made shall be communicated to the owner with the order.

(3) When a certificate ceases to be in force, the owner of the boiler may apply to the Inspector for a renewal thereof for such period not exceeding twelve months as he may specify in the application.

(4) An application under sub-section (3) shall be accompanied by the prescribed fee and, on receipt thereof, the Inspector shall fix a date, within thirty days or such shorter period as may be prescribed from the date of the receipt, for the examination of the boiler and shall give the owner thereof not less than ten days' notice of the date so fixed :

Provided that, where the certificate has ceased to be in force owing to the making of any structural alteration, addition or renewal, the Chief Inspector may dispense with the payment of any fee.

(5) On the said date the Inspector shall examine the boiler in the prescribed manner, and if he is satisfied that the boiler and the steam-pipe or steam-pipes attached thereto are in good condition shall issue a renewed certificate authorising the use of the boiler for such period not exceeding twelve months and at a pressure not exceeding such maximum pressure as he thinks fit and as is in accordance with the regulations made under this Act :

Provided that if the Inspector—

(a) proposes to issue any certificate—

(i) having validity for a less period than the period entered in the application, or

(ii) increasing

(ii) increasing or reducing the maximum pressure at which the boiler may be used, or

(b) proposes to order any structural alteration, addition or renewal to be made in or to the boiler or any steam-pipe attached thereto, or

(c) is of opinion that the boiler is not fit for use, the Inspector shall, within forty-eight hours of making the examination, inform the owner of the boiler in writing of his opinion and the reasons therefor, and shall forthwith report the case for orders to the Chief Inspector.

(6) The Chief Inspector, on receipt of a report under sub-section (5), may, subject to the provisions of this Act and of the regulations made hereunder, order the renewal of the certificate in such terms and on such conditions, if any, as he thinks fit, or may refuse to renew it :

Provided that where the Chief Inspector refuses to renew a certificate, he shall forthwith communicate his refusal to the owner of the boiler, together with the reasons therefor.

(7) Nothing in this section shall be deemed to prevent an owner of a boiler from applying for a renewed certificate therefor at any time during the currency of a certificate.

9. Where the Inspector reports the case of any boiler to the Chief Inspector under sub-section (3) of section 7 or sub-section (5) of section 8, he may, if the boiler is not a boiler the use of which has been prohibited under clause (f) of sub-section (1) of section 8, grant to the owner thereof a provisional order in writing permitting the boiler to be used at a pressure not exceeding such maximum pressure as he thinks fit and as is in accordance with the regulations made under this Act pending the receipt of the orders of the Chief Inspector. Such provisional order shall cease to be in force—

(a) on the expiry of six months from the date on which it is granted, or

(b) on

(b) on receipt of the orders of the Chief Inspector, or

(c) in any of the cases referred to in clauses (b), (c), (d), (e) and (f) of sub-section (1) of section 8,

and on so ceasing to be in force shall be surrendered to the Inspector.

Use of boiler pending grant of certificate.

10. (1) Notwithstanding anything hereinbefore contained, when the period of a certificate relating to a boiler has expired, the owner shall, provided that he has applied before the expiry of that period for a renewal of the certificate, be entitled to use the boiler at the maximum pressure entered in the former certificate pending the issue of orders on the application.

(2) Nothing in sub-section (1) shall be deemed to authorise the use of a boiler in any of the cases referred to in clauses (b), (c), (d), (e) and (f) of sub-section (1) of section 8 occurring after the expiry of the period of the certificate.

Revocation of certificate or provisional order.

11. The Chief Inspector may at any time withdraw or revoke any certificate or provisional order on the report of an Inspector or otherwise—

(a) if there is reason to believe that the certificate or provisional order has been fraudulently obtained or has been granted erroneously or without sufficient examination; or

(b) if the boiler in respect of which it has been granted has sustained injury or has ceased to be in good condition; or

(c) where the Local Government has made rules requiring that boilers shall be in charge of persons holding certificates of competency, if the boiler is in charge of a person not holding the certificate required by such rules; or

(d) where no such rules have been made, if the boiler is in charge of a person who is not, having regard to the condition of the boiler,

boiler, in the opinion of the Chief Inspector competent to have charge thereof :

Provided that where the Chief Inspector withdraws or revokes a certificate or provisional order on the ground specified in clause (d), he shall communicate to the owner of the boiler his reasons in writing for the withdrawal or revocation, and the order shall not take effect until the expiry of thirty days from the receipt of such communication.

12. No structural alteration, addition or renewal shall be made in or to any boiler registered under this Act unless such alteration, addition or renewal has been sanctioned in writing by the Chief Inspector.

Alterations
and renewals
to boilers.

13. Before the owner of any boiler registered under this Act makes any structural alteration, addition or renewal in or to any steam-pipe attached to the boiler, he shall transmit to the Chief Inspector a report in writing of his intention, and shall send therewith such particulars of the proposed alteration, addition or renewal as may be prescribed.

Alterations
and renewals
to steam-
pipes.

14. (1) On any date fixed under this Act for the examination of a boiler, the owner thereof shall be bound—

Duty of owner
at examina-
tion.

- (a) to afford to the Inspector all reasonable facilities for the examination and all such information as may reasonably be required of him;
- (b) to have the boiler properly prepared and ready for examination in the prescribed manner; and
- (c) in the case of an application for the registration of a boiler, to provide such drawings, specifications, certificates and other particulars as may be prescribed.

(2) If the owner fails, without reasonable cause, to comply with the provisions of sub-section (1), the Inspector shall refuse to make the examination and shall report the case to the Chief Inspector who shall, unless sufficient cause to the contrary is shown, require

require the owner to file a fresh application under section 7 or section 8, as the case may be, and may forbid him to use the boiler notwithstanding anything contained in section 10.

Production of certificates, etc.

15. The owner of any boiler who holds a certificate or provisional order relating thereto shall, at all reasonable times during the period for which the certificate or order is in force, be bound to produce the same when called upon to do so by a District Magistrate, Commissioner of Police or Magistrate of the first class having jurisdiction in the area in which the boiler is for the time being, or by the Chief Inspector or by an Inspector or by any Inspector appointed under the Indian Factories Act, 1911, or ^{XII of 1911} by any person specially authorised in writing by a District Magistrate or Commissioner of Police.

Transfer of certificates, etc.

16. If any person becomes the owner of a boiler during the period for which a certificate or provisional order relating thereto is in force, the preceding owner shall be bound to make over to him the certificate or provisional order.

Powers of entry.

17. An Inspector may, for the purpose of inspecting or examining a boiler or any steam-pipe attached thereto or of seeing that any provision of this Act or of any regulation or rule made hereunder has been or is being observed, at all reasonable times enter any place or building within the limits of the area for which he has been appointed in which he has reason to believe that a boiler is in use.

Report of accidents.

18. (1) If any accident occurs to a boiler or steam-pipe, the owner or person in charge thereof shall, within twenty-four hours of the accident, report the same in writing to the Inspector. Every such report shall contain a true description of the nature of the accident and of the injury, if any, caused thereby to the boiler or to the steam-pipe or to any person, and shall be in sufficient detail to enable the Inspector to judge of the gravity of the accident.

(2) Every person shall be bound to answer truly to the best of his knowledge and ability every question

tion put to him in writing by the Inspector as to the cause, nature or extent of the accident.

19. Any person considering himself aggrieved by— Appeals to
Chief
Inspector.

- (a) an order made or purporting to be made by an Inspector in the exercise of any power conferred by or under this Act, or
- (b) a refusal of an Inspector to make any order or to issue any certificate which he is required or enabled by or under this Act to make or issue,

may, within thirty days from the date on which such order or refusal is communicated to him, appeal against the order or refusal to the Chief Inspector.

20. Any person considering himself aggrieved by an original or appellate order of the Chief Inspector— Appeals to
appellate
authority.

- (a) refusing to register a boiler or to grant or renew a certificate in respect of a boiler; or
- (b) refusing to grant a certificate having validity for the full period applied for; or
- (c) refusing to grant a certificate authorising the use of a boiler at the maximum pressure desired; or
- (d) withdrawing or revoking a certificate or provisional order; or
- (e) reducing the amount of pressure specified in any certificate or the period for which such certificate has been granted; or
- (f) ordering any structural alteration, addition or renewal to be made in or to a boiler or steam-pipe, or refusing sanction to the making of any structural alteration, addition or renewal in or to a boiler,

may, within thirty days of the communication to him of such order, lodge with the Chief Inspector an appeal to an appellate authority to be constituted by the Local Government under this Act.

21. An

Finality of orders.

21. An order of an appellate authority under section 20 and, save as otherwise provided in sections 19 and 20, an order of the Chief Inspector or of an Inspector shall be final and shall not be called in question in any Court.

Minor penalties.

22. Any owner of a boiler who refuses or without reasonable excuse neglects—

- (i) to surrender a provisional order as required by section 9, or
- (ii) to produce a certificate or provisional order when duly called upon to do so under section 15, or
- (iii) to make over to the new owner of a boiler a certificate or provisional order as required by section 16,

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

Penalties for illegal use of boiler.

23. Any owner of a boiler who, in any case in which a certificate or provisional order is required for the use of the boiler under this Act, uses the boiler either without any such certificate or order being in force or at a higher pressure than that allowed thereby, shall be punishable with fine which may extend to five hundred rupees, and, in the case of a continuing offence, with an additional fine which may extend to one hundred rupees for each day after the first day in regard to which he is convicted of having persisted in the offence.

Other penalties.

24. Any person who—

- (a) uses or permits to be used a boiler of which he is the owner and which has been transferred from one province to another without such transfer having been reported as required by section 6, or
- (b) being the owner of a boiler fails to cause the register number allotted to the boiler under this Act to be marked on the boiler as required by sub-section (6) of section 7, or

(c) makes

- (c) makes any structural alteration, addition or renewal in or to a boiler without first obtaining the sanction of the Chief Inspector when so required by section 12, or to a steam-pipe without first informing the Chief Inspector, when so required by section 13, or
- (d) fails to report an accident to a boiler or steam-pipe when so required by section 18, or
- (e) tampers with a safety valve of a boiler so as to render it inoperative at the maximum pressure at which the use of the boiler is authorised under this Act,

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

25. (1) Whoever removes, alters, defaces, renders invisible or otherwise tampers with the register number marked on a boiler in accordance with the provisions of this Act or any Act repealed hereby, shall be punishable with fine which may extend to five hundred rupees.

Penalty for tampering with register mark.

(2) Whoever fraudulently marks upon a boiler a register number which has not been allotted to it under this Act or any Act repealed hereby, shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

26. No prosecution for an offence made punishable by or under this Act shall be instituted except within six months from the date of the commission of the offence, and no such prosecution shall be instituted without the previous sanction of the Chief Inspector.

Limitation and previous sanction for prosecutions.

27. No offence made punishable by or under this Act shall be tried by a Court inferior to that of a Presidency Magistrate or a Magistrate of the first class.

Trial of offences.

28. The Governor General in Council may, by notification in the Gazette of India, make regulations consistent

Power to make regulations.

consistent

consistent with this Act for all or any of the following purposes, namely :—

- (a) for laying down the standard conditions in respect of material, design and construction which shall be required for the purpose of enabling the registration and certification of a boiler under this Act;
- (b) for prescribing the method of determining the maximum pressure at which a boiler may be used;
- (c) for regulating the registration of boilers, prescribing the fees payable therefor, the drawings, specifications, certificates and particulars to be produced by the owner, the method of preparing a boiler for examination, the form of the Inspector's report thereon, the method of marking the register number, and the period within which such number is to be marked on the boiler;
- (d) for regulating the inspection and examination of boilers and steam-pipes, and prescribing forms of certificates therefor;
- (e) for ensuring the safety of persons working inside a boiler; and
- (f) for providing for any other matter which is not, in the opinion of the Governor General in Council, a matter of merely local or provincial importance.

Power to
make rules.

29. The Local Government may, by notification in the local official Gazette, make rules consistent with this Act and the regulations made thereunder for all or any of the following purposes, namely :—

- (a) for prescribing the qualifications and duties of the Chief Inspector and of Inspectors, for regulating their salary, allowances and conditions of service, for prescribing or constituting authorities to which they shall respectively be subordinate, and the limits of the administrative control to be exercised by such authorities;

(b) for

- (b) for regulating the transfer of boilers;
- (c) for providing for the registration and certification of boilers in accordance with the regulations made under this Act;
- (d) for requiring boilers to be in charge of persons holding certificates of competency, and for prescribing the conditions on which such certificates may be granted;
- (e) for prescribing the times within which Inspectors shall be required to examine boilers under section 7 or section 8;
- (f) for prescribing the fees payable for the issue of renewed certificates and the method of determining the amount of such fees in each case;
- (g) for regulating inquiries into accidents;
- (h) for constituting the appellate authority referred to in section 20, and for determining its powers and procedure;
- (i) for determining the mode of disposal of fees, costs and penalties levied under this Act; and
- (j) generally to provide for any matter which is, in the opinion of the Local Government, a matter of merely local importance in the province :

Provided that the previous sanction of the Governor General in Council shall be required to the making of any rule under clause (j).

30. Any regulation or rule made under section 28 or section 29 may provide that a contravention thereof shall be punishable with fine which may extend to one hundred rupees. Penalty for breach of rules.

31. (1) The power to make regulations and rules conferred by sections 28 and 29 shall be subject to the condition of the regulations and rules being made after previous publication. Publication of regulations and rules.

(2) Regulations and rules so made shall be published in the Gazette of India and the local official Gazette,

Gazette, respectively, and, on such publication, shall have effect as if enacted in this Act.

Recovery of fees, etc.

32. All fees, costs and penalties levied under this Act shall be recoverable as arrears of land-revenue.

Applicability to the Crown.

33. Save as otherwise expressly provided, this Act shall apply to boilers and steam-pipes belonging to the Crown.

Power to suspend in case of emergency.

34. In case of any emergency, the Local Government may, by general or special order in writing, exempt any boiler or steam-pipe from the operation of all or any of the provisions of this Act.

Repeal of enactments.

35. On and from the commencement of this Act, the enactments mentioned in the Schedule shall be repealed to the extent specified in the fourth column thereof :

Provided that any Chief Inspector or Inspector appointed under any Act so repealed shall be deemed to have been appointed under this Act. . .

THE SCHEDULE.

(See section 35.)

ENACTMENTS REPEALED.

Year.	No.	Short title.	Extent of repeal.
1903	I	<i>Acts of the Governor General in Council.</i> The Amending Act, 1903 .	So much of the First Schedule as relates to the Bengal Steam-boilers and Prime-movers Act, 1879.
1920	XXXVIII	The Devolution Act, 1920 .	
1893	III	<i>Madras Acts.</i> The Madras Steam-boilers and Prime-movers Act, 1893.	The whole.

THE SCHEDULE

THE SCHEDULE—*contd.*

Year.	No.	Short title.	Extent of repeal.
1904	I	The Madras Steam-boilers and Prime-movers (Amendment) Act, 1904.	The whole.
1909	VII	The Madras Steam-boilers and Prime-movers (Amendment) Act, 1909.	The whole.
<i>Bombay Acts.</i>			
1917	V	The Bombay Boiler Inspection Act, 1917.	The whole.
1920	X	The Bombay Boiler Inspection (Amendment) Act, 1920.	The whole.
<i>Bengal Acts.</i>			
1879	III	The Bengal Steam-boilers and Prime-movers Act, 1879.	The whole.
1915	II	The Bengal Steam-boilers and Prime-movers (Amendment) Act, 1915.	The whole.
<i>United Provinces Act.</i>			
1915	III	The United Provinces Steam-boilers Act, 1915.	The whole.
<i>Punjab Act.</i>			
1902	II	The Punjab Steam-boilers and Prime-movers Act, 1902.	The whole.
<i>Central Provinces Acts.</i>			
1907	II	The Central Provinces Boiler Inspection Act, 1907.	The whole.
1919	IV	The Central Provinces Boiler Inspection (Amendment) Act, 1919.	The whole.
<i>Burma Act.</i>			
1910	II	The Burma Steam-boilers and Prime-movers Act, 1910.	The whole.

CALCUTTA
SUPERINTENDENT GOVERNMENT PRINTING, INDIA
8, HASTINGS STREET

ACT NO. VI OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
5th March, 1923.)

An Act further to amend and to consolidate
the law relating to the provision of
house-accommodation for military officers
in cantonments.

WHEREAS it is expedient further to amend and
to consolidate the law relating to the provision
of house-accommodation for military officers in can-
tonments; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Cantonments Short title,
House-Accommodation) Act, 1923. extent and
commence-
ment.

(2) It extends to the whole of British India
(inclusive of British Baluchistan) except Aden.

(3) It shall come into force on the first day of
April, 1923, but it shall not become operative in any
cantonment or part of a cantonment until the issue,
or otherwise than in pursuance, of a notification as
hereinafter provided by section 3 :

II of 1902. Provided that any notification made under section
3 of the Cantonments (House-Accommodation) Act,
1902, which is in force at the commencement of this
Act, shall be deemed to be a notification made under
section 3 of this Act.

2. (1) In this Act, unless there is anything Definitions.
repugnant in the subject or context,—

(a) “ Brigade area ” means one of the Brigade
areas, whether occupied by a brigade or
not,

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[Price five annas.]

not, into which India is for military purposes for the time being divided, and includes any area which the Governor General in Council may, by notification in the Gazette of India, declare to be a Brigade area for all or any of the purposes of this Act;

- (b) "Cantonment Authority" means a Cantonment Committee, or, in the case of a cantonment for which such a Committee has not been constituted or has ceased to exist or cannot be convened, the Commanding Officer of the cantonment;
- (c) "Command" means one of the Commands into which India is for military purposes for the time being divided, and includes any area which the Governor General in Council may, by notification in the Gazette of India, declare to be a Command for all or any of the purposes of this Act;
- (d) "Commanding Officer of the cantonment" means the officer for the time being in command of the forces in a cantonment;
- (e) "District" means one of the Districts into which India is for military purposes for the time being divided; it includes a Brigade area which does not form part of any such District and any area which the Governor General in Council may, by notification in the Gazette of India, declare to be a District for all or any of the purposes of this Act;
- (f) "house" means a house suitable for occupation by a military officer or a military mess, and includes the land and buildings appurtenant to a house;
- (g) "military officer" means a commissioned or warrant officer of His Majesty's military or air forces on military or air-force duty in a cantonment, and includes a
Chaplain

Chaplain on duty with troops in a cantonment, a Cantonment Magistrate and any person in Army departmental employment whom the Officer Commanding the District may at any time, by an order in writing, place on the same footing as a military officer for the purposes of this Act;

- (h) "owner" includes the person who is receiving, or is entitled to receive, the rent of a house, whether on his own account or on behalf of himself and others or as an agent or trustee, or who would so receive the rent, or be entitled to receive it, if the house were let to a tenant; and
- (i) a house is said to be in a state of reasonable repair when—
- (i) all floors, walls, pillars and arches are sound and all roofs sound and watertight,
 - (ii) all doors and windows are intact, properly painted or oiled, and provided with proper locks or bolts or other secure fastenings, and
 - (iii) all rooms, out-houses and other appurtenant buildings are properly colour-washed or white-washed.

(2) If any question arises whether any land or building is appurtenant to a house, it shall be decided by the Commanding Officer of the cantonment, whose decision thereon shall, subject to revision by the District Magistrate, be final.

CHAPTER II.

APPLICATION OF ACT.

3. (1) The Local Government, with the previous sanction of the Governor General in Council, may, Cantonments or parts of cantonments by

in which
Act to be
operative.

by notification in the local official Gazette, declare this Act to be operative in any cantonment or part of a cantonment situate in the Province, other than a cantonment situate within the limits of a presidency-town.

(2) Before issuing a notification under sub-section (1) in respect of any cantonment or part of a cantonment, the Local Government shall cause local inquiry to be made with a view to determining whether it is expedient to issue such notification, and what portion (if any) of the area proposed to be included therein should be excluded therefrom.

Saving of
written
instruments.

4. Nothing in this Act shall affect the provisions of any written instrument executed by or on behalf of the East India Company or the Government, unless the other party entitled and the Secretary of State for India in Council consent in writing to be bound by the terms of this Act.

CHAPTER III.

APPROPRIATION OF HOUSES.

Liability of
houses to ap-
propriation.

5. Every house situate in a cantonment or part of a cantonment in respect of which a notification under sub-section (1) of section 3 is for the time being in force shall be liable to appropriation by the Government on a lease in the manner and subject to the conditions hereinafter provided.

Inspection of
house requir-
ed for occupa-
tion by the
military.

6. (1) Where the Commanding Officer of the cantonment considers that the liability imposed by section 5 should be enforced in respect of any house, he shall serve a notice on the owner of the house requiring him to permit the house to be inspected, measured and surveyed by such person and on such day, not being less than three days from the service of the notice, and at such time as may be specified in the notice.

(2) On the day and at the time so specified, the owner shall be bound to afford all reasonable facilities

facilities to the person specified in the notice for the purpose of the inspection, measurement and survey of the house, and, if he refuses or neglects to do so, the said person may, subject to rules made under this Act, enter on the premises and do all such things as may be reasonably necessary for the said purpose.

7. (1) If, on the report of such person as aforesaid, the Commanding Officer of the cantonment is satisfied that the house is suitable for occupation by a military officer or a military mess, he may, with the previous sanction of the Officer Commanding the District, by notice—

Procedure
for taking
house on
lease.

- (a) require the owner to execute a lease of the house to the Government for a specified period which shall not be less than five years;
- (b) require the existing occupier, if any, to vacate the house; and
- (c) require the owner to execute within such time as may be specified in the notice such repairs as may, in the opinion of the Commanding Officer of the cantonment, be necessary for the purpose of putting the house into a state of reasonable repair.

(2) Every notice issued under sub-section (1) shall state the amount of the annual rent proposed as reasonable for the house, calculated on the assumption that the owner will carry out the required repairs, if any. It shall also contain an estimate of the cost of such repairs.

(3) The following shall be deemed to be conditions of every lease executed under sub-section (1), namely :—

- (a) that the house shall, on the expiration of the lease, be re-delivered to the owner in a state of reasonable repair, and
- (b) that the grounds and the garden, if any, appertaining to the house shall be maintained in the condition in which they are at the time at which the lease is executed.

8. The

Procedure to be observed before taking a house on lease.

8. The Officer Commanding the District shall not sanction the issue of any notice under section 7 unless he is satisfied—

(i) that the house in respect of which it is proposed to issue the notice is suitable for occupation by a military officer or a military mess, and

(ii) that there is not in the cantonment, or, if this Act is in force in a part only of the cantonment, then in that part thereof, a sufficient number of houses already available and suitable for occupation by military officers or military messes whose accommodation in the cantonment, or a part thereof, as the case may be, is in his opinion necessary or expedient.

Sanction to be obtained before a house is occupied as a hospital, etc.

9. No house in any cantonment or part of a cantonment in which this Act is operative shall, unless it was so occupied at the date of the issue of the notification declaring this Act or the Cantonments (House-Accommodation) Act, 1902, as the case may be, to be operative, be occupied for the purposes of a hospital, school, school hostel, bank, hotel, or shop, or by a railway administration, a company or firm engaged in trade or business or a club, without the previous sanction of the Officer Commanding the District given with the concurrence of the Commissioner or, in a province where there are no Commissioners, of the Collector. II of 1902.

Houses not to be appropriated in certain cases.

10. No notice shall be issued under section 7 if the house—

(a) was, at the date of the issue of the notification declaring this Act or the Cantonments (House-Accommodation) Act, 1902, as the case may be, to be operative in the cantonment or part of the cantonment, or is, with such sanction as is required by section 9, occupied as a hospital, school, school hostel, bank, hotel or shop, and has been so occupied continuously II of 1902.

continuously during the three years immediately preceding the time when the occasion for issuing the notice arises, or

- (b) was, at the date of such a notification as is referred to in clause (a), or is, with such sanction as aforesaid, occupied by a railway administration or by a company or firm engaged in trade or business or by a club, or
- (c) is occupied by the owner, or
- (d) has been appropriated by the Local Government with the concurrence of the Officer Commanding the District, or by the Governor General in Council, for use as a public office or for any other purpose.

11. (1) If a house is unoccupied, a notice issued under section 7 may require the owner to give possession of the same to the Commanding Officer of the cantonment within twenty-one days from the service of the notice. Time to be allowed for giving possession of house.

(2) If a house is occupied, a notice issued under section 7 shall not require its vacation in less than thirty days from the service of the notice.

(3) Where a notice has been issued under section 7 and the house has been vacated in pursuance thereof, the lease shall be deemed to have commenced on the date on which the house was so vacated.

12. If the owner fails to give possession of a house to the Commanding Officer of the cantonment in pursuance of a notice issued under section 7, or if the existing occupier fails to vacate a house in pursuance of such a notice, the District Magistrate, by himself or by another person generally or specially authorised by him in this behalf, shall enter on the premises and enforce the surrender of the house. Surrender of house when to be enforced.

13. (1) If a house, in respect of which a notice is issued under section 7, is shown to the satisfaction of the Local Government, or is proved by a decree Option in certain cases for owner on whom

notice is issued under section 7 to call upon the Government to purchase.

decree or order of a Court of competent jurisdiction, to have been erected—

- (a) under any conditions, rules, regulations or orders which were in force in Bengal prior to the eighth day of December, 1864, and conferred on the owner the option of offering the house for sale to the military officer applying for its appropriation for his occupation or to the East India Company or the Government, or
- (b) under any conditions, rules, regulations or orders which were in force in Bombay prior to the first day of June, 1875, and conferred such an option as is described in clause (a),

then the owner shall have the option of either complying with the notice or offering the house for sale to the Government.

(2) If the owner elects to sell the house, and the Government is willing to purchase it, the question of the amount of the purchase-money to be paid shall, in the event of disagreement, be referred to a Committee of Arbitration.

Provision where house is held on long lease by a tenant.

14. (1) If a house, in respect of which a notice is issued under section 7, is occupied by a tenant holding in good faith and for valuable consideration under a registered lease for any term exceeding one year, the Secretary of State for India in Council shall, for the term of one year from the date on which the house is vacated in pursuance of the notice, or for the unexpired term of the lease whichever is the shorter, be liable to the owner for the rent fixed by the registered lease instead of for the rent payable under this Act if the rent so fixed exceeds the rent so payable.

(2) If a house, in respect of which a notice is issued under section 7, is occupied by a tenant holding in good faith and for valuable consideration under a registered lease from year to year, the Secretary of State for India in Council shall be liable as aforesaid for the term of six months from the

the date on which the house is vacated in pursuance of the notice.

(3) Nothing in this section shall be deemed—

- (a) to render the said Secretary of State in Council so liable unless an application in writing in this behalf is made by the owner to the Commanding Officer of the cantonment within fifteen days from the service of the notice; or
- (b) to limit or otherwise affect any agreement between the said Secretary of State in Council and the owner.

15. (1) If the owner considers that the rent stated in a notice issued under section 7 is not reasonable, he may, within a period of fifteen days from the service of such notice, require that the matter be referred by the Commanding Officer of the cantonment to a Committee of Arbitration.

Power for owner to require reference to arbitration on question of rent.

(2) If the owner does not make such a requisition within the said period, he shall be deemed to have accepted the rent so offered.

16. (1) If the owner fails to execute any repairs to a house as required by a notice issued to him under section 7, the Commanding Officer of the cantonment may by notice require the owner to execute the repairs within such period, not being less than fifteen days, as may be specified in the notice.

Power for owner to require reference to arbitration on question of repairs.

(2) If the owner objects to any requisition contained in a notice issued under sub-section (1), he may, within fifteen days from the service of the notice, require that the matter be referred by the Commanding Officer of the cantonment to a Committee of Arbitration.

17. Where—

- (a) the owner fails to comply with a notice issued under sub-section (1) of section 16 and has not, within fifteen days from the service of such notice, required that the matter be referred to a Committee of Arbitration, or

Power to have repairs executed and recover cost.

(b) a

- (b) a Committee of Arbitration decides that repairs are necessary and the extent to which they are necessary, and specifies the period within which they are to be executed, and the owner fails to execute them within such period, and has not within one month from the date of the decision appealed therefrom to the Civil Court as hereinafter provided, or
- (c) the owner fails to execute within such period as may be specified by the Civil Court hearing such appeal such repairs as the Court may decide to be necessary,

the Military Works Services or the Public Works Department shall, on the application of the Commanding Officer of the cantonment, cause the repairs specified in the notice or, if the matter has been referred to a Committee of Arbitration, in the decision of the Committee or the Civil Court, as the case may be, to be executed at the expense of the Government, and the cost thereof may be deducted from the rent payable to the owner.

Notice to be given of devolution of interest in house in cantonment.

18. Every person on whom devolves, by transfer, by succession or by operation of law, the interest of an owner in any house, or in any part of any house, situate in a cantonment or part of a cantonment in respect of which a notification under subsection (1) of section 3 is for the time being in force, shall be bound to give notice of the fact to the Commanding Officer of the cantonment within one month from the date of such devolution, and, if he, without reasonable cause, fails to do so, he shall be punishable with fine which may extend to fifty rupees.

CHAPTER IV.

COMMITTEES OF ARBITRATION.

Convening of Committees of Arbitration in

19. In the event of any disagreement as to the amount of the purchase-money of a house to be sold under

under sub-section (2) of section 13, the Commanding Officer of the cantonment shall forthwith proceed to convene a Committee of Arbitration to determine it.

cases falling under sub-section (2) of section 13.

20. Where a requisition is made to the Commanding Officer of the cantonment by an owner under section 15 or section 16, the Commanding Officer of the cantonment shall forthwith proceed to convene a Committee of Arbitration—

Convening of Committees of Arbitration on requisition of owners.

- (a) to determine the amount of the rent to be paid, or
- (b) to determine whether any, and (if any) what, repairs are necessary, the extent to which they are necessary, and the period within which they are to be executed, or
- (c) otherwise to determine the question in dispute.

21. (1) Where a Committee of Arbitration is to be convened, the Commanding Officer of the cantonment shall forthwith cause an order to be published in Station Orders stating the matter to be determined.

Procedure for convening Committees of Arbitration generally.

(2) The Commanding Officer of the cantonment shall forthwith send a copy of such order to the District Magistrate and to the parties concerned, and, as soon as may be, shall by notice call upon the owner concerned to make, and shall himself make, nominations in accordance with the provisions of sections 22 and 23.

22. (1) Every Committee of Arbitration shall consist of five members, namely:—

Constitution of Committee of Arbitration.

- (a) two members nominated by the Commanding Officer of the cantonment, one of whom shall, if possible, be an officer of the Military Works Services or of the Public Works Department;
- (b) two members nominated by the owner concerned, who shall be persons liable to pay taxes in the cantonment and ordinarily

ordinarily resident therein or in the immediate vicinity thereof; and

- (c) a chairman who shall be a person not in the service of the Government or the Cantonment Authority and not having any interest in house-property in the cantonment, which has been appropriated or is liable to appropriation under this Act, and who shall be nominated by the Commanding Officer of the cantonment.

(2) If the Commanding Officer of the cantonment or the owner concerned fails without reasonable cause to nominate, within seven days from the date on which the owner has been called upon to make nominations under section 21, any member whom he is entitled to nominate under sub-section (1) or if any member who has been nominated neglects or refuses to act and the person by whom such member was nominated fails to nominate another member in his place within seven days from the date on which he may be called upon to do so by the District Magistrate, the District Magistrate shall forthwith appoint a member or members to fill the vacancy or vacancies.

Members of Committees of Arbitration to be persons who have no direct interest and whose services are immediately available.

23. (1) No person who has a direct interest in the matter under reference or whose services are not immediately available for the purposes of the Committee shall be nominated a member of a Committee of Arbitration.

(2) If, in the opinion of the District Magistrate, any person who has been nominated has a direct interest in the matter under reference, or is otherwise disqualified for nomination, or if the services of any such person are not immediately available as aforesaid, and if the person by whom any such person was nominated fails to nominate another member within seven days from the date on which he may be called upon to do so by the District Magistrate, such failure shall be deemed to constitute a failure to make a nomination within the meaning of section 22.

24. (1) When

24. (1) When a Committee of Arbitration has been duly constituted, the Commanding Officer of the cantonment shall by notice inform each of the members of the fact, and the Committee shall meet as soon as may be thereafter.

Meetings and powers of Committees of Arbitration.

(2) The Committee shall receive and record evidence and shall have power to administer oaths to witnesses, and the District Magistrate, on requisition in writing signed by the Chairman of the Committee, shall issue the necessary processes for the attendance of witnesses and the production of documents required by the Committee, and may enforce the said processes as if they were processes for attendance or production before himself.

25. The Chairman of the Committee of Arbitration shall fix the time and place of meeting, and shall have power to adjourn the meeting from time to time as may be necessary.

Powers of Chairman of Committee of Arbitration as to meetings.

26. In determining the amount of the purchase-money to be paid for a house to be sold under subsection (2) of section 13, the Committee of Arbitration shall estimate the market value of the house at the date on which the notice was served on the owner under section 7.

Calculation of amount of purchase-money by Committees of Arbitration.

27. In determining the amount of rent to be paid for a house, the Committee of Arbitration shall estimate the market value of the house at the date on which the notice was served on the owner under section 7, and shall fix the annual rent at such percentage on that value as is for the time being recoverable by way of annual rent on the market-value of similar houses in the cantonment :

Calculation of rent by Committees of Arbitration.

Provided that due allowance shall be made in respect of the cost to the lessee of maintaining the house in a state of reasonable repair during the period of the lease.

28. (1) The decision of every Committee of Arbitration shall be in accordance with the majority of votes taken at a meeting at which the chairman and at least three of the other members are present.

Decisions of Committees of Arbitration.

(2) If

(2) If there is not a majority of votes in favour of any proposed decision, the opinion of the chairman shall prevail.

(3) Save as provided in this Act, the decision of a Committee of Arbitration shall be final and shall not be questioned in any Court.

CHAPTER V.

APPEALS.

Appeal to
Civil Court.

29. (1) If the Commanding Officer of the cantonment, or the owner of a house in respect of which any matter has been referred to a Committee of Arbitration, is dissatisfied with any decision of the Committee of Arbitration, he may, within one month from the date of such decision, appeal to the principal Civil Court having ordinary original civil jurisdiction in the cantonment, and the decision of such Court shall be final.

(2) A Civil Court hearing an appeal under this section shall, so far as may be, follow the same procedure and have the same powers as it follows and has when hearing an appeal under the Code of Civil Procedure, 1908.

V of 1908.

Appeal to
military
authorities.

30. (1) The owner or any tenant of a house in respect of which a notice has been issued under section 7 may appeal to the Officer Commanding the District or, if that officer is the Commanding Officer of the cantonment, to the General Officer Commanding-in-Chief, the Command, against the decision of the Commanding Officer of the cantonment to appropriate the house.

(2) No such appeal shall be admitted unless made within a period of twenty-one days from the service of the notice aforesaid, and such period shall be computed in accordance with the provisions of the Indian Limitation Act, 1908, with respect to the computation of periods of limitation thereunder.

IX of 1908.

31. (1) Every

31. (1) Every petition of appeal under section 30 shall be in writing and accompanied by a copy of the notice appealed against. Petition of appeal.

(2) Any such petition may be presented to the Commanding Officer of the cantonment, and that officer shall be bound to forward it to the authority empowered by section 30 to hear the appeal, and may attach thereto any report which he may desire to make in explanation of the notice appealed against.

(3) If any such petition is presented direct to the Officer Commanding the District and an immediate order on the petition is not necessary, the Officer Commanding the District may refer the petition to the Commanding Officer of the cantonment for report.

32. The decision on any such appeal of the Officer Commanding the District or of the General Officer Commanding-in-Chief, the Command, as the case may be, shall be final, and shall not be questioned in any Court otherwise than on the ground that the house is situate in a cantonment, or part of a cantonment in which this Act is not operative: Order in appeal final.

Provided that no appeal shall be decided until the appellant has been heard or has had a reasonable opportunity of being heard in person or through a legal practitioner.

33. Where an appeal has been presented under section 30 within the period prescribed by subsection (2) of that section, all action on the notice shall, on the application of the appellant, be held in abeyance pending the decision of the appeal. Suspension of action pending appeal.

CHAPTER VI.

SUPPLEMENTAL PROVISIONS.

34. Every notice or requisition prescribed by this Act shall be in writing, signed by the person by whom it is given or made or by his duly appointed agent, Service of notice and requisitions.

agent, and may be served by post on the person to whom it is addressed, or, in the case of an owner who does not reside in or near the cantonment, on his agent appointed under the Cantonments Act, 1910, or any rule made thereunder.

XV of 1910.

Power for Governor General in Council to make rules.

35. (1) The Governor General in Council may make rules to carry out the purposes and objects of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) regulate the procedure of Committees of Arbitration; and
- (b) define the powers of entry, inspection, measurement or survey which may be exercised in carrying out the purposes and objects of this Act or of any rule made hereunder.

Further provisions respecting rules.

36. (1) The power to make rules under section 35 shall be subject to the condition of the rules being made after previous publication and of their not taking effect until they have been published in the Gazette of India and in such other manner (if any) as the Governor General in Council may direct.

(2) Any rule under section 35 may be general for all cantonments or parts of cantonments in British India in which this Act is for the time being operative, or may be special for any of such cantonments or parts as the Governor General in Council may direct.

(3) A copy of the rules under section 35 for the time being in force in a cantonment shall be kept open to inspection free of charge at all reasonable times in the office of the Cantonment Authority.

(4) In making any rule under clause (b) of subsection (2) of section 35, the Governor General in Council may direct that whoever obstructs any person, not being a public servant within the meaning of section 21 of the Indian Penal Code, in making any entry, inspection, measurement or survey, shall be punishable with fine which may extend to fifty

XLV of 1860.

OF 1923.] *House-Accommodation.*

fifty rupees, and, in the case of a continuing offence, with fine which, in addition to such fine as aforesaid, may extend to five rupees for every day after the first during which such offence continues.

V of 1898. **37.** No Judge or Magistrate shall be deemed, within the meaning of section 556 of the Code of Criminal Procedure, 1898, to be a party to, or personally interested in, any prosecution for an offence constituted by or under this Act merely because he is a member of the Cantonment Committee or has ordered or approved the prosecution.

Inapplicability of section 556 of the Code of Criminal Procedure, 1898, to trials of offences.

38. No suit or other legal proceeding shall lie against any person for anything in good faith done, or intended to be done, under this Act or in pursuance of any lawful notice or order issued under this Act.

Protection to persons acting under Act.

39. On and from the commencement of this Act, the enactments mentioned in the Schedule shall be repealed to the extent specified in the fourth column thereof.

Repeals.

THE SCHEDULE.

[ENACTMENTS REPEALED.]

(See section 39.)

Year.	No.	Short title.	Extent of repeal.
1902	II	The Cantonments (House-Accommodation) Act, 1902.	The whole.
1909	V	The Amending (Army) Act, 1909.	So much as has not been repealed.
1914	IV	The Decentralization Act, 1914.	So much of the Schedule as relates to the Cantonments (House-Accommodation) Act, 1902.

CALCUTTA
SUPERINTENDENT GOVERNMENT PRINTING, INDIA
8, HASTINGS STREET

ACT No. VII OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
5th March, 1923.)

An Act to give effect in British India to the Treaty for the Limitation of Naval Armament.

WHEREAS it is expedient to give effect in British India to the Treaty for the Limitation of Naval Armament signed at Washington on behalf of His Majesty on the sixth day of February, 1922; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Naval Armament Act, 1923. Short title, extent, and commencement.

(2) It extends to the whole of British India, and applies also to all subjects and servants of His Majesty in other parts of India.

(3) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

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

(a) “competent Court” means the High Court or such other Court having unlimited original civil jurisdiction as the Governor General in Council may declare to be a competent Court for the purposes of this Act;

(b) “ship” means any boat, vessel, battery or craft, whether wholly or partly constructed, which is intended to float or is capable of floating, on water, and includes all equipment belonging to any ship; and

(c) “the

Indian Naval Armament. [ACT VII

(c) "the Treaty" means those Articles of the Treaty for the Limitation of Naval Armament signed at Washington on behalf of His Majesty on the sixth day of February, 1922, which are set out in the Schedule.

Restriction
on building
or equipping
vessels of war.

3. No person shall, except under and in accordance with the conditions of a licence granted under this Act,—

(a) build any vessel of war, or alter, arm or equip any ship so as to adapt her for use as a vessel of war; or

(b) despatch or deliver, or allow to be despatched or delivered, from any place in British India any ship which has been, either wholly or partly, built, altered, armed or equipped as a vessel of war in any part of His Majesty's Dominions or in a State in India otherwise than under and in accordance with any law for the time being in force in that part or State.

Licences.

4. (1) A licence under this Act for any of the purposes specified in section 3 may be granted by the Local Government, and shall not be refused unless it appears to the Local Government that such refusal is necessary for the purpose of securing the observance of the obligations imposed by the Treaty; and, where a licence is granted subject to conditions, the conditions shall be such only as the Local Government may think necessary for the purpose aforesaid.

(2) An application for a licence under this section shall be in such form and shall be accompanied by such designs and particulars as the Local Government may, by general or special order, require.

Offences
against the
Act.

5. (1) If any person contravenes any of the provisions of section 3, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

(2) Where

(2) Where an offence punishable under subsection (1) has been committed by a company or corporation, every director and manager of such company or corporation shall be punishable thereunder unless he proves that the act constituting the offence took place without his knowledge and consent.

V of 1898. (3) Nothing contained in section 517 or section 518 or section 520 of the Code of Criminal Procedure, 1898, shall be deemed to authorise the destruction or confiscation under the order of any Criminal Court of any ship which is liable to forfeiture under this Act or of any part of such ship.

6. Any ship which has been, either wholly or partly, built, altered, armed, or equipped as a vessel of war in British India in contravention of section 3, or in any other part of His Majesty's Dominions or any State in India in contravention of any like provision of law in force in that part or State, shall, if found in British India, be liable to forfeiture under this Act. Liability of ships to forfeiture.

7. (1) Where a ship is liable to forfeiture under this Act,— Seizure, detention and search of ships.

- (a) any Presidency Magistrate or Magistrate of the first class, or
- (b) any commissioned officer on full pay in the military, naval or air service of His Majesty, or any gazetted officer of the Royal Indian Marine Service, or
- (c) any officer of customs or police-officer not below such rank as may be designated in this behalf by the Governor General in Council,

may seize such ship and detain it, and, if the ship is found at sea within the territorial waters of British India, may bring it to any convenient port in British India.

(2) Any officer taking any action under subsection (1) shall forthwith report the same through his official superiors to the Local Government.

(3) The Local Government shall, within thirty days of the seizure, either cause the ship to be released

released or make or cause to be made, in the manner hereinafter provided, an application for the forfeiture thereof, and may make such orders for the temporary disposal of the ship as it thinks suitable.

Procedure
in forfeiture
of ships.

8. (1) An application for the forfeiture of a ship under this Act may be made by, or under authority from, the Local Government to any competent Court within the local limits of whose jurisdiction the ship is for the time being.

(2) On receipt of any such application, the Court shall cause notice thereof and of the date fixed for the hearing of the application to be served upon all persons appearing to it to have an interest in the ship, and may give such directions for the temporary disposal of the ship as it thinks fit.

(3) For the purpose of disposing of an application under this section, the Court shall have the same powers and follow, as nearly as may be, the same procedure as it respectively has and follows for the purpose of the trial of suits under the Code of Civil Procedure, 1908, and any order made by the Court v of 1908. under this section shall be deemed to be a decree, and the provisions of the said Code in regard to the execution of decrees shall, as far as they are applicable, apply accordingly.

(4) Where the Court is satisfied that the ship is liable to forfeiture under this Act, it shall pass an order forfeiting the ship to His Majesty :

Provided that, where any person having an interest in the ship proves to the satisfaction of the Court that he has not abetted, or connived at, or by his negligence facilitated, in any way, a contravention of section 3 in respect of the ship, and such ship has not been built as a vessel of war, it may pass such other order as it thinks fit in respect of the ship or, if it be sold, of the sale proceeds thereof :

Provided, further, that in no case shall any ship which has been altered, armed or equipped as a vessel of war be released until it has been restored, to the satisfaction of the Local Government, to such condition

condition as not to render it liable to forfeiture under this Act.

(5) The Local Government or any person aggrieved by any order of a Court, other than a High Court, under this section may, within three months of the date of such order, appeal to the High Court.

9. Where a ship has been forfeited to His Majesty under section 8, it may be disposed of in such manner as the Local Government, subject to the control of the Governor General in Council, directs : Disposal of forfeit.

Provided that, where the ship is sold under this section, due regard shall be had to the obligations imposed by the Treaty.

10. If, in any trial, appeal or other proceeding under the foregoing provisions of this Act, any question arises as to whether a ship is a vessel of war, or whether any alteration, arming or equipping of a ship is such as to adapt it for use as a vessel of war, the question shall be referred to and determined by the Governor General in Council, whose decision shall be final and shall not be questioned in any Court. Special proof of relevant facts.

11. (1) Where a ship which has been seized or detained under section 7 or section 8 and has not been released by competent authority under this Act proceeds to sea, the master of the ship shall be punishable with fine which may extend to one thousand rupees, and the owner and any person who sends the ship to sea shall be likewise so punishable unless such owner or person proves that the offence was committed without his knowledge and consent. Penalties for proceeding to sea after seizure.

(2) Where any ship so proceeding to sea takes to sea, when on board thereof in the execution of his duty any officer empowered by this Act to seize and detain the ship, the owner and master shall further each be liable, on the order of the Court trying an offence punishable under sub-section (1), to pay all the expenses of and incidental to such officer being taken to sea, and shall further be punishable with fine which may extend to one hundred rupees for every day, until such officer returns

returns or until such time as would enable him after leaving the ship to return to the port from which he was taken.

(3) Any expenses ordered to be paid under subsection (2) may be recovered in the manner provided in the Code of Criminal Procedure, 1898, for the recovery of a fine. ^{v of 1898.}

Power to enter dock-yards, etc.

12. (1) Any person empowered by this Act to seize and detain any ship may, at any reasonable time by day or night, enter any dockyard, shipyard or other place and make inquiries respecting any ship which he has reason to believe is liable to forfeiture under this Act, and may search such ship with a view to ascertaining whether the provisions of this Act have been or are being duly observed in respect thereof, and every person in charge of or employed in such place shall on request be bound to give the person so empowered all reasonable facilities for such entry and search and for making such inquiries.

(2) The provisions of sections 101, 102 and 103 of the Code of Criminal Procedure, 1898, shall apply ^{v of 1898.} in the case of all searches made under this section.

Courts by which and conditions subject to which offences may be tried.

13. No Court inferior to that of a Presidency Magistrate or Magistrate of the first class shall proceed to the trial of any offence punishable under this Act, and no Court shall proceed to the trial of any such offence except on complaint made by, or under authority from, the Local Government.

Indemnity.

14. No prosecution, suit or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act.

THE SCHEDULE.

(See section 2.)

ARTICLES OF TREATY FOR THE LIMITATION OF NAVAL ARMAMENT.

ARTICLE V.

No capital ship exceeding 35,000 tons (35,560 metric tons) standard displacement shall be acquired by, or constructed

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constructed by, for, or within the jurisdiction of, any of the Contracting Powers.

ARTICLE VI.

No capital ship of any of the Contracting Powers shall carry a gun with a calibre in excess of 16 inches (406 millimetres).

ARTICLE IX.

No aircraft carrier exceeding 27,000 tons (27,432 metric tons) standard displacement shall be acquired by, or constructed by, for, or within the jurisdiction of, any of the Contracting Powers.

* * * *

ARTICLE X.

No aircraft carrier of any of the Contracting Powers shall carry a gun with a calibre in excess of 8 inches (203 millimetres). Without prejudice to the provisions of Article IX, if the armament carried includes guns exceeding 6 inches (152 millimetres) in calibre the total number of guns carried, except anti-aircraft guns and guns not exceeding 5 inches (127 millimetres), shall not exceed ten. If alternatively the armament contains no guns exceeding 6 inches (152 millimetres) in calibre, the number of guns is not limited. In either case the number of anti-aircraft guns and of guns not exceeding 5 inches (127 millimetres) is not limited.

ARTICLE XI.

No vessel of war exceeding 10,000 tons (10,160 metric tons) standard displacement, other than a capital ship or aircraft carrier, shall be acquired by, or constructed by, for, or within the jurisdiction of, any of the Contracting Powers. Vessels not specifically built as fighting ships nor taken in time of peace under Government control for fighting purposes, which are employed on fleet duties or as troop transports or in some other way for the purpose of assisting in the prosecution of hostilities otherwise than as fighting ships, shall not be within the limitations of this Article.

ARTICLE

Indian Naval Armament. [ACT VII

ARTICLE XII.

No vessel of war of any of the Contracting Powers, hereafter laid down, other than a capital ship, shall carry a gun with a calibre in excess of 8 inches (203 millimetres).

ARTICLE XIV.

No preparations shall be made in merchant ships in time of peace for the installation of warlike armaments for the purpose of converting such ships into vessels of war, other than the necessary stiffening of decks for the mounting of guns not exceeding 6-inch (152 millimetres) calibre.

ARTICLE XV.

No vessel of war constructed within the jurisdiction of any of the Contracting Powers for a non-Contracting Power shall exceed the limitations as to displacement and armament prescribed by the present Treaty for vessels of a similar type which may be constructed by or for any of the Contracting Powers, provided, however, that the displacement for aircraft carriers constructed for a non-Contracting Power shall in no case exceed 27,000 tons (27,432 metric tons) standard displacement.

ARTICLE XVI.

If the construction of any vessel of war for a non-Contracting Power is undertaken within the jurisdiction of any of the Contracting Powers, such Power shall promptly inform the other Contracting Powers of the date of the signing of the contract and the date on which the keel of the ship is laid; and shall also communicate to them the particulars relating to the ship prescribed in Chapter II, Part 3, section 1 (b), (4) and (5).

ARTICLE XVIII.

Each of the Contracting Powers undertakes not to dispose by gift, sale or any mode of transfer of any vessel of war in such a manner that such vessel may become a vessel of war in the navy of any foreign Power.

CHAPTER II

OF 1923.] *Indian Naval Armament.*

CHAPTER II.—PART 3.—SECTION 1.

- (b) Each of the Contracting Powers shall communicate promptly to each of the other Contracting Powers the following information:—

• • • •

- (4) The standard displacement in tons and metric tons of each new ship to be laid down, and the principal dimensions, namely, length at waterline, extreme beam at or below waterline, mean draught at standard displacement.
- (5) The date of completion of each new ship and its standard displacement in tons and metric tons, and the principal dimensions, namely, length at waterline, extreme beam at or below waterline, mean draught at standard displacement, at time of completion.

PART 4.—DEFINITIONS.

For the purposes of the present Treaty, the following expressions are to be understood in the sense defined in this Part.

Capital Ship.

A capital ship, in the case of ships hereafter built, is defined as a vessel of war, not an aircraft carrier, whose displacement exceeds 10,000 tons (10,160 metric tons) standard displacement, or which carries a gun with a calibre exceeding 8 inches (203 millimetres).

Aircraft Carrier.

An aircraft carrier is defined as a vessel of war with a displacement in excess of 10,000 tons (10,160 metric tons) standard displacement designed for the specific and exclusive purpose of carrying aircraft. It must be so constructed that aircraft can be launched therefrom and landed thereon, and not designed and constructed for carrying a more powerful armament than that allowed to it under Article IX or Article X, as the case may be.

Standard Displacement.

The standard displacement of a ship is the displacement of the ship complete, fully manned, engined, and equipped

Indian Naval Armament. [ACT VII OF 1923.]

equipped ready for sea, including all armament and ammunition, equipment, outfit, provisions and fresh water for crew, miscellaneous stores and implements of every description that are intended to be carried in war, but without fuel or reserve feed water on board.

The word "ton" in the present Treaty, except in the expression "metric tons," shall be understood to mean the ton of 2,240 pounds (1,016 kilo).

Vessels now completed shall retain their present ratings of displacement tonnage in accordance with their national system of measurement. However, a Power expressing displacement in metric tons shall be considered for the application of the present Treaty as owning only the equivalent displacement in tons of 2,240 pounds.

A vessel completed hereafter shall be rated at its displacement tonnage when in the standard condition defined herein.

ACT NO. VIII OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
5th March, 1923.)

An Act to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident.

WHEREAS it is expedient to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Workmen's Compensation Act, 1923. Short title, extent and commencement.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) It shall come into force on the first day of July, 1924.

2. (1) In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(a) "adult" and "minor" mean respectively a person who is not and a person who is under the age of fifteen years;

(b) "Commissioner" means a Commissioner for Workmen's Compensation appointed under section 20;

(c) "compensation" means compensation as provided for by this Act;

(d) "dependant" means any of the following relatives of a deceased workman, namely,

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[Price seven annas and six pies.]

Workmen's Compensation. [ACT VIII

a wife, husband, parent, minor son, unmarried daughter, married daughter who is a minor, minor brother or unmarried sister, and includes the minor children of a deceased son of the workman and, where no parent of the workman is alive, a paternal grand-parent;

- (e) "employer" includes any body of persons whether incorporated or not and any managing agent of an employer and the legal representative of a deceased employer, and, when the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, means such other person while the workman is working for him;
- (f) "managing agent" means any person appointed or acting as the representative of another person for the purpose of carrying on such other person's trade or business, but does not include an individual manager subordinate to an employer;
- (g) "partial disablement" means, where the disablement is of a temporary nature, such disablement as reduces the earning capacity of a workman in any employment in which he was engaged at the time of the accident resulting in the disablement, and, where the disablement is of a permanent nature, such disablement as reduces his earning capacity in every employment which he was capable of undertaking at that time: provided that every injury specified in Schedule I shall be deemed to result in permanent partial disablement;
- (h) "prescribed" means prescribed by rules made under this Act;
- (i) "qualified

OF 1923.] *Workmen's Compensation.*

21 & 22 Vict.
c. 90.

(i) "qualified medical practitioner" means any person registered under the Medical Act, 1858, or any Act amending the same, or under any Act of any Legislature in British India providing for the maintenance of a register of medical practitioners, or, any area where no such last-mentioned Act is in force, any person declared by the Local Government, by notification in the local official Gazette, to be a qualified medical practitioner for the purposes of this Act;

XIX of 1838.

X of 1841.

XI of 1850.]

(j) "registered ship" means any sea-going ship registered under the Bombay Coast-ing Vessels Act, 1838, or the Indian Registration of Ships Act, 1841, or the Indian Registration of Ships Act (1841) Amendment Act, 1850, or any home-trade ship so registered of a registered tonnage of not less than three hundred tons, or any inland steam-vessel as defined in section 2 of the Inland Steam Vessels Act, 1917, of a registered tonnage of not less than one hundred tons;

I of 1917.

(k) "seaman" means any person forming part of the crew of any registered ship, but does not include the master of any such ship;

(l) "total disablement" means such disablement, whether of a temporary or permanent nature, as incapacitates a workman for all work which he was capable of performing at the time of the accident resulting in such disablement: provided that permanent total disablement shall be deemed to result from the permanent total loss of the sight of both eyes or from any combination of injuries specified in Schedule I where the aggregate percentage of the loss of earning capacity, as specified in that Schedule against those injuries,

Workmen's Compensation. [ACT VIII

injuries, amounts to one hundred per cent.;

(m) "wages" includes any privilege or benefit which is capable of being estimated in money, other than a travelling allowance or the value of any travelling concession or a contribution paid by the employer of a workman towards any pension or provident fund or a sum paid to a workman to cover any special expenses entailed on him by the nature of his employment;

(n) "workman" means any person (other than a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business) who is—

(i) a railway servant as defined in section 3 of the Indian Railways Act, 1890, IX of 1890. not permanently employed in any administrative, district or sub-divisional office of a railway and not employed in any such capacity as is specified in Schedule II, or

(ii) employed, either by way of manual labour or on monthly wages not exceeding three hundred rupees, in any such capacity as is specified in Schedule II,

whether the contract of employment was made before or after the passing of this Act and whether such contract is expressed or implied, oral or in writing; but does not include any person working in the capacity of a member of His Majesty's naval, military or air forces or of the Royal Indian Marine Service; and any reference to a workman who has been injured shall, where the workman is dead, include a reference to his dependants or any of them.

(2) The

(2) The exercise and performance of the powers and duties of a local authority or of any department of the Government shall, for the purposes of this Act, unless a contrary intention appears, be deemed to be the trade or business of such authority or department.

(3) The Governor General in Council after giving, by notification in the Gazette of India, not less than three months' notice of his intention so to do, may, by a like notification, direct that the provisions of this Act shall apply in the case of any person (other than a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business) who is employed by way of manual labour or on monthly wages not exceeding three hundred rupees in any occupation declared by such notification to be a hazardous occupation, or that the said provisions shall apply in the case of any specified class of such persons or in the case of any such person or class to whom any specified injury is caused; and any person in whose case the said provisions are so made applicable shall be deemed to be a workman within the meaning of this Act.

CHAPTER II.

WORKMEN'S COMPENSATION.

3. (1) If personal injury is caused to a workman by accident arising out of and in the course of his employment, his employer shall be liable to pay compensation in accordance with the provisions of this Chapter :

Provided that the employer shall not be so liable—

(a) in respect of any injury which does not result in the total or partial disablement of the workman for a period exceeding ten days;

(b) in

Workmen's Compensation. [ACT VIII

- (b) in respect of any injury to a workman resulting from an accident which is directly attributable to—
- (i) the workman having been at the time thereof under the influence of drink or drugs, or
 - (ii) the wilful disobedience of the workman to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of workmen, or
 - (iii) the wilful removal or disregard by the workman of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of workmen; or
- (c) except in the case of death or permanent total disablement, in respect of any workman employed in the construction, repair or demolition of a building or bridge.

(2) If a workman employed in any employment involving the handling of wool, hair, bristles, hides or skins contracts the disease of anthrax, or if a workman, whilst in the service of an employer in whose service he has been employed for a continuous period of not less than six months in any employment specified in Schedule III, contracts any disease specified therein as an occupational disease peculiar to that employment, the contracting of the disease shall be deemed to be an injury by accident within the meaning of this section and, unless the employer proves the contrary, the accident shall be deemed to have arisen out of and in the course of the employment.

Explanation.—For the purposes of this sub-section a period of service shall be deemed to be continuous which has not included a period of service under any other employer.

(3) The

OF 1923.] *Workmen's Compensation.*

(3) The Governor General in Council, after giving, by notification in the Gazette of India, not less than three months' notice of his intention so to do, may, by a like notification, add any description of employment to the employments specified in Schedule III, and shall specify in the case of the employments so added the diseases which shall be deemed for the purposes of this section to be occupational diseases peculiar to those employments respectively, and the provisions of sub-section (2) shall thereupon apply as if such diseases had been declared by this Act to be occupational diseases peculiar to those employments.

(4) Save as provided by sub-sections (2) and (3), no compensation shall be payable to a workman in respect of any disease unless the disease is solely and directly attributable to a specific injury by accident arising out of and in the course of his employment.

(5) Nothing herein contained shall be deemed to confer any right to compensation on a workman in respect of any injury if he has instituted in a Civil Court a suit for damages in respect of the injury against the employer or any other person; and no suit for damages shall be maintainable by a workman in any Court of law in respect of any injury—

- (a) if he has instituted a claim to compensation in respect of the injury before a Commissioner; or
- (b) if an agreement has been come to between the workman and his employer providing for the payment of compensation in respect of the injury in accordance with the provisions of this Act.

4. (1) Subject to the provisions of this Act, the amount of compensation shall be as follows, Amount of compensation. namely:—

A. Where death results from the injury—

- (i) in the case of an adult, a sum equal to thirty months' wages or two thousand five hundred rupees, whichever is less, and

(ii) in

Workmen's Compensation. [ACT VIII

- (ii) in the case of a minor, two hundred rupees;
- B. Where permanent total disablement results from the injury—
 - (i) in the case of an adult, a sum equal to forty-two months' wages or three thousand five hundred rupees whichever is less, and
 - (ii) in the case of a minor, a sum equal to eighty-four months' wages or three thousand five hundred rupees, whichever is less;
- C. Where permanent partial disablement results from the injury—
 - (i) in the case of an injury specified in Schedule I, such percentage of the compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of the loss of earning capacity caused by that injury, and
 - (ii) in the case of an injury not specified in Schedule I, such percentage of the compensation payable in the case of permanent total disablement as is proportionate to the loss of earning capacity permanently caused by the injury;

Explanation.—Where more injuries than one are caused by the same accident, the amount of compensation payable under this head shall be aggregated but not so in any case as to exceed the amount which would have been payable if permanent total disablement had resulted from the injuries.

- D. Where temporary disablement, whether total or partial, results from the injury, a half-monthly payment payable on the sixteenth day after the expiry of a waiting

waiting period of ten days from the date of the disablement, and thereafter half-monthly during the disablement or during a period of five years, whichever period is shorter,—

- (i) in the case of an adult, of fifteen rupees or a sum equal to one-fourth of his monthly wages, whichever is less, and
- (ii) in the case of a minor, of a sum equal to one-third or, after he has attained the age of fifteen years, to one-half of his monthly wages, but not exceeding in any case fifteen rupees :

Provided that there shall be deducted from any lump sum or half-monthly payments to which the workman is entitled the amount of any payment or allowance which the workman has received from the employer by way of compensation during the period of disablement prior to the receipt of such lump sum or of the first half-monthly payment, as the case may be, and no half-monthly payment shall in any case exceed the amount, if any, by which half the amount of the monthly wages of the workman before the accident exceeds half the amount of such wages which he is earning after the accident.

(2) On the ceasing of the disablement before the date on which any half-monthly payment falls due, there shall be payable in respect of that half-month a sum proportionate to the duration of the disablement in that half-month.

5. For the purposes of section 4 the monthly wages of a workman shall be calculated as follows, Method of calculating wages. namely :—

- (a) where the workman has, during a continuous period of not less than twelve months immediately preceding the accident, been in the service of the employer who is liable to pay compensation, the
monthly

Workmen's Compensation. [ACT VIII

monthly wages of the workman shall be one-twelfth of the total wages which have fallen due for payment to him by the employer in the last twelve months of that period;

- (b) in other cases, the monthly wages shall be thirty times the total wages earned in respect of the last continuous period of service immediately preceding the accident from the employer who is liable to pay compensation, divided by the number of days comprising such period:

Provided that the sum arrived at by a calculation under clause (a) or clause (b) shall be increased or decreased, as the case may be, to the amount specified in the second column of Schedule IV against the head specified in the first column thereof within the limits of which such sum is included.

Explanation.—A period of service shall, for the purposes of this section, be deemed to be continuous which has not been interrupted by a period of absence from work exceeding fourteen days.

Review.

6. (1) Any half-monthly payment payable under this Act, either under an agreement between the parties or under the order of a Commissioner, may be reviewed by the Commissioner on the application either of the employer or of the workman accompanied by the certificate of a qualified medical practitioner that there has been a change in the condition of the workman or, subject to rules made under this Act, on application made without such certificate.

(2) Any half-monthly payment may, on review under this section, subject to the provisions of this Act, be continued, increased, decreased or ended, or, if the accident is found to have resulted in permanent disablement, be converted to the lump-sum to which the workman is entitled less any amount which he has already received by way of half-monthly payments.

7. Any

7. Any right to receive half-monthly payments may, by agreement between the parties or, if the parties cannot agree and the payments have been continued for not less than six months, on the application of either party to the Commissioner, be redeemed by the payment of a lump sum of such amount as may be agreed to by the parties or determined by the Commissioner, as the case may be.

Commutation
of half-
monthly
payments.

8. (1) Compensation payable in respect of a workman whose injury has resulted in death shall be deposited with the Commissioner, and any sum so deposited shall be apportioned among the dependants of the deceased workman or any of them in such proportion as the Commissioner thinks fit, or may, in the discretion of the Commissioner, be allotted to any one such dependant, and the sum so allotted to any dependant shall be paid to him or, if he is a person under any legal disability, be invested, applied or otherwise dealt with for his benefit during such disability in such manner as the Commissioner thinks fit.

Distribution
of com-
pensation.

(2) Any other compensation payable under this Act may be deposited with the Commissioner and, when so deposited, shall be paid by the Commissioner to the person entitled thereto.

(3) The receipt of the Commissioner shall be a sufficient discharge in respect of any amount deposited with him under sub-section (1) or sub-section (2).

(4) On the deposit of any money under sub-section (1), the Commissioner may deduct therefrom the actual cost of the workman's funeral expenses, to an amount not exceeding fifty rupees, and pay the same to the person by whom such expenses were incurred, and shall, if he thinks necessary, cause notice to be published or to be served on each dependant in such manner as he thinks fit, calling upon the dependants to appear before him on such date as he may fix for determining the distribution of the compensation. If the Commissioner is satisfied, after any inquiry

which

which he may deem necessary, that no dependant exists, he shall repay the balance of the money to the employer by whom it was paid. The Commissioner shall, on application by the employer, furnish a statement showing in detail all disbursements made.

(5) Where a half-monthly payment is payable under this Act to a person under any legal disability, the Commissioner may, of his own motion or on application made to him in this behalf, order that the half-monthly payment be paid during the disability to any dependant of the workman or to any other person whom he thinks best fitted to provide for the welfare of the workman.

(6) Where, on application made to him in this behalf or otherwise, the Commissioner is satisfied that, on account of neglect of children on the part of a parent or on account of the variation of the circumstances of any dependant or for any other sufficient cause, an order of the Commissioner as to the distribution of any sum paid as compensation or as to the manner in which any sum payable to any such dependant is to be invested, applied or otherwise dealt with, ought to be varied, the Commissioner may make such orders for the variation of the former order as he thinks just in the circumstances of the case :

Provided that no such order prejudicial to any person shall be made unless such person has been given an opportunity of showing cause why the order should not be made, or shall be made in any case in which it would involve the repayment by a dependant of any sum already paid to him.

Compensation
not to be
assigned,
attached or
charged.

9. Save as provided by this Act, no lump sum or half-monthly payment payable under this Act shall in any way be capable of being assigned or charged or be liable to attachment or pass to any person other than the workman by operation of law, nor shall any claim be set off against the same.

10. (1) No

OF 1923.] *Workmen's Compensation.*

10. (1) No proceedings for the recovery of compensation shall be maintainable before a Commissioner unless notice of the accident has been given, in the manner hereinafter provided, as soon as practicable after the happening thereof and before the workman has voluntarily left the employment in which he was injured, and unless the claim for compensation with respect to such accident has been instituted within six months of the occurrence of the accident or, in case of death, within six months from the date of death : ^{Notice and claim.}

Provided that, where the accident is the contracting of a disease in respect of which the provisions of sub-section (2) of section 3 are applicable, the accident shall be deemed to have occurred on the first of the days during which the workman was continuously absent from work in consequence of the disablement caused by the disease :

Provided, further, that the Commissioner may admit and decide any claim to compensation in any case notwithstanding that the notice has not been given, or the claim has not been instituted, in due time as provided in this sub-section, if he is satisfied that the failure so to give the notice or institute the claim, as the case may be, was due to sufficient cause.

(2) Every such notice shall give the name and address of the person injured and shall state in ordinary language the cause of the injury and the date on which the accident happened, and shall be served on the employer or upon any one or several employers, or upon any person directly responsible to the employer for the management of any branch of the trade or business in which the injured workman was employed.

(3) The notice may be served by delivering the same at, or sending it by registered post addressed to, the residence or any office or place of business of the person on whom it is to be served.

11. (1) Where

Medical
examination.

11. (1) Where a workman has given notice of an accident, he shall, if the employer, before the expiry of three days from the time at which service of the notice has been effected, offers to have him examined free of charge by a qualified medical practitioner, submit himself for such examination, and any workman who is in receipt of a half-monthly payment under this Act shall, if so required, submit himself for such examination from time to time :

Provided that a workman shall not be required to submit himself for examination by a medical practitioner otherwise than in accordance with rules made under this Act, or at more frequent intervals than may be prescribed.

(2) If a workman, on being required to do so by the employer under sub-section (1) or by the Commissioner at any time, refuses to submit himself for examination by a qualified medical practitioner or in any way obstructs the same, his right to compensation shall be suspended during the continuance of such refusal or obstruction unless, in the case of refusal, he was prevented by any sufficient cause from so submitting himself.

(3) If a workman, before the expiry of the period within which he is liable under sub-section (1) to be required to submit himself for medical examination, voluntarily leaves without having been so examined the vicinity of the place in which he was employed, his right to compensation shall be suspended until he returns and offers himself for such examination.

(4) Where a workman, whose right to compensation has been suspended under sub-section (2) or sub-section (3), dies without having submitted himself for medical examination as required by either of those sub-sections, the Commissioner may, if he thinks fit, direct the payment of compensation to the dependants of the deceased workman.

(5) Where under sub-section (2) or sub-section (3) a right to compensation is suspended, no compensation

compensation shall be payable in respect of the period of suspension, and, if the period of suspension commences before the expiry of the waiting period referred to in clause D of sub-section (1) of section 4, the waiting period shall be increased by the period during which the suspension continues.

(6) Where an injured workman has refused to be attended by a qualified medical practitioner whose services have been offered to him by the employer free of charge or having accepted such offer has deliberately disregarded the instructions of such medical practitioner, then, if it is thereafter proved that the workman has not been regularly attended by a qualified medical practitioner and that such refusal, failure or disregard was unreasonable in the circumstances of the case and that the injury has been aggravated thereby, the injury and resulting disablement shall be deemed to be of the same nature and duration as they might reasonably have been expected to be if the workman had been regularly attended by a qualified medical practitioner, and compensation, if any, shall be payable accordingly.

12. (1) Where any person (hereinafter in this section referred to as the principal) in the course of or for the purposes of his trade or business contracts with any other person (hereinafter in this section referred to as the contractor) for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the trade or business of the principal, the principal shall be liable to pay to any workman employed in the execution of the work any compensation which he would have been liable to pay if that workman had been immediately employed by him; and where compensation is claimed from the principal, this Act shall apply as if references to the principal were substituted for references to the employer except that the amount of compensation shall be calculated with reference to the wages of the workman under the employer by whom he is immediately employed.

(2) Where

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(2) Where the principal is liable to pay compensation under this section, he shall be entitled to be indemnified by the contractor, and all questions as to the right to and the amount of any such indemnity shall, in default of agreement, be settled by the Commissioner.

(3) Nothing in this section shall be construed as preventing a workman from recovering compensation from the contractor instead of the principal.

(4) This section shall not apply in any case where the accident occurred elsewhere than on, in or about the premises on which the principal has undertaken or usually undertakes, as the case may be, to execute the work or which are otherwise under his control or management.

Remedies of employer against stranger.

13. Where a workman has recovered compensation in respect of any injury caused under circumstances creating a legal liability of some person other than the person by whom the compensation was paid to pay damages in respect thereof, the person by whom the compensation was paid and any person who has been called on to pay an indemnity under section 12 shall be entitled to be indemnified by the person so liable to pay damages as aforesaid.

Insolvency of employer.

14. (1) Where any employer has entered into a contract with any insurers in respect of any liability under this Act to any workman, then in the event of the employer becoming insolvent or making a composition or scheme of arrangement with his creditors or, if the employer is a company, in the event of the company having commenced to be wound up, the rights of the employer against the insurers as respects that liability shall, notwithstanding anything in any law for the time being in force relating to insolvency or the winding up of companies, be transferred to and vest in the workman, and upon any such transfer the insurers shall have the same rights and remedies and be subject to the same liabilities as if they were the employer, so, however, that the insurers shall not be

be under any greater liability to the workman than they would have been under to the employer.

(2) If the liability of the insurers to the workman is less than the liability of the employer to the workman, the workman may prove for the balance in the insolvency proceedings or liquidation.

(3) Where in any case such as is referred to in sub-section (1) the contract of the employer with the insurers is void or voidable by reason of non-compliance on the part of the employer with any terms or conditions of the contract (other than a stipulation for the payment of premia), the provisions of that sub-section shall apply as if the contract were not void or voidable, and the insurers shall be entitled to prove in the insolvency proceedings or liquidation for the amount paid to the workman :

Provided that the provisions of this sub-section shall not apply in any case in which the workman fails to give notice to the insurers of the happening of the accident and of any resulting disablement as soon as practicable after he becomes aware of the institution of the insolvency or liquidation proceedings.

III of 1909.
V of 1920.
VII of 1913.

(4) There shall be deemed to be included among the debts which under section 49 of the Presidency-towns Insolvency Act, 1909, or under section 61 of the Provincial Insolvency Act, 1920, or under section 230 of the Indian Companies Act, 1913, are in the distribution of the property of an insolvent or in the distribution of the assets of a company being wound up to be paid in priority to all other debts, the amount due in respect of any compensation the liability wherefor accrued before the date of the order of adjudication of the insolvent or the date of the commencement of the winding up, as the case may be, and those Acts shall have effect accordingly.

(5) Where the compensation is a half-monthly payment, the amount due in respect thereof shall, for the purposes of this section, be taken to be the

amount

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amount of the lump sum for which the half-monthly payment could, if redeemable, be redeemed if application were made for that purpose under section 7, and a certificate of the Commissioner as to the amount of such sum shall be conclusive proof thereof.

(6) The provisions of sub-section (4) shall apply in the case of any amount for which an insurer is entitled to prove under sub-section (3), but otherwise those provisions shall not apply where the insolvent or the company being wound up has entered into such a contract with insurers as is referred to in sub-section (1).

(7) This section shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

Special provisions relating to masters and seamen.

15. This Act shall apply in the case of workmen who are masters of registered ships or seamen subject to the following modifications, namely:—

(1) The notice of the accident and the claim for compensation may, except where the person injured is the master of the ship, be served on the master of the ship as if he were the employer, but where the accident happened and the disablement commenced on board the ship, it shall not be necessary for any seaman to give any notice of the accident.

(2) In the case of the death of a master or seaman, the claim for compensation shall be made within six months after the news of the death has been received by the claimant or, where the ship has been or is deemed to have been lost with all hands, within eighteen months of the date on which the ship was, or is deemed to have been, so lost.

(3) Where an injured master or seaman is discharged or left behind in any part of His Majesty's dominions or in a foreign country, any depositions taken by any Judge or Magistrate in that part or by any Consular Officer in the foreign country and transmitted

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transmitted by the person by whom they are taken to the Governor General in Council or any Local Government shall, in any proceedings for enforcing the claim, be admissible in evidence—

- (a) if the deposition is authenticated by the signature of the Judge, Magistrate or Consular Officer before whom it is made;
- (b) if the defendant or the person accused, as the case may be, had an opportunity by himself or his agent to cross-examine the witness; and
- (c) if the deposition was made in the course of a criminal proceeding, on proof that the deposition was made in the presence of the person accused;

and it shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition and a certificate by such person that the defendant or the person accused had an opportunity of cross-examining the witness and that the deposition if made in a criminal proceeding was made in the presence of the person accused shall, unless the contrary is proved, be sufficient evidence that he had that opportunity and that it was so made.

(4) In the case of the death of a master or seaman leaving no dependants, the Commissioner shall, if the owner of the ship is under any law in force for the time being in British India relating to merchant shipping liable to pay the expenses of burial of the master or seaman, return to the employer the full amount of the compensation deposited under sub-section (1) of section 8 without making the deduction referred to in sub-section (4) of that section.

(5) No monthly payment shall be payable in respect of the period during which the owner of the ship is, under any law in force for the time being in British India relating to merchant shipping,

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shipping, liable to defray the expenses of maintenance of the injured master or seaman.

Returns as
to compensa-
tion.

16. The Governor General in Council may, by notification in the Gazette of India, direct that every person employing workmen, or that any specified class of such persons, shall send at such time and in such form and to such authority, as may be specified in the notification, a correct return specifying the number of injuries in respect of which compensation has been paid by the employer during the previous year and the amount of such compensation, together with such other particulars as to the compensation as the Governor General in Council may direct.

Contracting
out.

17. Any contract or agreement whether made before or after the commencement of this Act, whereby a workman relinquishes any right of compensation from the employer for personal injury arising out of or in the course of the employment, shall be null and void in so far as it purports to remove or reduce the liability of any person to pay compensation under this Act.

Proof of age.

18. Where any question arises as to the age of a person injured by accident arising out of and in the course of his employment in a factory, a certificate granted in respect of such person under section 7 or section 8 of the Indian Factories Act, ^{XII of 1911} 1911, before the occurrence of the injury shall be conclusive proof of the age of such person.

CHAPTER III.

COMMISSIONERS.

Reference
to Com-
missioners.

19. (1) If any question arises in any proceedings under this Act as to the liability of any person to pay compensation (including any question as to whether a person injured is or is not a workman) or as to the amount or duration of compensation (including any question as to the nature or extent of

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of disablement), the question shall, in default of agreement, be settled by the Commissioner.

(2) No Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by a Commissioner or to enforce any liability incurred under this Act.

20. (1) The Local Government may, by notification in the local official Gazette, appoint any person to be a Commissioner for Workmen's Compensation for such local area as may be specified in the notification. Appointment of Commissioners.

(2) Any Commissioner may, for the purpose of deciding any matter referred to him for decision under this Act, choose one or more persons possessing special knowledge of any matter relevant to the matter under inquiry to assist him in holding the inquiry.

(3) Every Commissioner shall be deemed to be a public servant within the meaning of the Indian Penal Code.

XLV of 1860.

21. (1) Where any matter is under this Act to be done by or before a Commissioner, the same shall, subject to the provisions of this Act and to any rules made hereunder, be done by or before the Commissioner for the local area in which the accident took place which resulted in the injury: Venue of proceedings and transfer.

Provided that, where the workman is the master of a registered ship or a seaman, any such matter may be done by or before the Commissioner for the local area in which the owner or agent of the ship resides or carries on business.

(2) If a Commissioner is satisfied by any party to any proceedings under this Act pending before him that such matter can be more conveniently dealt with by any other Commissioner, whether in the same province or not, he may, subject to rules made under this Act, order such matter to be transferred to such other Commissioner either for report or for disposal, and, if he does so, shall forthwith transmit to such other Commissioner

Commissioner all documents relevant for the decision of such matter and, where the matter is transferred for disposal, shall also transmit in the prescribed manner any money remaining in his hands or invested by him for the benefit of any party to the proceedings :

Provided that no matter other than a matter relating to the actual payment to a workman or the distribution among dependants of a lump sum shall be transferred for disposal under this sub-section to a Commissioner in the same province save with the previous sanction of the Local Government or to a Commissioner in another province save with the previous sanction of the Governor General in Council, unless all the parties to the proceedings agree to the transfer.

(3) The Commissioner to whom any matter is so transferred shall, subject to rules made under this Act, inquire thereinto and, if the matter was transferred for report, return his report thereon or, if the matter was transferred for disposal, continue the proceedings as if they had originally commenced before him.

(4) On receipt of a report from a Commissioner to whom any matter has been transferred for report under sub-section (2), the Commissioner by whom it was referred shall decide the matter referred in conformity with such report.

Form of
a application.

22. (1) No application for the settlement of any matter by a Commissioner shall be made unless and until some question has arisen between the parties in connection therewith which they have been unable to settle by agreement.

(2) Where any such question has arisen, the application may be made in such form and shall be accompanied by such fee, if any, as may be prescribed, and shall contain, in addition to any particulars which may be prescribed, the following particulars, namely :—

(a) a concise statement of the circumstances in which the application is made and the relief

relief or order which the applicant claims;

- (b) in the case of a claim for compensation against an employer, the date of service of notice of the accident on the employer and, if such notice has not been served or has not been served in due time, the reason for such omission;
- (c) the names and addresses of the parties; and
- (d) a concise statement of the matters on which agreement has and on those on which agreement has not been come to.

(3) If the applicant is illiterate or for any other reason is unable to furnish the required information in writing, the application shall, if the applicant so desires, be prepared under the direction of the Commissioner.

V of 1908.

23. The Commissioner shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purpose of taking evidence on oath (which such Commissioner is hereby empowered to impose) and of enforcing the attendance of witnesses and compelling the production of documents and material objects.

Powers and procedure of Commissioners.

24. Any appearance, application or act required to be made or done by any person before or to a Commissioner (other than an appearance of a party which is required for the purpose of his examination as a witness) may be made or done on behalf of such person by a legal practitioner or other person authorised in writing by such person.

Appearance of parties.

25. The Commissioner shall make a brief memorandum of the substance of the evidence of every witness as the examination of the witness proceeds, and such memorandum shall be written and signed by the Commissioner with his own hand and shall form part of the record :

Method of recording evidence.

Provided that, if the Commissioner is prevented from making such memorandum, he shall record the reason

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reason of his inability to do so and shall cause such memorandum to be made in writing from his dictation and shall sign the same, and such memorandum shall form part of the record :

Provided, further, that the evidence of any medical witness shall be taken down as nearly as may be word for word.

Costs.

26. All costs incidental to any proceedings before a Commissioner shall, subject to rules made under this Act, be in the discretion of the Commissioner.

Power to submit cases.

27. A Commissioner may, if he thinks fit, submit any question of law for the decision of the High Court and, if he does so, shall decide the question in conformity with such decision.

Registration of agreements.

28. (1) Where the amount of any lump sum payable as compensation has been settled by agreement, whether by way of redemption of a half-monthly payment or otherwise, or where any compensation has been so settled as being payable to a person under a legal disability or to a dependant, a memorandum thereof shall be sent by the employer to the Commissioner, who shall, on being satisfied as to its genuineness, record the memorandum in a register in the prescribed manner :

Provided that—

- (a) no such memorandum shall be recorded before seven days after communication by the Commissioner of notice to the parties concerned;
- (b) where a workman seeks to record a memorandum of agreement between his employer and himself for the payment of compensation and the employer proves that the workman has, in fact, returned to work and is earning the same wages as he did before the accident and objects to the recording of such memorandum, the memorandum shall only be recorded, if

at

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at all, on such terms as the Commissioner thinks just in the circumstances;

(c) the Commissioner may at any time rectify the register;

(d) where it appears to the Commissioner that an agreement as to the payment of a lump sum whether by way of redemption of a half-monthly payment or otherwise, or an agreement as to the amount of compensation payable to a person under any legal disability or to any dependant, ought not to be registered by reason of the inadequacy of the sum or amount, or by reason of the agreement having been obtained by fraud or undue influence or other improper means, he may refuse to record the memorandum of the agreement or may make such order, including an order as to any sum already paid under the agreement, as he thinks just in the circumstances.

(2) An agreement for the payment of compensation which has been registered under sub-section (1) shall be enforceable under this Act notwithstanding anything contained in the Indian Contract Act, 1872, or in any other law for the time being in force.

29. Where a memorandum of any agreement, the registration of which is required by section 28, is not sent to the Commissioner as required by that section, the employer shall be liable to pay the full amount of compensation which he is liable to pay under the provisions of this Act, and notwithstanding anything contained in the proviso to sub-section (1) of section 4, shall not, unless the Commissioner otherwise directs, be entitled to deduct more than half of any amount paid to the workman by way of compensation whether under the agreement or otherwise.

Effect of failure to register agreement.

30. (1) An

Workmen's Compensation. [ACT VIII

Appeals.

30. (1) An appeal shall lie to the High Court from the following orders of a Commissioner, namely:—

- (a) an order awarding as compensation a lump sum whether by way of redemption of a half-monthly payment or otherwise or disallowing a claim in full or in part for a lump sum;
- (b) an order refusing to allow redemption of a half-monthly payment;
- (c) an order providing for the distribution of compensation among the dependants of a deceased workman, or disallowing any claim of a person alleging himself to be such dependant;
- (d) an order allowing or disallowing any claim for the amount of an indemnity under the provisions of sub-section (2) of section 12; or
- (e) an order refusing to register a memorandum of agreement or registering the same or providing for the registration of the same subject to conditions:

Provided that no appeal shall lie against any order unless a substantial question of law is involved in the appeal and, in the case of an order other than an order such as is referred to in clause (b), unless the amount in dispute in the appeal is not less than three hundred rupees:

Provided, further, that no appeal shall lie in any case in which the parties have agreed to abide by the decision of the Commissioner, or in which the order of the Commissioner gives effect to an agreement come to by the parties.

(2) The period of limitation for an appeal under this section shall be sixty days.

(3) The provisions of section 5 of the Indian Limitation Act, 1908, shall be applicable to IX of 1908 appeals under this section.

31. The

31. The Commissioner may recover as an Recovery. arrear of land-revenue any amount payable by any person under this Act, whether under an agreement for the payment of compensation or otherwise, and the Commissioner shall be deemed to be a public officer within the meaning of section 5 of the Revenue Recovery Act, 1890.

1 of 1890.

CHAPTER IV.

RULES.

32. (1) The Governor General in Council may make rules to carry out the purposes of this Act. Power of the Governor General in Council to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) for prescribing the intervals at which and the conditions subject to which an application for review may be made under section 6 when not accompanied by a medical certificate;
- (b) for prescribing the intervals at which and the conditions subject to which a workman may be required to submit himself for medical examination under subsection (1) of section 11;
- (c) for prescribing the procedure to be followed by Commissioners in the disposal of cases under this Act and by the parties in such cases;
- (d) for regulating the transfer of matters and cases from one Commissioner to another and the transfer of money in such cases;
- (e) for prescribing the manner in which money in the hands of a Commissioner may be invested for the benefit of dependants of a deceased workman and for the transfer of money so invested from one Commissioner to another;

(f) for

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- (f) for the representation in proceedings before Commissioners of parties who are minors or are unable to make an appearance;
- (g) for prescribing the form and manner in which memoranda of agreements shall be presented and registered;
- (h) for the withholding by Commissioners, whether in whole or in part, of half-monthly payments pending decision on applications for review of the same; and
- (i) for any other matter which is not, in the opinion of the Governor General in Council, a matter of merely local or provincial importance.

Power of
Local
Government
to make
rules.

33. The Local Government may, subject to the control of the Governor General in Council, make rules to provide for all or any of the following matters, namely:—

- (a) for regulating the scales of costs which may be allowed in proceedings under this Act;
- (b) for prescribing and determining the amount of the fees payable in respect of any proceedings before a Commissioner under this Act;
- (c) for the maintenance by Commissioners of registers and records of proceedings before them; and
- (d) generally for carrying out the provisions of this Act in respect of any matter which is, in the opinion of the Local Government, a matter of merely local importance in the province.

Publication
of rules.

34. (1) The power to make rules conferred by sections 32 and 33 shall be subject to the condition of the rules being made after previous publication.

(2) The date to be specified in accordance with clause (3) of section 23 of the General Clauses Act, 1897,

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X of 1897.

1897, as that after which a draft of rules proposed to be made under section 32 or section 33 will be taken into consideration, shall not be less than three months from the date on which the draft of the proposed rules was published for general information.

(3) Rules so made shall be published in the Gazette of India or the local official Gazette, as the case may be, and on such publication, shall have effect as if enacted in this Act.

SCHEDULE I.

[See sections 2 (1) and 4.]

List of injuries deemed to result in permanent partial disablement.

Injury.	Percentage of loss of earning capacity.
Loss of right arm above or at the elbow	70
Loss of left arm above or at the elbow	60
Loss of right arm below the elbow	60
Loss of leg at or above the knee	60
Loss of left arm below the elbow	50
Loss of leg below the knee	50
Permanent total loss of hearing	50
Loss of one eye	30
Loss of thumb	25
Loss of all toes of one foot	20
Loss of one phalanx of thumb	10
Loss of index finger	10
Loss of great toe	10
Loss of any finger other than index finger	5

NOTE.—Complete and permanent loss of the use of any limb or member referred to in this Schedule shall be deemed to be the equivalent of the loss of that limb or member.

SCHEDULE II.

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SCHEDULE II.

[See section 2 (1) (n).]

List of persons who, subject to the provisions of section 2 (1) (n), are included in the definition of workmen.

The following persons are workmen within the meaning of section 2 (1) (n) and subject to the provisions of that section, that is to say, any person who is—

- (i) employed in connection with the service of a tramway as defined in section 3 of the Indian Tramways Act, 1886; or XI of 1886.
- (ii) employed within the meaning of clause (2) of section 2 of the Indian Factories Act, 1911, in any place which is a factory within the meaning of sub-clause (a) of clause (3) of that section; or XII of 1911.
- (iii) employed within the meaning of clause (d) of section 3 of the Indian Mines Act, 1923, in any mine which is subject to the operation of that Act; or IV of 1923.
- (iv) employed as the master of a registered ship or as a seaman; or
- (v) employed for the purpose of loading, unloading or coaling any ship at any pier, jetty, landing place, wharf, quay, dock, warehouse or shed, on, in or at which steam, water or other mechanical power or electrical power is used; or
- (vi) employed in the construction, repair or demolition of—
 - (a) a building which is designed to be, is, or has been more than one storey in height above ground level, or
 - (b) a building which is used, has been used, or is designed to be used, for industrial or commercial purposes and is, has been or is designed to be, not less than twenty feet in height measured from ground level to apex of the roof, or
 - (c) a bridge which is, has been or is designed to be more than fifty feet in length; or
- (vii) employed in setting up, repairing, maintaining, or taking down any telegraph or telephone line or post or any overhead electric cable; or
- (viii) employed in the construction, inspection or upkeep of any underground sewer; or
- (ix) employed in the service of any fire brigade.

SCHEDULE III.

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SCHEDULE III.

(See section 3.)

List of occupational diseases.

Occupational disease.	Employment.
Lead poisoning or its sequelae . . .	Any process involving the use of lead or its preparations or compounds.
Phosphorus poisoning or its sequelae	Any process involving the use of phosphorus or its preparations or compounds.

SCHEDULE IV.

(See section 5.)

Table of assumed wages.

Limits.		Assumed Wages.	
Where the sum arrived at by a calculation under clause (a) or clause (b) of section 5 is—			
	Rs. A. P.	Rs. A. P.	Rs. A. P.
less than . . .	9 0 0	...	8 0 0
not less than . . .	9 0 0	but less than 11 0 0	10 0 0
.. . . .	11 0 0	ditto 13 0 0	12 0 0
.. . . .	13 0 0	ditto 17 8 0	15 4 0
.. . . .	17 8 0	ditto 22 8 0	20 0 0
.. . . .	22 8 0	ditto 27 8 0	25 0 0
.. . . .	27 8 0	ditto 32 8 0	30 0 0
.. . . .	32 8 0	ditto 37 8 0	35 0 0
.. . . .	37 8 0	ditto 42 8 0	40 0 0
.. . . .	42 8 0	ditto 50 0 0	46 4 0
.. . . .	50 0 0	ditto 60 0 0	55 0 0
.. . . .	60 0 0	ditto 70 0 0	65 0 0
.. . . .	70 0 0	ditto 80 0 0	75 0 0
.. . . .	80 0 0	... ..	83 5 4

CALCUTTA
SUPERINTENDENT GOVERNMENT PRINTING, INDIA
8, HASTINGS STREET

ACT NO. IX OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
5th March, 1923.)

An Act further to amend the Indian Factories Act, 1911.

XII of 1911. **WHEREAS** it is expedient further to amend
the Indian Factories Act, 1911; It is hereby
enacted as follows:—

1. This Act may be called the Indian Factories Short title.
(Amendment) Act, 1923.

XII of 1911. 2. To section 22 of the Indian Factories Act, Addition of
new sub-sec-
tion to section
22, Act XII
of 1911.
1911 (hereinafter referred to as the said Act), the
following sub-section shall be added, namely:—

“(2) where, in accordance with the provisions of
sub-section (1), any person is employed
on a Sunday in consequence of his
having had a holiday on one of the three
days preceding that Sunday, that Sun-
day shall, for the purpose of calculating
the weekly hours of work of such person,
be deemed to be included in the preced-
ing week.”

3. In section 37 of the said Act, for clause (j) of Amendment
of section 37,
Act XII of
1911.
sub-section (2) the following clause shall be substi-
tuted, namely:—

“(j) the parts of the machinery and electrical
fittings to be kept fenced in accordance
with section 18, sub-section (1), clause
(c), and the provisions to be made for the
protection from danger of persons em-
ployed in attending to the machinery,
electrical fittings or boilers.”

4. In clause (g) of section 41 of the said Act, for Amendment
of section 41,
Act XII of
1911.
the figures and letter “19B” the figures and letter
“19A” shall be substituted.

5. Sub-section (2) of section 50 of the said Act Amendment
of section 50,
Act XII of
1911.
shall be omitted.

ACT NO. X OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
5th March, 1923.)

An Act to consolidate the law relating to the
Government Paper Currency.

WHEREAS it is expedient to consolidate the law
relating to the Government Paper Currency;
It is hereby enacted as follows :—

Preliminary.

1. (1) This Act may be called the Indian Paper Currency Act, 1923. Short title and extent.

(2) It extends to the whole of British India, inclusive of British Baluchistan and the Santhal Parganas.

2. In this Act, “ universal currency note ” Definition.
means—

(a) a note of the denominational value of one rupee, two and a half rupees, five rupees, ten rupees, fifty rupees, or one hundred rupees, or

(b) a note of any other denominational value which the Governor General in Council may, by notification in the Gazette of India, specify in this behalf.

The Currency Department.

3. There shall continue to be a Department of the public service, to be called the Currency Department, whose function shall be the issue of promissory notes of the Government of India, to be called currency notes; payable to bearer on demand, and

Currency Department for issue of currency notes.

of

1

[Price four annas and three pies.]

of such denominational values as the Governor General in Council may direct.

Controller of the Currency.

4. At the head of the Department there shall be an officer to be called the Controller of the Currency (hereinafter referred to as the Controller).

Power to establish circles of issue, offices of issue, and currency agencies.

5. The Governor General in Council may, by notification in the Gazette of India,—

- (a) establish districts, to be called circles of issue, seven of which circles shall include the towns of Calcutta, Madras, Bombay, Rangoon, Lahore, Cawnpore and Karachi, respectively;
- (b) appoint in each circle some one town to be the place of issue of currency notes, as hereinafter provided;
- (c) establish in each such town an office or offices of issue; and
- (d) establish in any town situate in any circle an office, to be called a currency agency.

Deputy Controllers of the Currency and Currency Agents.

6. For each circle of issue there shall be an officer in charge to be called the Deputy Controller of the Currency, and for each Currency Agency an officer to be called the Currency Agent.

Subordination of Officers.

7. For the purposes of this Act—

- (a) Deputy Controllers of the Currency shall be subordinate to the Controller; and
- (b) the Currency Agent at any town shall be subordinate to the Deputy Controller of the Currency for the circle of issue in which that town is situate.

Appointment of Officers.

8. All officers under this Act shall be appointed by the Governor General in Council.

Supply and Issue of Currency Notes.

Controller and Deputy Controllers to provide and distribute currency notes.

9. (1) The Controller shall provide currency notes of the denominational values prescribed under this Act, and shall supply the Deputy Controllers with such notes as they need for the purposes of this Act.

(2) The

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(2) The Deputy Controllers shall supply the Currency Agents subordinate to them, respectively, with such notes as those Agents need for the purposes of this Act.

(3) Every such note, other than a universal currency note, shall bear upon it the name of the town from which it is issued.

10. The name of the Controller or one of the Deputy Controllers, or of some other person authorised by the Controller or by one of the Deputy Controllers, to sign currency notes, shall be subscribed to every such note, and may be impressed thereon by machinery, and, when so impressed, shall be deemed to be a valid signature.

Signatures to currency notes.

11. The officers in charge of circles of issue shall, in their respective circles, on the demand of any person, issue, from the office or offices of issue established in their respective circles, currency notes of the denominational values prescribed under this Act, in exchange for the amount thereof—

Issue of currency notes for silver or gold coin by officers in charge of circles.

(a) in rupees or silver half-rupees or in gold coin which is legal tender under the Indian Coinage Act, 1906, or

III of 1906.

(b) in rupees made and declared to be a legal tender under the provisions of the Native Coinage Act, 1876.

IX of 1876.

12. Any Currency Agent to whom currency notes have been supplied under section 9 may, if he thinks fit, on the demand of any person, issue from his agency any such notes in exchange for the amount thereof in any coin specified in section 11.

Issue of currency notes for silver or gold coin by Currency Agents.

13. The officers in charge of circles of issue shall, on the requisition of the Controller, issue to any Government Treasury currency notes in exchange for gold coin which is not legal tender under the Indian Coinage Act, 1906, or for gold bullion at the rate of one rupee for 11'30016 grains troy of fine gold.

III of 1906.

Issue to Government Treasuries of currency notes for gold coin not legal tender or gold bullion.

Currency Notes where legal tender and where payable.

14. A universal currency note shall be a legal tender at any place in British India, and

Currency notes where legal tender.

any

Indian Paper Currency. [ACT X

any other currency note shall be a legal tender at any place within the circle from which the note was issued,

for the amount expressed in the note in payment or on account of—

- (a) any revenue or other claim, to the amount of one rupee or upwards, due to the Government of India, and
- (b) any sum of one rupee or upwards, due by the Government of India or by any body corporate or other person in British India :

Provided that no currency note shall be deemed to be a legal tender by the Government of India at any office of issue.

Currency notes where payable.

15. A currency note shall be payable at the following offices of issue, namely:—

- (a) a universal currency note at any office of issue;
- (b) a currency note other than a universal currency note at any office of issue in the town from which it was issued :

Provided that any such note issued before the 18th day of February, 1910, shall also be payable,—

- (i) in the case of a note issued from the office at Cawnpore or Lahore, at any office of issue in Calcutta, and
- (ii) in the case of a note issued from the office at Karachi, at any office of issue in Bombay.

Currency notes issued from currency agencies where deemed to be issued.

16. For the purposes of sections 14 and 15, currency notes issued from any currency agency shall be deemed to have been issued from the town appointed under section 5 to be the place of issue in the circle of issue in which that agency is established.

Provision in case of closure of office.

17. Where an office of issue is closed, the Governor General in Council shall, by notification in the Gazette of India, direct that, with effect from the

the date of the closing of such office, all currency notes issued therefrom shall, for the purposes of sections 14 and 15, be deemed to have been issued from such other office as may be specified in such notification.

Reserve.

18. (1) The provisions contained in this section shall not come into operation until such day (hereinafter referred to as the appointed day) as the Governor General in Council may direct in this behalf.

Paper Cur-
rency
Reserve.

(2) A Reserve shall be maintained for the satisfaction and discharge of the currency notes in circulation and all such notes shall be deemed to have been issued on the credit of the revenues of India as well as on that of the Reserve.

(3) The Reserve shall consist of two parts, namely:—

- (a) the metallic Reserve, and
- (b) the securities Reserve.

(4) The metallic Reserve shall consist of the total amount represented by the sovereigns, half-sovereigns, rupees, silver half-rupees, and gold and silver bullion for the time being held on that account by the Secretary of State for India in Council and by the Governor General in Council:

Provided that no amount of gold coin and bullion held by the Secretary of State in the United Kingdom in excess of fifty millions of rupees in value reckoned at the rate hereinafter provided for shall be included in the metallic Reserve.

(5) The securities Reserve shall consist of the securities which are for the time being held on that account by the Secretary of State for India in Council and on behalf of the Governor General in Council:

Provided

Provided that—

- (a) no securities held by the Secretary of State for India in Council, other than securities of the United Kingdom the date of maturity of which is not more than one year from the date of their purchase, shall be included in the securities Reserve; and
- (b) the securities held on behalf of the Governor General in Council shall be securities of the Government of India and shall not exceed in amount two hundred millions of rupees, of which an amount of not more than one hundred and twenty millions of rupees may be securities created by the Government of India and issued to the Controller (such securities being hereinafter referred to as created securities).

(6) For the purposes of this section the expression "currency notes in circulation" means the whole amount of currency notes at any time in circulation :

Provided that currency notes which have not been presented for payment, in the case of notes of the denominational value of fifty or one hundred rupees, within forty years, and in the case of notes of any denominational value exceeding one hundred rupees, within one hundred years, from the first day of April following the date of their issue, shall be deemed to be not in circulation :

Provided, further, that all such notes shall be deemed to have been issued on the credit of the revenues of India and shall, if presented for payment, be paid from such revenues.

(7) Save as hereinafter provided in section 20, the amount of currency notes in circulation at any time shall not exceed the amount of the metallic Reserve together with the amount of the securities Reserve :

Provided

Provided that it shall not be lawful for the Governor General in Council to direct the issue of currency notes, if or to the extent that such issue would have the effect of raising the amount of notes in circulation to an amount in excess of twice the amount for the time being of the metallic Reserve.

(8) For the purpose of determining—

(a) the amount of the metallic Reserve, gold bullion shall be reckoned at the rate of one rupee for 11·30016 grains troy of fine gold, and silver bullion at the price in rupees at which it was purchased,

(b) the amount of the securities Reserve, purchased securities shall be reckoned at the price at which they were purchased and created securities at the market price of similar securities on the date of their issue.

(9) The securities of the Government of India in the Reserve shall be held by the Controller and the Master of the Mint at Calcutta or of such other Mint as the Governor General in Council may direct in this behalf, in trust for the Secretary of State for India in Council.

19. (1) As soon as conveniently may be after the relation of the amount of the currency notes in circulation to the amount of the Reserve has been brought into conformity with sub-sections (2) to (8) of section 18 and the metallic Reserve is not less than half the amount of currency notes in circulation, the Governor General in Council shall fix the appointed day.

Temporary provisions.

(2) The provisions contained in this section shall be in force until the appointed day, but shall, as from that day, be deemed to be repealed.

(3) Save as hereinafter provided in section 20, the whole amount of currency notes at any time in circulation shall not exceed the total amount represented

represented by the sovereigns, half-sovereigns, rupees, silver half-rupees and gold bullion, and the sum expended in the purchase of the silver bullion and securities, which are for the time being held by the Secretary of State for India in Council and by the Governor General in Council as a reserve to provide for the satisfaction and discharge of the said notes, and the said notes shall be deemed to have been issued on the credit of the revenues of India as well as on the security of the said coin, bullion and securities :

Provided that, for the purposes of this sub-section, currency notes which have not been presented for payment, in the case of notes of the denominational value of fifty or one hundred rupees within forty years, and, in the case of notes of any denominational value exceeding one hundred rupees, within one hundred years, from the first day of April following the date of their issue, shall be deemed not to be in circulation :

Provided, further, that all notes which are declared under the first proviso to this sub-section not to be in circulation shall be deemed to have been issued on the credit of the revenues of India and shall, if subsequently presented for payment, be paid from such revenues.

(4) The securities mentioned in sub-section (3) shall be securities of the United Kingdom of Great Britain and Ireland or of the Government of India, or securities issued by the Secretary of State for India in Council under the authority of Act of Parliament and charged on the revenues of India, and the value of them at the price at which they are purchased shall not exceed eight hundred and fifty millions of rupees.

Issue of currency notes for certain gold coin or gold or silver bullion or securities held by Secretary of State.

(5) If the Secretary of State for India in Council consents to hold in gold coin or bullion or in silver bullion or in securities of the kinds mentioned in sub-section (4), the equivalent in value to notes issued in India as a reserve to secure the payment of such notes, the Governor General in Council may from time to time direct that currency notes shall

be

be issued to an amount equal to the value of the coin, bullion and securities so held by the Secretary of State for India in Council.

(6) Notwithstanding anything to the contrary in this Act, any securities created by the Government of India and issued to the Controller shall, for the purposes of this Act, be deemed to be securities purchased by the Governor General in Council, and the market price, on the day such securities were so issued, of similar securities shall be deemed to be the price at which the securities so created were purchased, and all references to securities so purchased, wherever occurring in this Act, shall be deemed also to refer to securities so created, and all references to sums expended in such purchases or to prices paid therefor shall be deemed, in the case of securities so created, to refer to such prices, and this Act shall be construed accordingly.

(7) As long as the value of securities created by the Government of India and issued to the Controller and deemed in accordance with the provisions of the foregoing sub-section to be securities purchased by the Governor General in Council exceeds one hundred and twenty millions of rupees, all interest derived from the securities in the Reserve shall, with effect from the first day of April, 1923, be applied in reduction of such excess holding of securities and the Auditor-General shall in every year grant a certificate of the amount of such interest and shall also certify whether or not it has been so applied. For the purposes of this sub-section securities so created and issued shall be deemed to carry interest at the same rate as other similar securities.

(8) The securities purchased by the Governor General in Council shall be securities of the Government of India, and shall be held by the Controller and the Master of the Mint at Calcutta or of such other Mint as the Governor General in Council may direct in this behalf, in trust for the Secretary of State for India in Council.

Power to issue currency notes against bills of exchange.

20. Notwithstanding anything to the contrary in section 18 or section 19, the Governor General in Council may authorise the Controller to issue currency notes to an amount in all not exceeding fifty millions of rupees against bills of exchange which will mature within ninety days from the date of such issue and satisfy such other conditions as the Governor General in Council may, by general or special order, prescribe. Currency notes so issued shall be in addition to those against which the Reserve is held and shall be deemed to have been issued on the credit of such bills and of the revenues of India and shall, when presented, be paid from such revenues.

Power to dispose of coin and bullion in reserve.

21. Subject to the provisions of sections 18 and 19, the Governor General in Council may at any time, if he thinks it expedient, convert any of the coin or bullion for the time being held by him as a part of the reserve into coin of any of the kinds mentioned in section 11 or into gold or silver bullion.

Coin or bullion not in India when deemed to be part of the reserve.

22. Notwithstanding anything to the contrary in this Act, any coin or bullion which is held by or on behalf of the Secretary of State for India in Council in the United Kingdom or under the control of the Government of any part of His Majesty's Dominions for the purpose of coinage for, or transmission to, the Governor General in Council and any coin or bullion which is in course of transmission from the Secretary of State for India in Council or the Government of any part of His Majesty's Dominions to the Governor General in Council and any coin or bullion which is in the course of transmission from the Governor General in Council to the Secretary of State for India in Council or the Government of any part of His Majesty's Dominions shall be deemed, during the period such coin or bullion is so held or is so in course of transmission, to be part of the reserve referred to in sections 18 and 19.

Power to sell and replace Indian securities.

23. (1) The Controller may, at any time, when ordered so to do by the Governor General in Council, sell and dispose of any of the securities held under

of 1923.] *Indian Paper Currency.*

under sub-section (9) of section 18 or sub-section (8) of section 19.

(2) For the purpose of effecting such sales, the Master of the Mint at Calcutta or of such other Mint as aforesaid shall, on a request in writing from the Controller at all times sign and endorse the securities, and the Controller, if so directed by the Governor General in Council, may purchase securities of the Government of India to replace such sales.

24. An account showing the amount of the interest accruing on the securities held as part of the reserve under this Act and the expenses and charges incidental thereto, shall be rendered annually by the Controller to the Governor General in Council, and published annually in the Gazette of India.

Account of interest on securities.

Private Bills payable to Bearer on Demand.

25. No person in British India shall draw, accept, make or issue any bill of exchange, hundi, promissory note or engagement for the payment of money payable to bearer on demand, or borrow, owe or take up any sum or sums of money on the bills, hundis or notes payable to bearer on demand, of any such person :

Prohibition of issue of private bills or notes payable to bearer on demand

Provided that cheques or drafts, payable to bearer on demand or otherwise, may be drawn on bankers, shroffs or agents by their customers or constituents, in respect of deposits of money in the hands of those bankers, shroffs or agents and held by them at the credit and disposal of the persons drawing such cheques or drafts.

26. (1) Any person contravening the provisions of section 25 shall, on conviction by a Presidency Magistrate or a Magistrate of the first class, be punishable with a fine equal to the amount of the bill, hundi, note or engagement in respect whereof the offence is committed.

Penalty for issuing such bills or notes and institution of prosecutions.

(2) Every prosecution under this section shall be instituted by the officer in charge of the circle of issue

issue in which the bill, hundi, note or engagement is drawn, accepted, made or issued.

Supplementary Provisions.

Abstracts of accounts.

27. An abstract of the accounts of the Currency Department, showing—

- (a) the whole amount of currency notes in circulation;
- (b) the amount of coin and bullion reserved, distinguishing gold from silver, and showing separately the amount of coin or bullion held by or on behalf of the Secretary of State for India in Council, or in transit from or to India, or in the custody of the Mint Master during coinage;
- (c) the nominal value of, and the price paid for, the securities held as part of the reserve, showing separately those held by the Secretary of State for India in Council and those held in India under sub-section (9) of section 18 or sub-section (8) of section 19; and
- (d) the amount of currency notes issued against bills of exchange under the provisions of section 20;

shall be made up four times in each month by the Controller, and published, as soon as may be, in the Gazette of India.

Provision as to lost, mutilated and imperfect notes.

28. Notwithstanding anything contained in any enactment or rule of law to the contrary, no person shall as of right be entitled to recover from the Government of India the value of any lost, mutilated or imperfect currency note :

Provided that the Governor General in Council may by rule prescribe the circumstances, conditions and limitations under which the value of such notes may be refunded as of grace.

29. (1) The

29. (1) The Governor General in Council may ^{Power to} make rules to carry out the purposes and objects of ^{make rules.} this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) fix the denominational values for which currency notes shall be issued;
- (b) provide for the alteration of the limits of any of the circles of issue;
- (c) declare the places at which currency notes shall be issued; and
- (d) prescribe the circumstances in, and the conditions and limitations subject to, which the value of lost, mutilated or imperfect currency notes may be refunded at the office of issue.

(3) Every such rule shall be published in the Gazette of India, and, on such publication, shall have effect as if enacted in this Act.

30. The enactments mentioned in the Schedule ^{Repeals.} are hereby repealed to the extent specified in the last column thereof :

II of 1910.

Provided that all securities purchased and notes issued under the Indian Paper Currency Act, 1910, and all securities and notes which, under section 30 of that Act, are to be deemed to have been purchased or issued thereunder shall, if undisposed of or in circulation at the commencement of this Act, be deemed to have been respectively purchased and issued under this Act :

Provided, further, that all currency notes, which, under the said section 30, are to be deemed to have been issued from the office of issue in the town of Cawnpore, shall still be deemed to have been issued from that office.

THE SCHEDULE.

Indian Paper Currency. [ACT X OF 1923.]

THE SCHEDULE.

[ENACTMENTS REPEALED.]

(See section 30.)

Year.	No.	Short title.	Extent of repeal.
1910	II	The Indian Paper Currency Act, 1910.	So much as has not been repealed.
1911	VII	The Indian Paper Currency (Amendment) Act, 1911.	The whole.
1914	X	The Repealing and Amending Act, 1914.	So much of the Second Schedule as relates to the Indian Paper Currency Act, 1910.
1917	XIX	The Indian Paper Currency (Amendment) Act, 1917.	So much as has not been repealed.
1920	XLV	The Indian Paper Currency (Amendment) Act, 1920.	The whole.
1922	XII	The Indian Finance Act, 1922.	Section 6.

ACT NO. XI OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
5th March, 1923.)

An Act to amend certain enactments and to
repeal certain other enactments.

WHEREAS it is expedient that certain amend-
ments should be made in the enactments specified
in the first Schedule;

AND WHEREAS it is also expedient that certain
enactments specified in the Second Schedule which
are spent or have otherwise become unnecessary, or
have ceased to be in force otherwise than by express
specific repeal, should be expressly and specifically
repealed;

It is hereby enacted as follows:—

1. This Act may be called the Repealing and Short title.
Amending Act, 1923.
2. The enactments specified in the First Schedule Amendment
are hereby amended to the extent and in the manner of certain
mentioned in the fourth column thereof. enactments.
3. The enactments specified in the Second Sche- Repeal of
dule are hereby repealed to the extent mentioned in certain enact-
the fourth column thereof. ments.
4. The repeal by this Act of any enactment shall Savings.
not affect any Act or Regulation in which such enact-
ment has been applied, incorporated or referred to;
and this Act shall not affect the validity, invali-
dity, effect or consequences of anything already done
or suffered, or any right, title, obligation or liability
already acquired, accrued or incurred, or any re-
medy or proceeding in respect thereof, or any release
or discharge of or from any debt, penalty, obligation,
liability,

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[Price three annas and three pies.]

liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognised or derived by, in or from any enactment hereby repealed;

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

THE FIRST SCHEDULE.

AMENDMENTS.

(See section 2.)

Year.	Number.	Short title.	Amendments.
1867	XXV	The Press and Registration of Books Act, 1867.	<p>In section 17, for the words "the last foregoing section" the word and figures "section 16" shall be substituted.</p> <p>In section 21, before the words "the Local Government" the words "the Governor General in Council or" and before the words "the local Gazette" the words "the Gazette of India or" shall be inserted and after the words "local Gazette" the words "as the case may be" shall be inserted.</p>
1869	IV	The Indian Divorce Act, 1869.	<p>(1) In section 3, clause (1), for the words "Chief Court of Lower Burma" the words "High Court of Judicature at Rangoon" shall be substituted.</p> <p>(2) In section 3, clause (2), for the word "Divisional" the word "District" shall be substituted.</p>

OF 1923.] *Repealing and Amending.*

THE FIRST SCHEDULE—*contd.*

AMENDMENTS.

(See section 2.)

Year.	Number.	Short title.	Amendments.
1870	VII	The Court-fees Act, 1870	In Article 14, Schedule I, for the words "Chief Court of Lower Burma" the words "High Court of Judicature at Rangoon" shall be substituted.
1877	I	The Specific Relief Act, 1877.	In section 45, for the words "and Bombay" the words "Bombay and Rangoon" shall be substituted.
1890	IX	The Indian Railways Act, 1890.	In sub-section (5) of section 59, for the words and figures "a person enrolled as a volunteer under the Indian Volunteers Act, 1869" the words and figures "a member of the Indian Territorial Force or of the Auxiliary Force, India" shall be substituted.
1891	XVI	The Colonial Courts of Admiralty (India) Act, 1891.	In section 2, clause (4), for the words "Chief Court of Lower Burma" the words "High Court of Judicature at Rangoon" shall be substituted.
1897	X	The General Clauses Act, 1897.	After section 30, the following section shall be inserted, namely:— "30A. In this Act the expression "Act of the Governor General in Council" Governor wherever it General occurs, except in section 5, shall be deemed to include an Act made by the Governor General under section 67B of the Government of India Act."
1898	V	The Code of Criminal Procedure, 1898.	In section 4, sub-section (1), clause (j), the word "and" where it occurs between the words "Patna" and "Lahore" shall be omitted and for the words "the Chief Court of Lower Burma" the words "and Rangoon" shall be substituted.

THE FIRST SCHEDULE.

Repealing and Amending. [ACT XI

THE FIRST SCHEDULE—*contd.*

AMENDMENTS.

(See section 2.)

Year.	Number.	Short title.	Amendments.
1899	II	The Indian Stamp Act, 1899.	In section 57, sub-section (1), clause (d), for the words "Chief Court of Lower Burma" the words "High Court of Judicature at Rangoon" shall be substituted.
1899	IX	The Indian Arbitration Act, 1899.	In section 23, sub-section (1), for the words "Chief Court of Lower Burma", the words "High Court of Judicature at Rangoon" shall be substituted.
1908	IX	The Indian Limitation Act, 1908.	In the second column of the First Schedule,— (1) For each of the entries in Articles 4 and 5 the entry "six months" shall be substituted. (2) For each of the entries in Articles 7 to 31 the entry "one year" shall be substituted. (3) For each of the entries in Articles 33 to 36 the entry "Two years" shall be substituted. (4) For each of the entries in Articles 38 to 115 and for the entry in Article 131 the entry "Three years" shall be substituted. (5) For each of the entries in Articles 117 to 120 the entry "Six years" shall be substituted. (6) For each of the entries in Articles 122 to 144 the entry "Twelve years" shall be substituted. (7) For each of the entries in Articles 146 and 146A the entry "Thirty years" shall be substituted.

THE FIRST SCHEDULE.

OF 1923.] *Repealing and Amending.*

THE FIRST SCHEDULE—*contd.*

AMENDMENTS.

(See section 2.)

Year.	Number.	Short title.	Amendments.
			<p>(8) For each of the entries in Articles 148 and 149 the entry "Sixty years" shall be substituted.</p> <p>(9) For each of the entries in Articles 153, 154 and Articles 164 to 170 the entry "Thirty days" shall be substituted.</p> <p>(10) For the entry in Article 159 the entry "Ten days" shall be substituted.</p> <p>(11) For the entry in Article 161 the entry "Fifteen days" shall be substituted.</p> <p>(12) For the entry in Article 172 the entry "Sixty days" shall be substituted.</p> <p>(13) For each of the entries in Articles 174 and 177 the entry "Ninety days" shall be substituted.</p>
1911	II	The Indian Patents and Designs Act, 1911.	In sub-section (1) of section 78A, after the words "United Kingdom" where they first occur, the words "or his legal representative or assignee" shall be inserted.
1912	IV	The Indian Lunacy Act, 1912.	In sections 3 (4), 35 (2) and 91 (1) (c), for the word "confinement" the word "detention" shall be substituted. In sections 30 and 35 (2), for the word "confined" wherever it occurs the word "detained" shall be substituted.
1917	I	The Inland Steam Vessels Act, 1917.	In section 22A (1), for the words "as to such Government" the words "as such Government" shall be substituted.

THE FIRST SCHEDULE.

Repealing and Amending. [ACT XI

THE FIRST SCHEDULE—*contd.*

AMENDMENTS.

(See section 2.)

Year.	Number.	Short title.	- Amendments.
1918	XVI	The Provisional Collection of Taxes Act, 1918.	<p>In section 2, for the words "a Member of the Executive Council of the Governor General" the words "any officer of Government acting on behalf of the Governor General in Council," shall be substituted.</p> <p>After section 3 the following section shall be inserted, namely :—</p> <p>"4. A declaration such as is referred to in Application of section 2 may be of Act to made in respect specified clause of a of any provision Bill. of a of a Bill of the nature described in that section which provides for the imposition or variation of any tax in the nature of customs or excise duties and where such declaration has been made in respect of any such provision this Act shall have effect as if references to the Bill were references to such provision."</p>
1920	XXVI	The Indian Limitation and Code of Civil Procedure (Amendment) Act, 1920.	<p>For section 2 the following section shall be substituted, namely :—</p> <p>"2. In the Third Division of the First Schedule to the Indian Limitation Act, 1908, in Articles 176, 177 and 179, for each of the entries in the second column the entry "ninety days" shall be substituted, and in Article 178, for the entry in the second column the entry "six months" shall be substituted.</p>
1921	IX	The Enemy Missions Act, 1921.	<p>In the Schedule, for the word "Budla" in the fourth column of the entries relating to the Assam Roman Catholic Mission Trust the words "Budla Beta" shall be substituted.</p>

THE FIRST SCHEDULE.

of 1923.] *Repealing and Amending.*

THE FIRST SCHEDULE—*conold.*

AMENDMENTS.

(See section 2.)

Year.	Number.	Short title.	Amendments.
1922	II	The Indian Factories (Amendment) Act, 1922.	In section 25(b), for the figures and letter "19B" the figures and letter "19A" shall be substituted.
<i>Regulation by the Governor General in Council.</i>			
1874	VIII	The Arakan Hills Civil Justice Regulation, 1874.	In section 76, for the words "Chief Court of British Burma" the words "High Court of Judicature at Rangoon" shall be substituted and for the words "Chief Court" where they elsewhere occur, the words "High Court" shall be substituted.

THE SECOND SCHEDULE.

REPEALS.

(See section 3.)

Year.	Number.	Short title.	Repeals.
<i>Acts of the Governor General in Council.</i>			
1866	XXVII	The Indian Trustees Act, 1866.	In the definition of High Court in section 2, the words "and also the Chief Court of Lower Burma."
1866	XXVIII	The Trustees' and Mortgagees' Powers Act, 1866.	In the definition of High Court in section 1, the words "and includes the Chief Court of Lower Burma."
1870	VII	The Court-fees Act, 1870.	In Schedule I, Article 15.
1879	XVIII	The Legal Practitioners Act, 1879.	In section 41, sub-section (4), the words "except in the case of the Chief Court of Lower Burma."
1890	IX	The Indian Railways Act, 1890.	In section 26, sub-section (5), the words "or in the case of the Chief Court of Lower Burma, the Chief Judge."

THE SECOND SCHEDULE.

Repealing and Amending. [ACT XI

THE SECOND SCHEDULE—*contd.*

REPEALS.

(See section 3.)

Year.	Number.	Short title.	Repeals.
1898	V	The Code of Criminal Procedure, 1898.	(1) Clause (d) of section 4, sub-section (1). (2) In section 266, the words "the Chief Court of Lower Burma and". (3) In section 364, sub-section (1), the words "or the Chief Court of Lower Burma." (4) In section 365, the words "and the Chief Court of Burma."
1900	VI	The Lower Burma Courts Act, 1900.	The whole Act.
1908	V	The Code of Civil Procedure, 1908.	(1) In section 122, the words "and the Chief Court of Lower Burma." (2) In section 123, sub-section (1), the words "and of the Chief Court." (3) In section 123, sub-section (2), the words "(in Burma.)"
1910	XIV	The Indian Emigration (Amendment) Act, 1910.	The whole Act.
1914	IV	The Decentralisation Act, 1914.	So much of Part I of the Schedule as relates to the Indian Emigration Act, 1908.
1914	X	The Repealing and Amending Act, 1914.	So much of the Second Schedule as relates to the Indian Emigration Act, 1908.
1918	XIX	The Indian Defence Force (Further Amendment) Act, 1918.	The whole Act.
1919	XXIV	The Indian Companies Restriction Repealing Act, 1919.	The whole Act.
1920	XXXVIII	The Devolution Act, 1920.	So much of Part I of the First Schedule as relates to the Indian Emigration Act, 1908.
1921	VI	The Indian Finance Act, 1921.	The whole Act.

THE SECOND SCHEDULE.

OF 1923.] *Repealing and Amending.*

THE SECOND SCHEDULE—*concl'd.*

REPEALS.

(See section 3.)

Year.	Number.	Short title.	Repeals.
1922	XXIII	The Indian Transfer of Ships Restriction (Repealing) Act, 1922.	The whole Act.
<i>Regulations by the Governor General in Council.</i>			
1892	V	The Upper Burma Criminal Justice Regulation, 1892.	In the Schedule, section I and sub-sections (1) to (4) of section II and section X.
1896	I	The Upper Burma Civil Courts Regulation, 1896.	The whole Regulation.

CALCUTTA
SUPERINTENDENT GOVERNMENT PRINTING, INDIA
8, HASTINGS STREET

ACT No. XII OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 16th March, 1923.)

An Act further to amend the Code of Criminal Procedure, 1898, the European Vagrancy Act, 1874, the Indian Limitation Act, 1908, and the Central Provinces Courts Act, 1917, in order to provide for the removal of certain existing discriminations between European British subjects and Indians in criminal trials and proceedings.

V of 1898.
IX of 1874.
IX of 1908.
C. P. Act I
of 1917.

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898, the European Vagrancy Act, 1874, the Indian Limitation Act, 1908, and the Central Provinces Courts Act, 1917, in order to provide for the removal of certain existing discriminations between European British subjects and Indians in criminal trials and proceedings; It is hereby enacted as follows:—

1. (1) This Act may be called the Criminal Law Amendment Act, 1923.

Short title
and com-
mencement.

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

7 of 1898.

2. (1) In sub-section (1) of section 4 of the Code of Criminal Procedure, 1898 (hereinafter referred to as the said Code), for clause (i) the following clause shall be substituted, namely:—

Amendment
of section 4,
Code of
Criminal
Procedure,
1898.

“(i) “European British Subject” means—

European
British sub-
ject.

(i) any subject of His Majesty of European descent in the male line born, naturalised or domiciled in the British Islands or any Colony, or

(ii) any

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[Price four annas and nine pies.]

Criminal Law Amendment. [ACT XII

(ii) any subject of His Majesty who is the child or grand-child of any such person by legitimate descent."

(2) In clause (j) of the same sub-section, after the word "Rangoon" the words "and the Courts of the Judicial Commissioners of the Central Provinces, Oudh and Sind" shall be inserted.

Amendment of section 22, Code of Criminal Procedure, 1898.

3. In section 22 of the said Code, the words and brackets "(other than the presidency-towns)" shall be omitted, and for the words "European British subjects" the words "persons resident within British India and not being the subjects of any foreign State" shall be substituted.

Repeal of sections 23 and 24, Code of Criminal Procedure, 1898.

4. Sections 23 and 24 of the said Code shall be omitted.

Amendment of section 29, Code of Criminal Procedure, 1898.

5. In sub-section (1) of section 29 of the said Code, for the words and figures "provisions of section 447" the words "other provisions of this Code" shall be substituted.

Insertion of new section 29A in the Code of Criminal Procedure, 1898.

6. After section 29 of the said Code the following section shall be inserted, namely:—

Trial of European British subjects by second and third class Magistrates.

"29A. No Magistrate of the second or third class shall inquire into or try any offence which is punishable otherwise than with fine not exceeding fifty rupees where the accused is an European British subject who claims to be tried as such."

Insertion of new section 34A in the Code of Criminal Procedure, 1898.

7. After section 34 of the said Code the following section shall be inserted, namely:—

Sentences which Courts and Magistrates may pass upon, European British subjects.

"34A. Notwithstanding anything contained in sections 31, 32 and 34—

(a) no

OF 1923.] *Criminal Law Amendment.*

(a) no Court of Session shall pass on any European British subject any sentence other than a sentence of death, penal servitude, or imprisonment with or without fine, or of fine, and

(b) no District Magistrate or other Magistrate of the first class shall pass on any European British subject any sentence other than imprisonment which may extend to two years, or fine which may extend to one thousand rupees, or both."

8. Section 111 of the said Code shall be omitted. Repeal of section 111, Code of Criminal Procedure, 1898.

9. In sub-section (1) of section 206 of the said Code, the words and figures " Subject to the provision of section 443 " shall be omitted. Amendment of section 206, Code of Criminal Procedure, 1898.

10. Section 214 of the said Code shall be omitted. Repeal of section 214, Code of Criminal Procedure, 1898.

11. In section 215 of the said Code, the words and figures " or section 214 " shall be omitted. Amendment of section 215, Code of Criminal Procedure, 1898.

12. In section 266 of the said Code, after the word " includes " the following words shall be inserted, namely:—" the Courts of the Judicial Commissioners of the Central Provinces, Oudh and Sind and " . Amendment of section 266, Code of Criminal Procedure, 1898.

13. In sub-section (2) of section 274 of the said Code, for the word " three " the word " five " shall be substituted; and to the same sub-section the following proviso shall be added, namely:—

" Provided that, where any accused person is charged with an offence punishable with death, the jury shall consist of not less than seven persons and, if practicable, of nine persons."

14. For

Substitution of new section for section 275, Code of Criminal Procedure, 1898.

14. For section 275 of the said Code the following section shall be substituted, namely:—

Jury for trial of European and Indian British subjects and others.

“ 275. (1) In a trial by jury before the High Court or Court of Session of a person who has been found under the provisions of this Code to be an European or Indian British subject, a majority of the jury shall, if such person before the first juror is called and accepted so requires, consist, in the case of an European British subject, of persons who are Europeans or Americans and, in the case of an Indian British subject, of Indians.

(2) In any such trial by jury of a person who has been found under the provisions of this Code to be an European (other than an European British subject) or an American, a majority of the jury shall, if practicable and if such European or American before the first juror is called and accepted so requires, consist of persons who are Europeans or Americans.”

Amendment of section 284, Code of Criminal Procedure, 1898.

15. In section 284 of the said Code, for the words “ two or more shall be chosen, as the Judge thinks fit,” the words “ not less than three and, if practicable, four shall be chosen ” shall be substituted.

Insertion of new section 284A in the Code of Criminal Procedure, 1898.

16. After section 284 of the said Code the following section shall be inserted, namely:—

Assessors for trial of European and Indian British subjects and others.

“ 284A. (1) In a trial with the aid of assessors of a person who has been found under the provisions of this Code to be an European or Indian British subject, if the European or Indian British subject accused, or, where there are several European British subjects accused or several Indian British subjects accused, all of them jointly, before the first assessor is chosen so require, all the assessors shall, in the case of European British subjects, be persons who
are

are Europeans or Americans or, in the case of Indian British subjects, be Indians.

(2) In a trial with the aid of assessors of a person who has been found under the provisions of this Code to be an European (other than an European British subject) or an American, all the assessors shall, if practicable and if such European or American before the first assessor is chosen so requires, be persons who are Europeans or Americans."

17. After section 285 the following heading and section shall be inserted, namely:—

Insertion of new section 285A in the Code of Criminal Procedure, 1898.

“ DD.—*Joint trials.*

285A. In any case in which an European or American is accused jointly with a person not being an European or American, or an Indian British subject is accused jointly with a person not being an Indian, and such European, Indian British subject or American is committed for trial before a Court of Session, he and such other person may be tried together, but if he requires to be tried in accordance with the provisions of section 275 or section 284A and is so tried, and the other person accused requires to be tried separately, such other person shall be tried separately in accordance with the provisions of this Chapter."

Trial of European or Indian British subject or European or American jointly accused with others.

18. For section 312 of the said Code the following section shall be substituted, namely:—

Substitution of new section for section 312, Code of Criminal Procedure, 1898.

“ 312. The High Court may prescribe the number of persons whose names shall be entered at any one time in the special jurors list :

Number of special jurors.

Provided that no definite number of Europeans or of Americans or of Indians shall be so prescribed."

19. (1) In sub-section

Amendment
of section
326,
Code of Cri-
minal Proce-
dure, 1898.

19. (1) In sub-section (1) of section 326 of the said Code, after the words " for any such trial " the following words shall be added, namely ;—

" and including, where any accused person is an European or an American, as many Europeans or Americans as may be required for the purpose of choosing jurors or assessors for the trial."

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

" (3) Where the accused requires and is entitled to be tried under the provisions of section 275, there shall be chosen by lot, in the manner prescribed by or under section 276, from the whole number of persons returned the jurors who are to constitute the jury until a jury containing the proper number of Europeans or Europeans and Americans or of Indians, as the case may be, has been obtained :

Provided that, in any case in which the proper number of Europeans or Americans cannot otherwise be obtained, the Court may, in its discretion for the purpose of constituting the jury, summon any person excluded from the list on the ground of his being exempted under section 320.

(4) Where, under the proviso to sub-section (3), the Court proposes to summon as a juror any person in His Majesty's Army, the provisions of section 317 shall apply in like manner as they apply for the purpose of the summoning of military jurors for a trial under section 316."

Repeal of
section 336,
Code of Cri-
minal Proce-
dure, 1898.

20. Section 336 of the said Code shall be omitted.

Amendment
of section
390,
Code of Cri-
minal Proce-
dure, 1898.

21. In section 390 of the said Code, after the word " shall " the words " subject to the provisions of section 391 " shall be inserted.

22. In

OF 1923.] *Criminal Law Amendment.*

22. In sub-section (1) of section 391 of the said Code, for the words "is sentenced to whipping in addition to imprisonment in a case which is subject to appeal" the following shall be substituted, namely:—

Amendment of section 391, Code of Criminal Procedure, 1898.

- "(a) is sentenced to whipping only and furnishes bail to the satisfaction of the Court for his appearance at such time and place as the Court may direct, or
(b) is sentenced to whipping in addition to imprisonment."

23. In section 408 of the said Code, clause (a) of the proviso shall be omitted.

Amendment of section 408, Code of Criminal Procedure, 1898.

24. In section 413 of the said Code, the words "or the District Magistrate or other Magistrate of the first class" and the words "or of whipping only" shall be omitted; and after the words "one month only or" the words "in which a Court of Session or District Magistrate or other Magistrate of the first class passes a sentence" shall be inserted.

Amendment of section 413, Code of Criminal Procedure, 1898.

25. In section 414 of the said Code, the words "of imprisonment not exceeding three months only, or" and the words "or of whipping only" shall be omitted.

Amendment of section 414, Code of Criminal Procedure, 1898.

26. Section 416 of the said Code shall be omitted.

Repeal of section 416, Code of Criminal Procedure, 1898.

27. For Chapter XXXIII including sections 443 to 463 of the said Code the following Chapter and sections shall be substituted, namely:—

Substitution of new Chapter for Chapter XXXIII, Code of Criminal Procedure, 1898.

"CHAPTER XXXIII.

SPECIAL PROVISIONS RELATING TO CASES IN WHICH EUROPEAN AND INDIAN BRITISH SUBJECTS ARE CONCERNED.

443. (1) Where, in the course of the trial outside a presidency-town of any offence punishable with imprisonment,

Determination regarding applica-

bility of this Chapter.

imprisonment, the accused person, at any time before he is committed for trial under section 213 or is asked to show cause under section 242 or enters on his defence under section 256, as the case may be, claims that the case ought to be tried under the provisions of this Chapter, the Magistrate inquiring into or trying the case, after making such inquiry as he thinks necessary, and after allowing the accused person reasonable time within which to adduce evidence in support of his claim, shall, if he is satisfied—

(a) that the complainant and the accused persons or any of them are respectively European and Indian British subjects or Indian and European British subjects, or

(b) that, in view of the connection with the case of both an European British subject and an Indian British subject, it is expedient for the ends of justice that the case should be tried under the provisions of this Chapter,

record a finding that the case is a case which ought to be tried under the provisions of this Chapter, or, if he is not so satisfied, record a finding that it is not such a case.

(2) Where the Magistrate rejects the claim, the person by whom it was made may appeal to the Sessions Judge, and the decision of the Sessions Judge thereon shall be final and shall not be questioned in any Court in appeal or revision.

(3) Where the Magistrate rejects the claim, he shall stay the proceedings until the expiration of the period allowed for the presentation of the appeal or, if an appeal is presented, until it has been decided.

Definition of "complainant."

444. For the purposes of section 443, "complainant" means any person making a complaint or, in relation to any case of which cognizance is

taken

taken under clause (b) of section 190, sub-section (1), any person who has given information relating to the commission of the offence within the meaning of section 154 :

IX of 1890.

Provided that a Public Prosecutor, a public servant, a member, officer or servant of any local authority, a railway servant as defined in section 3 of the Indian Railways Act, 1890, or an officer or servant of any company, association or other body to which the Local Government may, by general or special order published in the local official Gazette, declare the provisions of this section to apply, shall not, by reason only of the fact that he has made a complaint of, or given information of, an offence in his capacity as such Public Prosecutor, public servant, railway servant, member, officer or servant, be deemed to be a complainant within the meaning of this section, nor shall a police-officer be so deemed by reason only of the fact that a report under section 173 relating to a case has been made by or through him.

445. (1) Where a Magistrate or a Sessions Judge decides under section 443 that a case ought to be tried under the provisions of this Chapter and the case is a summons-case, the Magistrate trying the same shall direct that the case be referred to a Bench of two Magistrates and shall send a copy of such order to the District Magistrate who shall forthwith provide for the constitution of a Bench of two Magistrates of the first class, of whom one shall be an European and the other an Indian, for the trial of the case.

Procedure in
summons-
cases.

(2) Where the Magistrates constituting the Bench by which a case is tried under this section differ in opinion, the case, together with their opinions thereon, shall be laid before the Sessions Judge, who may examine any party or recall and examine any witness who has already given evidence in the case, and may call for and take any further evidence, and shall thereafter pass such judgment,

sentence

sentence or order in the case as he thinks fit and as is according to law.

(3) Any person convicted by a Bench under this section shall have the same right of appeal as if he had been convicted by a Magistrate of the first class, and any person convicted by a Sessions Judge under sub-section (2) shall have the same right of appeal to the High Court as if he had been convicted by the Sessions Judge at a trial held by the Sessions Judge under this Code.

(4) In any case in which it is impracticable to constitute a Bench in accordance with the provisions of sub-section (1) in any district, the District Magistrate shall transfer the case for trial by a like Bench to such other district as the High Court may, by general or special order, direct.

(5) Notwithstanding anything contained in this section, the Local Government may, by notification in the local official Gazette, direct that all summons-cases tried under the provisions of this Chapter in any district specified in the notification shall be tried as if they were warrant-cases in accordance with the provisions hereinafter in this Chapter laid down for the trial of warrant-cases.

Procedure in
warrant-
cases.

446. (1) Where a Magistrate or a Sessions Judge decides under section 443 that a case ought to be tried under the provisions of this Chapter and the case is a warrant-case, the Magistrate inquiring into or trying the case shall, if he does not discharge the accused under section 209 or section 253, as the case may be, commit the case for trial to the Court of Session, whether the case is or is not exclusively triable by that Court.

(2) Where an accused is committed to the Court of Session under sub-section (1), the Court shall proceed to try the case as if the accused had required to be tried in accordance with the provisions of section 275, and the provisions of that section and the other provisions of Chapter XXIII,

so

so far as they are applicable, shall apply accordingly :

Provided that where the trial before the Court of Session would in the ordinary course be with the aid of assessors and the accused, or all of them jointly, require to be tried in accordance with the provisions of section 284A, the trial shall be held with the aid of assessors all of whom shall, in the case of European British subjects, be persons who are Europeans or Americans or, in the case of Indian British subjects, be Indians.

447. If at any stage of an inquiry or trial under this Code it appears to the Magistrate that the case is or might be held to be a case which ought to be tried under the provisions of this Chapter, he shall forthwith inform the accused person of his rights under this Chapter.

Court to inform accused persons of their rights in certain cases.

448. For the purpose of the trial in Rangoon of any person under the provisions of this Chapter, references to the Sessions Judge shall be construed as references to the High Court of Judicature at Rangoon.

References to Sessions Judge to be construed as references to High Court in Rangoon.

449. (1) Where—

- (a) a case is tried by jury in a High Court or Court of Session under the provisions of this Chapter, or
- (b) a case which would otherwise have been tried under the provisions of this Chapter is under this Code committed to or transferred to the High Court and is tried by jury in the High Court, or
- (c) a case is tried by jury in the High Court in a presidency-town and the High Court grants leave to appeal on the ground that the case would, if it had been tried outside a presidency-town, have been triable under the provisions of this Chapter,

Special provisions relating to appeal.

then, notwithstanding anything contained in section 418 or section 423, sub-section (2), or in the letters

patent

patent of any High Court, an appeal may lie to the High Court on a matter of fact as well as on a matter of law.

(2) Notwithstanding anything contained in the letters patent of any High Court, the Local Government may direct the Public Prosecutor to present an appeal to the High Court from an original order of acquittal passed by the High Court in any such trial as is referred to in sub-section (1).

(3) An appeal under sub-section (1) or sub-section (2) shall, where the High Court consists of more than one Judge, be heard by two Judges of the High Court."

Amendment of section 478, Code of Criminal Procedure, 1898.

28. In sub-section (2) of section 478 of the said Code, the words and figures "subject to the provisions of section 443" shall be omitted; and, after the word and figures "Chapter XVIII" the words and figures "and of Chapter XXXIII in cases where that Chapter applies" shall be inserted.

Amendment of section 480, Code of Criminal Procedure, 1898.

29. In section 480 of the said Code,—

(a) in sub-section (1), the words "whether he is a European British subject or not" shall be omitted; and

(b) in sub-section (2), for the words and figures "section 443 or section 444" the words and figures "section 29A or in Chapter XXXIII" shall be substituted.

Amendment of section 491, Code of Criminal Procedure, 1898.

30. (1) In sub-section (1) of section 491 of the said Code,—

(a) for the words "Any of the High Courts of Judicature at Fort William, Madras and Bombay" the words "Any High Court" shall be substituted; and

(b) for the words "ordinary original civil jurisdiction" the words "appellate criminal jurisdiction" shall be substituted.

(2) In sub-section (2) of the same section, for the words "Each of the said High Courts" the words "The High Court" shall be substituted.

• 31. In

31. In Chapter XXXVII of the said Code, after section 491 the following section shall be inserted, namely:—

Insertion of new section 491A in the Code of Criminal Procedure, 1898.

“ 491A. Any High Court established by letters patent may exercise the powers conferred by section 491 in the case of any European British subject within such territories, other than those within the limits of its appellate criminal jurisdiction, as the Governor General in Council may direct.”

Powers of High Court outside the limits of appellate jurisdiction.

32. After section 526 of the said Code the following section shall be inserted, namely:—

Insertion of new section 526A in the Code of Criminal Procedure, 1898. High Court to transfer for trial to itself in certain cases.

29 and 30 Vic., c. 109. 44 and 45 Vic., c. 58. 7 and 8 Geo. V, c. 51.

“ 526A. (1) Where any person subject to the Naval Discipline Act or to the Army Act or to the Air Force Act is accused of any offence such as is referred to in proviso (a) to section 41 of the Army Act, the Advocate General shall, if so instructed by the competent authority, apply to the High Court for the committal or transfer of the case to that High Court and thereupon the High Court shall order that the case be committed for trial to or be transferred to itself and shall thereafter proceed to try the case by jury.

(2) The Governor General in Council may, by notification in the Gazette of India, declare any officer to be the competent authority for the purpose of issuing instructions under sub-section (1) in regard to any class of cases specified in the notification.”

33. After Chapter XLIV of the said Code, the following Chapter shall be inserted, namely:—

Insertion of new Chapter XLIVA in the Code of Criminal Procedure, 1898.

“ CHAPTER XLIVA.

SUPPLEMENTARY PROVISIONS RELATING TO EUROPEAN AND INDIAN BRITISH SUBJECTS AND OTHERS.

528A. (1) Where, in any case to which the provisions of Chapter XXXIII do not apply, any person claims to be dealt with as an European or Indian

Procedure of claim of a person to be dealt with as European or

Indian British subject, or as European or American.

Indian British subject, or where any person claims to be dealt with as an European (other than an European British subject) or an American, he shall state the grounds of such claim to the Magistrate before whom he is brought for the purpose of the inquiry or trial; and such Magistrate shall inquire into the truth of such statement and allow the person making it a reasonable time within which to prove that it is true, and shall then decide whether he is or is not an European British subject or an Indian British subject, or an European or an American, as the case may be, and shall deal with him accordingly.

(2) When any such claim is rejected by the Magistrate and the person by whom it was made is committed by the Magistrate for trial before the Court of Session, and such person repeats the claim before such Court, such Court shall, after such further inquiry, if any as it thinks fit, decide the claim, and shall deal with such person accordingly.

(3) When any Court before which any person is tried rejects any such claim as aforesaid the decision shall form a ground of appeal from the sentence or order passed in such trial.

Failure to plead status a waiver.

528B. If in any such case an European or Indian British subject or an European (other than an European British subject) or an American does not claim to be dealt with as such by the Magistrate before whom he is tried or by whom he is committed, or if, when such claim has been made before and rejected by the committing Magistrate, it is not repeated before the Court to which such person is committed, he shall be held to have relinquished his right to be dealt with as an European British subject or an Indian British subject, or an European or an American, as the case may be, and shall not assert it in any subsequent stage of the case.

Trial of person as belonging to class

528C. Where a person, not being an European British subject, is dealt with as an European British subject or, not being an Indian British subject, is dealt

OF 1923.] *Criminal Law Amendment.*

dealt with as an Indian British subject or, not being an European (other than an European British subject) or American, is dealt with as an European or American, and such person does not object, the inquiry, commitment, trial, or sentence, as the case may be, shall not, by reason of such dealing, be invalid.

to which he does not belong.

528D. (1) Unless there is something repugnant in the context, all enactments made by the Governor General in Council or the Indian Legislature which confer on Magistrates or on the Court of Session jurisdiction over offences shall be deemed to apply to European British subjects, although such persons are not expressly referred to therein.

Application of Acts conferring jurisdiction on Magistrates or Courts of Session.

(2) Nothing in this section shall be deemed to authorise any Court to exceed the limits prescribed by this Code as to the amount of punishment which it may inflict on an European British subject or to confer jurisdiction on any Magistrate of the second or third class for the trial of such subjects."

34. For section 534 of the said Code the following section shall be substituted, namely:—

Amendment of section 534, Code of Criminal Procedure, 1898.

" 534. An omission to inform under section 447 any person of his rights under Chapter XXXIII shall not affect the validity of any proceeding."

Omission to give information under section 447.

IX of 1874. V of 1898. 35. In section 4 of the European Vagrancy Act, 1874 (hereinafter referred to as the said Act), for the words " the nearest Justice of the Peace exercising the powers of a Magistrate of the first class under the Code of Criminal Procedure " the words " the nearest Magistrate of the first class " shall be substituted.

Amendment of section 4, Act IX of 1874.

36. In sections 5, 8 and 29 of the said Act, for the word " Justice " the words " Magistrate of the first class " shall be substituted.

Amendment of sections 5, 8 and 29, Act IX of 1874.

37. In sections 7, 9, 10 and 24 of the said Act, for the words " Justice of the Peace exercising powers as aforesaid " the words " Magistrate of the first class " shall be substituted.

Amendment of sections 7, 9, 10 and 24, Act IX of 1874.

Indian British subject, or as European or American. Indian British subject, or where any person claims to be dealt with as an European (other than an European British subject) or an American, he shall state the grounds of such claim to the Magistrate before whom he is brought for the purpose of the inquiry or trial; and such Magistrate shall inquire into the truth of such statement and allow the person making it a reasonable time within which to prove that it is true, and shall then decide whether he is or is not an European British subject or an Indian British subject, or an European or an American, as the case may be, and shall deal with him accordingly.

(2) When any such claim is rejected by the Magistrate and the person by whom it was made is committed by the Magistrate for trial before the Court of Session, and such person repeats the claim before such Court, such Court shall, after such further inquiry, if any as it thinks fit, decide the claim, and shall deal with such person accordingly.

(3) When any Court before which any person is tried rejects any such claim as aforesaid the decision shall form a ground of appeal from the sentence or order passed in such trial.

Failure to plead status a waiver.

528B. If in any such case an European or Indian British subject or an European (other than an European British subject) or an American does not claim to be dealt with as such by the Magistrate before whom he is tried or by whom he is committed, or if, when such claim has been made before and rejected by the committing Magistrate, it is not repeated before the Court to which such person is committed, he shall be held to have relinquished his right to be dealt with as an European British subject or an Indian British subject, or an European or an American, as the case may be, and shall not assert it in any subsequent stage of the case.

Trial of person as belonging to class

528C. Where a person, not being an European British subject, is dealt with as an European British subject or, not being an Indian British subject, is dealt

or 1923.] *Criminal Law Amendment.*

dealt with as an Indian British subject or, not being an European (other than an European British subject) or American, is dealt with as an European or American, and such person does not object, the inquiry, commitment, trial, or sentence, as the case may be, shall not, by reason of such dealing, be invalid.

to which he does not belong.

528D. (1) Unless there is something repugnant in the context, all enactments made by the Governor General in Council or the Indian Legislature which confer on Magistrates or on the Court of Session jurisdiction over offences shall be deemed to apply to European British subjects, although such persons are not expressly referred to therein.

Application of Acts conferring jurisdiction on Magistrates or Courts of Session.

(2) Nothing in this section shall be deemed to authorise any Court to exceed the limits prescribed by this Code as to the amount of punishment which it may inflict on an European British subject or to confer jurisdiction on any Magistrate of the second or third class for the trial of such subjects."

34. For section 534 of the said Code the following section shall be substituted, namely :—

Amendment of section 534, Code of Criminal Procedure, 1898.

" 534. An omission to inform under section 447 any person of his rights under Chapter XXXIII shall not affect the validity of any proceeding."

Omission to give information under section 447.

IX of 1874. 35. In section 4 of the European Vagrancy Act, 1874 (hereinafter referred to as the said Act), for the words " the nearest Justice of the Peace exercising the powers of a Magistrate of the first class under the Code of Criminal Procedure " the words " the nearest Magistrate of the first class " shall be substituted.

Amendment of section 4, Act IX of 1874.

V of 1898.

36. In sections 5, 8 and 29 of the said Act, for the word " Justice " the words " Magistrate of the first class " shall be substituted.

Amendment of sections 5, 8 and 29, Act IX of 1874.

37. In sections 7, 9, 10 and 24 of the said Act, for the words " Justice of the Peace exercising powers as aforesaid " the words " Magistrate of the first class "

Amendment of sections 7, 9, 10 and 24, Act IX of 1874.

class "

class ” shall be substituted; and, in section 10 of the said Act, the words “ Justice of the Peace,” where they first occur, shall be omitted.

Amendment of section 19, Act IX of 1874.

38. In section 19 of the said Act, for the words “ Justice of the Peace,” wherever they occur, the words “ Magistrate of the first class ” shall be substituted.

Amendment of section 30, Act IX of 1874.

39. In section 30 of the said Act, the words “ beyond the limits of the said towns ” the words and brackets “ (other than those contained in Chapter XXXVIII of the same Code) ”, and the words “ If from any cause he is committed or held to bail by a Justice of the Peace to take his trial before a High Court, he shall not be at liberty to object to the jurisdiction of such Justice of the Peace or High Court on the ground of anything contained in the former part of this section ” shall be omitted.

Amendment of section 35, Act IX of 1874.

40. In section 35 of the said Act, the words “ Justices of the Peace exercising the powers of a Magistrate of the first class ” shall be omitted.

Amendment of the First Schedule to Act IX of 1874.

41. In the First Schedule to the said Act, for the words “ Justice of the Peace for exercising the powers of a Magistrate of the class ” the words “ Magistrate of the first class ” shall be substituted.

Amendment of First Schedule to Act IX of 1908.

42. In the First Schedule to the Indian Limitation Act, 1908, the following item shall be inserted after item 150, namely:—

“ 150A.—Under the Code of Criminal Procedure, 1898, from a finding rejecting a claim under section 443 of that Code.	Seven days.	The date of the finding.”
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Amendment of section 3, Central Provinces Courts Act, 1917.

43. In section 3 of the Central Provinces Courts Act, 1917, the words “ except in reference to proceedings against European British subjects and persons jointly charged with the European British subjects ” shall be omitted. C. P. Act I of 1917.

ACT No. XIII OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on
the 16th March, 1923.)

An Act further to amend the Married Women's Property Act, 1874.

III of 1874. **W**HEREAS it is expedient further to amend the
Married Women's Property Act, 1874; It
is hereby enacted as follows :—

1. This Act may be called the Married Short title.
Women's Property (Amendment) Act, 1923.

III of 1874. 2. Section 6 of the Married Women's Property Amendment
Act, 1874, shall be renumbered as sub-section (1) of of section 6,
section 6, and to the said section the following sub- Act III of
section shall be added, namely :— 1874.

“(2) Notwithstanding anything contained in
section 2, the provisions of sub-section
(1) shall apply in the case of any policy
of insurance such as is referred to therein
which is effected by any Hindu, Muham-
madan, Sikh or Jain, in Madras after
the thirty-first day of December, 1913,
or in any other part of British India
after the first day of April, 1923 :

Provided that nothing herein contained shall
affect any right or liability which has
accrued or been incurred under any decree
of a competent Court passed before the
first day of April, 1923.”

ACT NO. XIV OF 1908.¹

[11th December, 1908.]

An Act to provide for the more speedy trial of certain offences, and for the prohibition of associations dangerous to the public peace.

[As modified up to the 1st May, 1923.]

WHEREAS it is expedient to provide for the more speedy trial of certain offences, and for the prohibition of associations dangerous to the public peace; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Short title
and extent Criminal Law Amendment Act, 1908.

(2) It extends to the Provinces of Bengal and of Eastern Bengal and Assam; but the ²[Local Government of any other province] may, at any time, by ³notification in the ⁴[official Gazette], extend the whole or any Part thereof to ⁵[that Province].

⁶(3) * * * * *

PART I.

¹ For Statement of Objects and Reasons, see Gazette of India, 1908, Pt. IV, p. 203, and for Proceedings in Council, see *ibid.*, Pt. VI, p. 158.

² These words were substituted for the words "Governor General in Council" by s. 2 and Sch. I of the Devolution Act, 1920 (XXXVIII of 1920).

³ The Act has been extended to the Presidency of Bombay, see Gazette of India, Extraordinary, dated 4th January, 1910; to the Presidency of Madras, the U. P. of Agra and Oudh, the Punjab and the Central Provinces, see Gazette of India, Extraordinary, dated 13th January, 1910, and *ibid.*, 1910, Pt. I, p. 95.

For notification extending Pt. II of this Act to the province of Delhi, see Gazette of India, Extraordinary, dated 9th December, 1920; to N.-W. Frontier Province, see N.-W. Frontier Province Gazette, Extraordinary, dated 17th December, 1921.

The Act has been declared in force in Sonthal Parganas by notification under s. 3 (5) (a) of the Sonthal Parganas Settlement Regulation, 1872 (III of 1872), B & O. Code, see Calcutta Gazette, 1909, Pt. I, p. 649.

⁴ These words were substituted for the words "Gazette of India" by s. 2 and Sch. I of the Devolution Act, 1920 (XXXVIII of 1920).

⁵ These words were substituted for the words "any other Province" by *ibid.*

⁶ Sub-section (3) of section 1 was repealed by s. 3 of the Indian Criminal Law Amendment Repealing Act, 1922 (V of 1922).

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PART I.

SPECIAL PROCEDURE.

[*Repealed by s. 3 of Act V of 1922.*]

PART II.

UNLAWFUL ASSOCIATIONS.

Definitions.

15. In this Part—

(1) “association” means any combination or body of persons, whether the same be known by any distinctive name or not; and

(2) “unlawful association” means an association—

(a) which encourages or aids persons to commit acts of violence or intimidation or of which the members habitually commit such acts, or

(b) which has been declared to be unlawful by the ¹[Local Government] under the powers hereby conferred.

Power to declare association unlawful.

16. If the ¹[Local Government] is of opinion that any association interferes or has for its object interference with the administration of the law or with the maintenance of law and order, or that it constitutes a danger to the public peace, the ¹[Local Government] may, by notification in the official Gazette, declare such association to be unlawful.

Penalties.

17. (1) Whoever is a member of an unlawful association, or takes part in meetings of any such association, or contributes or receives or solicits any contribution for the purpose of any such association, or in any way assists the operations of any such association, shall be punished with imprisonment for a term

¹ These words were substituted for the words “Governor General in Council” by s. 2 and Sch. I of the Devolution Act, 1920 (XXXVIII of 1920).

term which may extend to six months, or with fine, or with both.

(2) Whoever manages or assists in the management of an unlawful association, or promotes or assists in promoting a meeting of any such association, or of any members thereof as such members, shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

18. An association shall not be deemed to have ceased to exist by reason only of any formal act of dissolution or change of title, but shall be deemed to continue so long as any actual combination for the purposes of such association continues between any members thereof. ^{Continuance of association.}

THE SCHEDULE.

[*Repealed by s. 3 of Act V of 1922.*]

ACT No. XV OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on
the 16th March, 1923.)

An Act to amend the Indian Income-tax Act, 1922.

XI of 1922. **W**HEREAS it is expedient to amend the Indian
Income-tax Act, 1922; It is hereby enacted as
follows :—

1. This Act may be called the Indian Income- Short title.
tax (Amendment) Act, 1923.

XI of 1922. 2. To sub-section (1) of section 7 of the Indian Amendment
Income-tax Act, 1922 (hereinafter referred to as the of section 7,
said Act), the following explanation shall be added, Act XI of
namely :— 1922.

“ *Explanation.*—The right of a person to
occupy free of rent as a place of residence
any premises provided by his employer
is a requisite for the purposes of this
sub-section.”

3. (1) In section 68 of the said Act, in the Amendment
second proviso,— of section 68,
Act XI of
1922.

(a) for the words and figures “ to all assess-
ments made under that Act in the year
ending on the thirty-first day of March,
1922,” the following shall be substituted,
namely :—

“ to income-tax leviable under that Act in
respect of the year beginning on the
first day of April, 1921, and to
super-tax chargeable under the
Super-tax Act, 1920, in that year ” ;
and

(b) for the words and figures “ section 19 of
the said Act ” the words “ that section ”
shall be substituted.

(2) The amendments made in the said Act by
sub-section (1) shall have effect as if they had been
made on the first day of April, 1922.

ACT NO. XVI OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on
the 16th March, 1923.)

An Act further to amend the Government Savings Banks Act, 1873.

V of 1873.

WHEREAS it is expedient further to amend the Government Savings Banks Act, 1873; It is hereby enacted as follows:—

1. This Act may be called the Government Savings Banks (Amendment) Act, 1923. Short title.

V of 1873.

2. In section 3 of the Government Savings Banks Act, 1873 (hereinafter referred to as the said Act), for the definition of "Secretary" the following shall be substituted, namely:— Amendment of section 3, Act V of 1873.

“ ‘ Secretary ’ means, in the case of a Post Office Savings Bank, the Postmaster-General appointed for the area in which the Savings Bank is situate.”

3. For section 4 of the said Act the following section shall be substituted, namely:— Substitution of new section for section 4, Act V of 1873.

“ 4. If a depositor dies and probate of his will or letters of administration of his estate or a certificate granted under the Succession Certificate Act, 1889, is not within three months of the death of the depositor produced to the Secretary of the Government Savings Bank in which the deposit is, then— Payment on death of depositor.

VII of 1889.

(a) if the deposit does not exceed three thousand rupees, the Secretary may pay

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[Price one anna and three pies.]

Government Savings Banks [ACT XVI OF 1923.]
(Amendment).

pay the same to any person appearing to him to be entitled to receive it or to administer the estate of the deceased, or

- (b) if the deposit does not exceed one hundred rupees, any officer employed in the management of a Government Savings Bank, who is empowered in this behalf by a general or special order of the Governor General in Council, may, subject to any general or special orders of the Secretary in this behalf, pay the deposit to any person appearing to him to be entitled to receive it or to administer the estate."

Amendment
of sections 6
and 7, Act V
of 1873.

4. In sections 6 and 7 of the said Act, after the words "Secretary of any such Bank" the words "or any officer empowered under section 4" shall be inserted.

ACT NO. XVII OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 16th
March, 1923.)

An Act to amend section 29 of the Prisoners Act, 1900.

III of 1900. **W**HEREAS it is expedient to amend section 29
of the Prisoners Act, 1900; It is hereby
enacted as follows:—

1. This Act may be called the Prisoners (Amend- Short title.
ment) Act, 1923.

, III of 1900. 2. In section 29 of the Prisoners Act, 1900,—

(a) to sub-section (1) after the words “ British
India ” the words “ or to any prison in
Berar ” shall be added; and

(b) to sub-section (2) the following words shall
be added, namely:—

“ or, in the case of a prisoner so confined
in a prison in the Central Provinces,
for his removal to any other prison
in the Province or to any prison in
Berar ”.

[Price one anna.]

ACT No. XVIII OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 2nd April, 1923.)

An Act further to amend the Code of Criminal Procedure, 1898, and the Court-fees Act, 1870.

of 1898.
VII of 1870. **W** HEREAAS it is expedient further to amend the Code of Criminal Procedure, 1898, and the Court-fees Act, 1870; It is hereby enacted as follows :—

1. This Act may be called the Code of Criminal Procedure (Amendment) Act, 1923. Short title.

V of 1898. 2. In section 10 of the Code of Criminal Procedure, 1898 (hereinafter referred to as the said Code),— Amendment of section 10, Code of Criminal Procedure, 1898.

(i) in sub-section (2), the words “for a period not exceeding six months” shall be omitted, and after the words “under this Code” the words “or under any other law for the time being in force,” shall be inserted; and

(ii) after sub-section (2) the following sub-section shall be added, namely :—

“(3) For the purposes of sections 192, sub-section (1), 407, sub-section (2), and 528, sub-sections (2) and (3), such Additional District Magistrate shall be deemed to be subordinate to the District Magistrate.”

3. After sub-section (2) of section 18 of the said Code the following sub-sections shall be added, namely :— Amendment of section 18, Code of Criminal Procedure, 1898.

“(3) A Presidency Magistrate may be appointed under this section for such term as the Local Government may, by general or special order, direct.

(4) The

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[Price fifteen annas.]

Code of Criminal Procedure [ACT XVIII
(Amendment)].

(4) The Local Government may appoint any person to be an Additional Chief Presidency Magistrate, and such Additional Chief Presidency Magistrate shall have all or any of the powers of a Chief Presidency Magistrate under this Code or under any other law for the time being in force, as the Local Government may direct."

Amendment of section 21, Code of Criminal Procedure, 1898.

4. In sub-section (2) of section 21 of the said Code, after the words "Presidency Magistrates" the words "including Additional Chief Presidency Magistrates" shall be inserted.

Amendment of section 29, Code of Criminal Procedure, 1898.

5. In sub-section (2) of section 29 of the said Code, after the words "High Court or" the words "subject as aforesaid" shall be inserted.

Insertion of new section 29B in the Code of Criminal Procedure, 1898.

6. Before section 30 of the said Code the following section shall be inserted, namely :—

Jurisdiction in the case of juveniles.

"29B. Any offence, other than one punishable with death or transportation for life, committed by any person who at the date when he appears or is brought before the Court is under the age of fifteen years, may be tried by a District Magistrate or a Chief Presidency Magistrate, or by any Magistrate specially empowered by the Local Government to exercise the powers conferred by section 8, sub-section (1), of the Reformatory Schools Act, 1897, or, VIII of 1897, in any area in which the said Act has been wholly or in part repealed by any other law providing for the custody, trial or punishment of youthful offenders, by any Magistrate empowered by or under such law to exercise all or any of the powers conferred thereby."

Amendment of section 35, Code of Criminal Procedure, 1898.

7. (1) In section 35 of the said Code,—

(2) in sub-section (1), for the words "When a person is convicted at one trial of two or more distinct offences, the Court may," the following shall be substituted, namely :—

"When a person is convicted at one trial of two or more offences, the Court may, subject to the provisions

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(*Amendment*).

XLV of 1860. provisions of section 71 of the Indian Penal Code ”;
and

(ii) in sub-section (3), for the word “ aggregate ”
the words “ the aggregate of consecutive ” shall be
substituted.

(2) The *Explanation* and *Illustration* to this sec-
tion are hereby repealed.

8. In section 40 of the said Code, for the word “ transferred ”, in both places where it occurs, the word “ appointed ” shall be substituted, and the words “ continue to ” shall be omitted, and for the words “ to which ” the words “ in which ” shall be substituted.

Amendment
of section
40, Code of
Criminal
Procedure,
1898.

9. In section 45 of the said Code,—

Amendment
of section
45, Code of
Criminal
Procedure,
1898.

(1) in sub-section (1),—

(a) after the word “ occupier ”, where it occurs
for the second time, the words “ in charge of the
management of that land ” shall be inserted, and for
the word “ obtain ” the word “ possess ” shall be
substituted;

(b) to clause (d), after the words “ suspicious
circumstances,” the following words shall be added,
namely:—

“ or the discovery in or near such village of any
corpse or part of a corpse, in circum-
stances which lead to a reasonable sus-
picion that such a death has occurred or
the disappearance from such village of
any person in circumstances which lead
to a reasonable suspicion that a non-bail-
able offence has been committed in respect
of such person; ” and

(c) in clause (e), after the word “ namely,” the
figures “ 231, 232, 233, 234, 235, 236, 237, 238,” shall
be inserted, and for the word and figures “ and 460 ”
the figures, letters and word “ 460, 489A, 489B, 489C
and 489D ” shall be substituted; and

(ii) in sub-section (3), after the words “ District
Magistrate,” the words “ or Sub-divisional Magis-
trate ” shall be inserted; after the word “ persons ”

the

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(Amendment).

the words "with his or their consent" shall be inserted; and for the words "to be village-headman for the purposes of this section in any village for which there is no such headman appointed under any other law" the following shall be substituted, namely:—

"to perform the duties of a village-headman under this section whether a village-headman has or has not been appointed for that village under any other law."

Amendment
of section
54, Code of
Criminal
Procedure,
1898.

10. In sub-section (1) of section 54 of the said Code, in clause *fourthly*, for the word "or" the word "and" shall be substituted, and to the same sub-section the following clause shall be added, namely:—

"*ninthly*, any person for whose arrest a requisition has been received from another police-officer, provided that the requisition specifies the person to be arrested and the offence or other cause for which the arrest is to be made and it appears therefrom that the person might lawfully be arrested without a warrant by the officer who issued the requisition."

Amendment
of section
59 Code of
Criminal
Procedure,
1898.

11. In sub-section (1) of section 56 of the said Code, after the words "police-station" the words "or any police-officer making an investigation under Chapter XIV" shall be inserted, and to the same sub-section the following shall be added, namely:—

"The officer so required shall, before making the arrest, notify to the person to be arrested the substance of the order and, if so required by such person, shall show him the order."

Amendment
of section
59, Code of
Criminal
Procedure,
1898

12. For sub-section (1) of section 59 of the said Code the following sub-section shall be substituted, namely:—

"(1) Any private person may arrest any person who in his view commits a non-bailable and cognizable offence, or any proclaimed offender, and, without unnecessary delay, shall make over any person so arrested to a police-officer, or, in the absence of a
police-officer,

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(Amendment).

police-officer, take such person or cause him to be taken in custody to the nearest police-station.”

13. (1) After sub-section (6) of section 88 of the said Code the following sub-sections shall be inserted, namely :—

Amendment
of section
88, Code of
Criminal
Procedure,
1898.

“(6A) If any claim is preferred to, or objection made to the attachment of, any property attached under this section within six months from the date of such attachment, by any person other than the proclaimed person, on the ground that the claimant or objector has an interest in such property, and that such interest is not liable to attachment under this section, the claim or objection shall be inquired into, and may be allowed or disallowed in whole or in part :

Provided that any claim preferred or objection made within the period allowed by this sub-section may, in the event of the death of the claimant or objector, be continued by his legal representative.

(6B) Claims or objections under sub-section (6A) may be preferred or made in the Court by which the order of attachment is issued or, if the claim or objection is in respect of property attached under an order endorsed by a District Magistrate or Chief Presidency Magistrate in accordance with the provisions of sub-section (2), in the Court of such Magistrate.

(6C) Every such claim or objection shall be inquired into by the Court in which it is preferred or made :

Provided that, if it is preferred or made in the Court of a District Magistrate or Chief Presidency Magistrate, such Magistrate may make it over for disposal to any Magistrate of the first or second class or to any Presidency Magistrate, as the case may be, subordinate to him.

(6D) Any person whose claim or objection has been disallowed in whole or in part by an order under sub-section (6A) may, within a period of one year from the date of such order, institute a suit to establish the right which he claims in respect of the
property

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(Amendment).

property in dispute; but subject to the result of such suit, if any, the order shall be conclusive.

(6E) If the proclaimed person appears within the time specified in the proclamation, the Court shall make an order releasing the property from the attachment."

(2) In sub-section (7) of the same section, after the words "date of the attachment" the words "and until any claim preferred or objection made under sub-section (6A) has been disposed of under that sub-section" shall be inserted.

Amendment
of section
103, Code of
Criminal
Procedure,
1898.

14. (1) To sub-section (1) of section 103 of the said Code, after the words "witness the search," the following shall be added, namely:—

"and may issue an order in writing to them or any of them so to do."

(2) After sub-section (4) of the same section the following sub-section shall be added, namely:—

"(5) Any person who, without reasonable cause, refuses or neglects to attend and witness a search under this section, when called upon to do so by an order in writing delivered or tendered to him, shall be deemed to have committed an offence under section 187 of the Indian Penal Code."

XLV of 1860.

Amendment
of section
106, Code of
Criminal
Procedure,
1898.

15. In section 106 of the said Code,—

(i) in sub-section (1), for the word "rioting" the following words shall be substituted, namely:—"any offence punishable under Chapter VIII of the Indian Penal Code, other than an offence punishable under section 143, section 149, section 153A or section 154 thereof, or of" and the words "or of assembling armed men or taking other unlawful measures with the evident intention of committing the same," shall be omitted; and

XLV of 1860.

(ii) in sub-section (3), after the words "Appellate Court" the words "including a Court hearing appeals under section 407" shall be inserted.

Amendment
of section
107, Code of
Criminal

16. (1) In sub-section (1) of section 107 of the said Code, after the words "the Magistrate," where they first occur, the words "if in his opinion there

is

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(Amendment).

is sufficient ground for proceeding" shall be inserted. Procedure. 1898.

(2) In sub-section (4) of the same section, for the words "this section" the word, figure and brackets "sub-section (3)" shall be substituted, and for the words "until the completion of the inquiry hereinafter prescribed" the words "pending further action by himself under this Chapter" shall be substituted.

17. In section 108 of the said Code, after the words "in writing" the words "or in any other manner intentionally" shall be inserted; after the words "such Magistrate" the words "if in his opinion there is sufficient ground for proceeding" shall be inserted; for the words "or printed or published" the words "and edited, printed and published" shall be substituted; and after the figures "1867," the words "with reference to any matter contained in such publication" shall be inserted. Amendment of section 108, Code of Criminal Procedure, 1898.

18. In section 110 of the said Code,—

(i) in clause (a), the word "or", where it first occurs, shall be omitted, and after the word "thief" the words "or forger," shall be inserted; and Amendment of section 110, Code of Criminal Procedure, 1898.

(ii) for clause (d) the following clause shall be substituted, namely:—

"(d) habitually commits, or attempts to commit, or abets the commission of, the offence of kidnapping, abduction, extortion, cheating or mischief, or any offence punishable under Chapter XII of the XLV of 1860. Indian Penal Code, or under section 489A, section 489B, section 489C or section 489D of that Code, or".

19. In section 117 of the said Code,—

(i) after sub-section (2) the following sub-section shall be inserted, namely:— Amendment of section 117, Code of Criminal Procedure, 1898.

"(3) Pending the completion of the inquiry under sub-section (1), the Magistrate, if he considers that immediate measures are necessary for the prevention of a breach of the peace or disturbance of the public tranquillity or the commission of any offence or for the public safety, may, for reasons to be recorded in writing, direct the person in respect of whom the order under section 112 has been made

to

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to execute a bond, with or without sureties, for keeping the peace or maintaining good behaviour until the conclusion of the inquiry, and may detain him in custody until such bond is executed or, in default of execution, until the inquiry is concluded :

Provided that—

- (a) no person against whom proceedings are not being taken under section 108, section 109, or section 110, shall be directed to execute a bond for maintaining good behaviour, and
- (b) the conditions of such bond, whether as to the amount thereof or as to the provision of sureties or the number thereof or the pecuniary extent of their liability, shall not be more onerous than those specified in the order under section 112 ”;
- (ii) sub-section (3) shall be re-numbered (4), and after the words “ habitual offender ” in the said sub-section, the words “ or is so desperate and dangerous as to render his being at large without security hazardous to the community ” shall be inserted; and
- (iii) sub-section (4) shall be re-numbered (5).

Substitution of new section for section 122, Code of Criminal Procedure, 1898.

Power to reject sureties.

20. For section 122 of the said Code the following section shall be substituted, namely :—

“ 122. (1) A Magistrate may, refuse to accept any surety offered, or may reject any surety previously accepted by him or his predecessor under this Chapter on the ground that such surety is an unfit person for the purposes of the bond :

Provided that, before so refusing to accept or rejecting any such surety, he shall either himself hold an inquiry on oath into the fitness of the surety, or cause such inquiry to be held and a report to be made thereon by a Magistrate subordinate to him.

(2) Such Magistrate shall, before holding the inquiry, give reasonable notice to the surety and to the person by whom the surety was offered and shall, in making

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(Amendment).

making the inquiry, record the substance of the evidence adduced before him.

(3) If the Magistrate is satisfied, after considering the evidence so adduced either before him or before a Magistrate deputed under sub-section (1), and the report of such Magistrate (if any) that the surety is an unfit person for the purposes of the bond, he shall make an order refusing to accept or rejecting, as the case may be, such surety and recording his reasons for so doing :

Provided that, before making an order rejecting any surety who has previously been accepted, the Magistrate shall issue his summons or warrant, as he thinks fit, and cause the person for whom the surety is bound to appear or to be brought before him."

21. (1) After sub-section (3) of section 123 of the said Code the following sub-sections shall be inserted, namely :—

Amendment
of section
123, Code of
Criminal
Procedure,
1898.

"(3A) If security has been required in the course of the same proceedings from two or more persons in respect of any one of whom the proceedings are referred to the Sessions Judge or the High Court under sub-section (2), such reference shall also include the case of any other of such persons who has been ordered to give security, and the provisions of sub-sections (2) and (3) shall, in that event, apply to the case of such other person also, except that the period (if any) for which he may be imprisoned shall not exceed the period for which he was ordered to give security.

(3B) A Sessions Judge may in his discretion transfer any proceedings laid before him under sub-section (2) or sub-section (3A) to an Additional Sessions Judge or Assistant Sessions Judge and upon such transfer, such Additional Sessions Judge or Assistant Sessions Judge may exercise the powers of a Sessions Judge under this section in respect of such proceedings."

(2) In

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(Amendment)].

(2) In sub-section (6) of the same section, for the word "may" the following words shall be substituted, namely:—

"shall, where the proceedings have been taken under section 108 or section 109, be simple and, where the proceedings have been taken under section 110".

Amendment
of section
124, Code of
Criminal
Procedure,
1898.

22. In section 124 of the said Code,—

(i) in sub-section (1), the words "whether by the order of such Magistrate or that of his predecessor in office, or of some subordinate Magistrate," shall be omitted;

(ii) for sub-section (3) the following sub-section shall be substituted, namely:—

"(3) An order under sub-section (1) may direct the discharge of such person either without conditions or upon any conditions which such person accepts:

Provided that any condition imposed shall cease to be operative when the period for which such person was ordered to give security has expired"; and

(iii) after sub-section (3) the following sub-sections shall be inserted, namely:—

"(4) The Local Government may prescribe the conditions upon which a conditional discharge may be made.

(5) If any condition upon which any such person has been discharged is, in the opinion of the District Magistrate or Chief Presidency Magistrate by whom the order of discharge was made or of his successor, not fulfilled, he may cancel the same.

(6) When a conditional order of discharge has been cancelled under sub-section (5), such person may be arrested by any police-officer without warrant, and shall thereupon be produced before the District Magistrate or Chief Presidency Magistrate.

Unless such person then gives security in accordance with the terms of the original order for the unexpired portion of the term for which he was in the first instance committed or ordered to be detained (such portion being deemed to be a period equal to the

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the period between the date of the breach of the conditions of discharge and the date on which, except for such conditional discharge, he would have been entitled to release), the District Magistrate or Chief Presidency Magistrate may remand such person to prison to undergo such unexpired portion.

A person remanded to prison under this sub-section shall, subject to the provisions of section 122, be released at any time on giving security in accordance with the terms of the original order for the unexpired portion aforesaid to the Court or Magistrate by whom such order was made, or to its or his successor."

23. Sub-section (3) of section 126 of the said Code shall be re-numbered section 126A, and in that section, as re-numbered, for the words "When such person appears or is brought before the Magistrate, such Magistrate shall cancel the bond" the following shall be substituted, namely :—

Amendment
of section
126, Code of
Criminal
Procedure,
1898.

"When a person for whose appearance a warrant or summons has been issued under the proviso to sub-section (3) of section 122 or under section 126, sub-section (2), appears or is brought before him, the Magistrate shall cancel the bond executed by such person."

24. For section 133 of the said Code the following section shall be substituted, namely :—

Substitution
of new
section for
section 133,
Code of
Criminal
Procedure,
1898.

" 133. (1) Whenever a District Magistrate, a Sub-divisional Magistrate or a Magistrate of the first class considers, on receiving a police-report or other information and on taking such evidence (if any) as he thinks fit,

Conditional
order for
removal of
nuisance.

that any unlawful obstruction or nuisance should be removed from any way, river or channel which is or may be lawfully used by the public, or from any public place, or

that the conduct of any trade or occupation, or the keeping of any goods or merchandise, is injurious

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to the health or physical comfort of the community, and that in consequence such trade or occupation should be prohibited or regulated or such goods or merchandise should be removed or the keeping thereof regulated, or

that the construction of any building, or the disposal of any substance, as likely to occasion conflagration or explosion, should be prevented or stopped, or

that any building, tent or structure, or any tree is in such a condition that it is likely to fall and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by, and that in consequence the removal, repair or support of such building, tent or structure, or the removal or support of such tree, is necessary, or

that any tank, well or excavation adjacent to any such way or public place should be fenced in such manner as to prevent danger arising to the public, or

that any dangerous animal should be destroyed, confined or otherwise disposed of,

such Magistrate may make a conditional order requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation, or keeping any such goods or merchandise, or owning, possessing or controlling such building, tent, structure, substance, tank, well or excavation, or owning or possessing such animal or tree, within a time to be fixed in the order,

to remove such obstruction or nuisance; or

to desist from carrying on, or to remove or regulate in such manner as may be directed, such trade or occupation; or

to remove such goods or merchandise, or to regulate the keeping thereof in such manner as may be directed; or

to prevent or stop the erection of, or to remove, repair or support, such building, tent or structure; or

to remove or support such tree; or

to alter the disposal of such substance; or

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to fence such tank, well or excavation, as the case may be; or

to destroy, confine or dispose of such dangerous animal in the manner provided in the said order;

or, if he objects so to do,

to appear before himself or some other Magistrate of the first or second class, at a time and place to be fixed by the order, and move to have the order set aside or modified in the manner hereinafter provided.

(2) No order duly made by a Magistrate under this section shall be called in question in any Civil Court.

Explanation.—A ‘public place’ includes also property belonging to the State, camping grounds and grounds left unoccupied for sanitary or recreative purposes.”

25. In section 135 of the said Code, in clause (a), after the words “within the time” the words “and in the manner” shall be inserted.

Amendment of section 135, Code of Criminal Procedure, 1898.

26. After section 139 of the said Code the following section shall be inserted, namely:—

Insertion of new section 139A in the Code of Criminal Procedure, 1898.

“139A. (1) Where an order is made under section 133 for the purpose of preventing obstruction, nuisance or danger to the public in the use of any way, river, channel or place, the Magistrate shall, on the appearance before him of the person against whom the order was made, question him as to whether he denies the existence of any public right in respect of the way, river, channel or place, and, if he does so, the Magistrate shall, before proceeding under section 137 or section 138, inquire into the matter.

Procedure where existence of public right is denied.

(2) If in such inquiry the Magistrate finds that there is any reliable evidence in support of such denial, he shall stay the proceedings until the matter of the existence of such right has been decided by a competent Civil Court; and, if he finds that there is

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no such evidence, he shall proceed as laid down in section 137 or section 138, as the case may require.

(3) A person who has, on being questioned by the Magistrate under sub-section (1), failed to deny the existence of a public right of the nature therein referred to, or who, having made such denial, has failed to adduce reliable evidence in support thereof, shall not in the subsequent proceedings be permitted to make any such denial, nor shall any question in respect of the existence of any such public right be inquired into by any jury appointed under section 138."

Amendment
of section
144, Code of
Criminal
Procedure,
1898.

27. In section 144 of the said Code,—

(i) in sub-section (1), after the words "or of any other Magistrate" the words and brackets "(not being a Magistrate of the third class)" shall be inserted, and after the words "under this section" the words "there is sufficient ground for proceeding under this section and" shall be inserted;

(ii) in sub-section (4), after the word "may" the words "either on his own motion or on the application of any person aggrieved" shall be inserted; and

(iii) sub-section (5) shall be re-numbered as sub-section (6), and the following shall be inserted as sub-section (5), namely:—

"(5) Where such an application is received, the Magistrate shall afford to the applicant an early opportunity of appearing before him either in person or by pleader and shewing cause against the order; and, if the Magistrate rejects the application wholly or in part, he shall record in writing his reasons for so doing."

Amendment
of section
145, Code of
Criminal
Procedure,
1898.

28. In section 145 of the said Code,—

(i) in sub-section (4), for the words "receive the evidence" the words "receive all such evidence as may be" shall be substituted;

(ii) in sub-section (6), after the word "was" the words "or should under the first proviso to sub-section (4) be treated as being" shall be inserted, and the
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the following shall be added after the words "such eviction," namely:—

"and when he proceeds under the first proviso to sub-section (4), may restore to possession the party forcibly and wrongfully dispossessed";

(iii) for sub-section (7) the following sub-section shall be substituted, namely:—

"(7) When any party to any such proceeding dies, the Magistrate may cause the legal representative of the deceased party to be made a party to the proceeding, and shall thereupon continue the inquiry, and if any question arises as to who the legal representative of a deceased party for the purpose of such proceeding is, all persons claiming to be representatives of the deceased party shall be made parties thereto."; and

(iv) after sub-section (7) the following sub-sections shall be added, namely:—

"(8) If the Magistrate is of opinion that any crop or other produce of the property, the subject of dispute in a proceeding under this section pending before him, is subject to speedy and natural decay, he may make an order for the proper custody or sale of such property, and, upon the completion of the inquiry, shall make such order for the disposal of such property, or the sale-proceeds thereof, as he thinks fit.

(9) The Magistrate may, if he thinks fit, at any stage of the proceedings under this section, on the application of either party, issue a summons to any witness directing him to attend or to produce any document or thing.

(10) Nothing in this section shall be deemed to be in derogation of the powers of the Magistrate to proceed under section 107."

29. (1) To sub-section (1) of section 146 of the said Code the following proviso shall be added, namely:—

"Provided that the District Magistrate or the Magistrate who has attached the subject of dispute may withdraw the attachment at any time if he is satisfied

Amendment
of section
146, Code of
Criminal
Procedure,
1898.

Code of Criminal Procedure [ACT XVIII
(Amendment)].

satisfied that there is no longer any likelihood of a breach of the peace in regard to the subject of dispute."

(2) In sub-section. (2) of the same section, after the words "thinks fit" the words "and if no receiver of the property, the subject of dispute, has been appointed by any Civil Court" shall be inserted, and to the same sub-section the following proviso shall be added, namely:—

"Provided that, in the event of a receiver of the property, the subject of dispute, being subsequently appointed by any Civil Court, possession shall be made over to him by the receiver appointed by the Magistrate, who shall thereupon be discharged."

Substitution
of new
section
for section
147, Code of
Criminal
Procedure,
1898.
Disputes
concerning
rights of use
of immove-
able pro-
perty, etc.

30. For section 147 of the said Code the following section shall be substituted, namely:—

"147. (1) Whenever any District Magistrate, Sub-divisional Magistrate or Magistrate of the first class is satisfied, from a police-report or other information, that a dispute likely to cause a breach of the peace exists regarding any alleged right of user of any land or water as explained in section 145, sub-section (2) (whether such right be claimed as an easement or otherwise), within the local limits of his jurisdiction, he may make an order in writing stating the grounds of his being so satisfied and requiring the parties concerned in such dispute to attend the Court in person or by pleader within a time to be fixed by such Magistrate and to put in written statements of their respective claims, and shall thereafter inquire into the matter in the manner provided in section 145, and the provisions of that section shall, as far as may be, be applicable in the case of such inquiry."

(2) If it appears to such Magistrate that such right exists, he may make an order prohibiting any interference with the exercise of such right:

Provided that no such order shall be made where the right is exercisable at all times of the year, unless such

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such right has been exercised within three months next before the institution of the inquiry, or where the right is exercisable only at particular seasons or on particular occasions, unless the right has been exercised during the last of such seasons or on the last of such occasions before such institution.

(3) If it appears to such Magistrate that such right does not exist, he may make an order prohibiting any exercise of the alleged right.

(4) An order under this section shall be subject to any subsequent decision of a Civil Court of competent jurisdiction."

31. In sub-section (3) of section 148 of the said Code, the words "for witnesses, or pleaders' fees, or both," shall be omitted, and for the words "All costs so directed to be paid may be recovered as if they were fines" the words "Such costs may include any expenses incurred in respect of witnesses, and of pleaders' fees, which the Court may consider reasonable" shall be substituted. Amendment of section 148, Code of Criminal Procedure, 1898.

32. In section 157 of the said Code,—

(i) in sub-section (1), after the words "one of his subordinate officers" the words "not being below such rank as the Local Government may, by general or special order, prescribe in this behalf" shall be inserted, and for the words "and to take such measures as may be necessary," the words "and, if necessary, to take measures" shall be substituted; and Amendment of section 157, Code of Criminal Procedure, 1898.

(ii) to sub-section (2), after the words "that sub-section" the words "and, in the case mentioned in clause (b), such officer shall also forthwith notify to the informant, if any, in such manner as may be prescribed by the Local Government, the fact that he will not investigate the case or cause it to be investigated" shall be added.

33. In sub-section (1) of section 161 of the said Code, after the word "Chapter" the words "or any police-officer not below such rank as the Local Government may, by general or special order, prescribe in this behalf, acting on the requisition of such officer" shall be inserted. Amendment of section 161, Code of Criminal Procedure, 1898.

34. For

Code of Criminal Procedure [ACT XVIII
(Amendment)].

Amendment
of section
162, Code of
Criminal
Procedure,
1898.

Statements
to police not
to be signed;
use of such
statements in
evidence.

34. For sub-section (1) of section 162 of the said Code the following sub-section shall be substituted, namely :—

“(1) No statement made by any person to a police-officer in the course of an investigation under this Chapter shall, if reduced into writing, be signed by the person making it; nor shall any such statement or any record thereof, whether in a police-diary or otherwise, or any part of such statement or record, be used for any purpose (save as hereinafter provided) at any inquiry or trial in respect of any offence under investigation at the time when such statement was made :

Provided that, when any witness is called for the prosecution in such inquiry or trial whose statement has been reduced into writing as aforesaid, the Court shall, on the request of the accused, refer to such writing and direct that the accused be furnished with a copy thereof, in order that any part of such statement, if duly proved, may be used to contradict such witness in the manner provided by section 145 of the Indian Evidence Act, 1872. When any part of such statement is so used, any part thereof may also be used in the re-examination of such witness, but for the purpose only of explaining any matter referred to in his cross-examination :

I of 1872.

Provided, further, that, if the Court is of opinion that any part of any such statement is not relevant to the subject-matter of the inquiry or trial or that its disclosure to the accused is not essential in the interests of justice and is inexpedient in the public interests, it shall record such opinion (but not the reasons therefor) and shall exclude such part from the copy of the statement furnished to the accused.”

Amendment
of section
164, Code of
Criminal
Procedure,
1898.

35. In section 164 of the said Code,—

(i) in sub-section (1). for the words “ Every Magistrate not being a police-officer may ” the words “ Any Presidency Magistrate, any Magistrate of the first class and any Magistrate of the second class specially empowered in this behalf by the Local Government,

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Government may, if he is not a police-officer " shall be substituted; and

(ii) in sub-section (3),—

(a) for the words " No Magistrate " the following words shall be substituted, namely :—

" A Magistrate shall, before recording any such confession, explain to the person making it that he is not bound to make a confession and that if he does so it may be used as evidence against him and no Magistrate "; and

(b) for the words " I believe " the following words shall be substituted, namely :—

" I have explained to (name) that he is not bound to make a confession and that, if he does so, any confession he may make may be used as evidence against him and I believe ".

36. In section 165 of the said Code,—

(i) for sub-sections (1) and (2) the following sub-sections shall be substituted, namely :—

" (1) Whenever an officer in charge of a police-station or a police-officer making an investigation has reasonable grounds for believing that anything necessary for the purposes of an investigation into any offence which he is authorised to investigate may be found in any place within the limits of the police-station of which he is in charge, or to which he is attached, and that such thing cannot in his opinion be otherwise obtained without undue delay, such officer may, after recording in writing the grounds of his belief and specifying in such writing, so far as possible, the thing for which search is to be made, search, or cause search to be made, for such thing in any place within the limits of such station.

(2) A police-officer proceeding under sub-section (1) shall, if practicable, conduct the search in person ";

(ii) in

Code of Criminal Procedure [ACT XVIII
(Amendment)].

(ii) in sub-section (3), after the words " he may " the words " after recording in writing his reasons for so doing " shall be inserted, and for the words " specifying the document or thing for which search is to be made and the place to be searched " the words " specifying the place to be searched and, so far as possible, the thing for which search is to be made " shall be substituted;

(iii) in sub-section (4), after the words " search warrants " the words " and the general provisions as to searches contained in section 102 and section 103 " shall be inserted; and

(iv) after sub-section (4) the following sub-section shall be added, namely :—

" (5) Copies of any record made under sub-section (1) or sub-section (3) shall forthwith be sent to the nearest Magistrate empowered to take cognizance of the offence and the owner or occupier of the place searched shall on application be furnished with a copy of the same by the Magistrate :

Provided that he shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost."

Amendment
of section
166, Code of
Criminal
Procedure,
1898.

37. (1) In sub-section (1) of section 166 of the said Code, after the words " An officer in charge of a police-station " the words " or a police-officer not being below the rank of sub-inspector making an investigation " shall be inserted.

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

" (3) Whenever there is reason to believe that the delay occasioned by requiring an officer in charge of another police-station to cause a search to be made under sub-section (1) might result in evidence of the commission of an offence being concealed or destroyed, it shall be lawful for an officer in charge of a police-station or a police-officer making an investigation under this Chapter to search, or cause to be searched, any place in the limits of another police-station, in accordance with the provisions of section

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(*Amendment*).

section 165, as if such place were within the limits of his own station.

(4) Any officer conducting a search under sub-section (3) shall forthwith send notice of the search to the officer in charge of the police-station within the limits of which such place is situate, and shall also send with such notice a copy of the list (if any) prepared under section 103, and shall also send to the nearest Magistrate empowered to take cognizance of the offence, copies of the records referred to in section 165, sub-sections (1) and (3).

(5) The owner or occupier of the place searched shall, on application, be furnished with a copy of any record sent to the Magistrate under sub-section (4) :

Provided that he shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost."

38. In section 167 of the said Code,—

Amendment
of section
167, Code of
Criminal
Procedure,
1898.

(i) in sub-section (1),—

(a) for the words " it appears that any " the words " any person is arrested and detained in custody, and it appears that the " shall be substituted, and the words " under this Chapter " shall be omitted;

(b) after the words " officer in charge of the police-station " the words " or the police-officer making the investigation if he is not below the rank of sub-inspector " shall be inserted; and

(c) the words and brackets " (if any) " shall be omitted; and

(ii) to sub-section (2), after the words " such jurisdiction ", the following proviso shall be added, namely :—

" Provided that no Magistrate of the third class, and no Magistrate of the second class not specially empowered in this behalf by the Local Government shall authorise detention in the custody of the police."

39. In

Code of Criminal Procedure [ACT XVIII.
(Amendment).

Amendment
of section
169, Code of
Criminal
Procedure,
1898.

39. In section 169 of the said Code, after the words "officer in charge of the police-station" the words "or to the police-officer making the investigation" shall be inserted.

Amendment
of section
173, Code of
Criminal
Procedure,
1898.

40. (1) For sub-section (1) of section 173 of the said Code, the following sub-section shall be substituted, namely :—

"(1) Every investigation under this Chapter shall be completed without unnecessary delay, and, as soon as it is completed, the officer in charge of the police-station shall—

(a) forward to a Magistrate empowered to take cognizance of the offence on a police-report a report, in the form prescribed by the Local Government, setting forth the names of the parties, the nature of the information and the names of the persons who appear to be acquainted with the circumstances of the case, and stating whether the accused (if arrested) has been forwarded in custody, or has been released on his bond, and, if so, whether with or without sureties, and

(b) communicate, in such manner as may be prescribed by the Local Government, the action taken by him to the person, if any, by whom the information relating to the commission of the offence was first given."

(2) After sub-section (3) of the same section the following sub-section shall be inserted, namely :—

"(4) A copy of any report forwarded under this section shall, on application, be furnished to the accused before the commencement of the inquiry or trial :

Provided that the same shall be paid for unless the Magistrate for some special reason thinks fit to furnish it free of cost."

Amendment
of section
174, Code of

41. In sub-section (5) of section 174 of the said Code, for the words "or Sub-divisional Magistrate,"

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Magistrate," the words " Sub-divisional Magistrate or Magistrate of the first class," shall be substituted.

Criminal Procedure, 1898.

42. For sub-section (3) of section 181 of the said Code the following sub-section shall be substituted, namely :—

Amendment of section 181, Code of Criminal Procedure, 1898.

" (3) The offence of theft, or any offence which includes theft or the possession of stolen property, may be inquired into or tried by a Court within the local limits of whose jurisdiction such offence was committed or the property stolen was possessed by the thief or by any person who received or retained the same knowing or having reason to believe it to be stolen."

Theft.

43. For section 185 of the said Code the following section shall be substituted, namely :—

Substitution of new section for section 185, Code of Criminal Procedure, 1898.

" 185. (1) Whenever a question arises as to which of two or more Courts subordinate to the same High Court ought to inquire into or try any offence, it shall be decided by that High Court.

High Court to decide, in case of doubt, district where inquiry or trial shall take place.

(2) Where two or more Courts not subordinate to the same High Court have taken cognizance of the same offence, the High Court, within the local limits of whose appellate criminal jurisdiction the proceedings were first commenced, may direct the trial of such offender to be held in any Court subordinate to it, and if it so decides, all other proceedings against such person in respect of such offence shall be discontinued. If such High Court, upon the matter having been brought to its notice, does not so decide, any other High Court, within the local limits of whose appellate criminal jurisdiction such proceedings are pending, may give a like direction, and upon its so doing all other such proceedings shall be discontinued."

44. In the first proviso to section 188 of the said Code, after the words " Provided that " the words " notwithstanding anything in any of the preceding sections of this Chapter " shall be inserted.

Amendment of section 188, Code of Criminal Procedure, 1898.

45. For

Code of Criminal Procedure [ACT XVIII
(Amendment)].

Amendment
of section
190, Code of
Criminal
Procedure,
1898.

45. For clause (b) of sub-section (1) of section 190 of the said Code the following clause shall be substituted, namely:—

“(b) upon a report in writing of such facts made by any police-officer;”

Amendment
of section
193, Code of
Criminal
Procedure,
1898.

46. In sub-section (2) of section 193 of the said Code, the words “in the case of Assistant Sessions Judges” shall be omitted.

Amendment
of section
195, Code of
Criminal
Procedure,
1898.

47. (1) For sub-section (1) of section 195 of the said Code the following sub-section shall be substituted, namely:—

“(1) No Court shall take cognizance—

Prosecution
for contempt
of lawful
authority of
public
servants.

(a) of any offence punishable under sections 172 to 188 of the Indian Penal Code, except on the complaint in writing of the public servant concerned, or of some other public servant to whom he is subordinate; XLV of 1860.

Prosecution
for certain
offences
against public
justice.

(b) of any offence punishable under any of the following sections of the same Code, namely, sections 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211 and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, except on the complaint in writing of such Court or of some other Court to which such Court is subordinate; or

Prosecution
for certain
offences
relating to
documents
give in
evidence.

(c) of any offence described in section 463 or punishable under section 471, section 475 or section 476 of the same Code, when such offence is alleged to have been committed by a party to any proceeding in any Court in respect of a document produced or given in evidence in such proceeding, except on the complaint in writing of such Court, or of some other Court to which such Court is subordinate.”

(2) In sub-section (2) of the same section, for the word “means” the word “includes” shall be substituted.

(3) Sub-sections (4), (5) and (6) of the same section shall be omitted.

(4) Sub-sections

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(4) Sub-sections (7) and (3) of the same section shall be re-numbered (3) and (4), respectively, and for sub-section (3), as re-numbered, the following sub-section shall be substituted, namely :—

“(3) For the purposes of this section, a Court shall be deemed to be subordinate to the Court to which appeals ordinarily lie from the appealable decrees or sentences of such former Court, or in the case of a Civil Court from whose decrees no appeal ordinarily lies, to the principal Court having ordinary original civil jurisdiction within the local limits of whose jurisdiction such Civil Court is situate :

Provided that—

(a) where appeals lie to more than one Court, the Appellate Court of inferior jurisdiction shall be the Court to which such Court shall be deemed to be subordinate; and

(b) where appeals lie to a Civil and also to a Revenue Court, such Court shall be deemed to be subordinate to the Civil or Revenue Court according to the nature of the case or proceeding in connection with which the offence is alleged to have been committed.”

(5) After sub-section (4) of the same section, as re-numbered, the following sub-section shall be inserted, namely :—

“(5) Where a complaint has been made under sub-section (1), clause (a), by a public servant, any authority to which such public servant is subordinate may order the withdrawal of the complaint and, if it does so, it shall forward a copy of such order to the Court and, upon receipt thereof by the Court, no further proceedings shall be taken on the complaint.”

48. In the proviso to section 196A of the said Code, for the figure and brackets “(3)” the figure and brackets “(4)” shall be substituted.

Amendment of section 196A, Code of Criminal Procedure, 1898.

49. After section 196A of the said Code the following section shall be inserted, namely :—

Insertion of new section 196B in the Code of Criminal Procedure, 1898.

“ 196B.

Code of Criminal Procedure [ACT XVIII
(Amendment)].

Preliminary
inquiry in
certain cases.

“ 196B. In the case of any offence in respect of which the provisions of section 196 or section 196A apply, a District Magistrate or Chief Presidency Magistrate may, notwithstanding anything contained in those sections or in any other part of this Code, order a preliminary investigation by a police-officer not being below the rank of Inspector, in which case such police-officer shall have the powers referred to in section 155, sub-section (3).”

Amendment
of section
197, Code of
Criminal
Procedure,
1898.

50. In section 197 of the said Code,—
(i) for sub-section (1) the following sub-section shall be substituted, namely :—

“(1) When any person who is a Judge within the meaning of section 19 of the Indian Penal Code, or when any Magistrate, or when any public servant who is not removable from his office save by or with the sanction of a Local Government or some higher authority, is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction of the Local Government;” and

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(ii) in sub-section (2), after the word “ Judge ” the word “ Magistrate ” shall be inserted.

Amendment
of section
198, Code of
Criminal
Procedure,
1898.

51. To section 198 of the said Code the following proviso shall be added, namely :—

“ Provided that, where the person so aggrieved is a woman who, according to the customs and manners of the country, ought not to be compelled to appear in public, or where such person is under the age of eighteen years or is an idiot or lunatic, or is from sickness or infirmity unable to make a complaint, some other person may, with the leave of the Court, make a complaint on his or her behalf.”

Amendment
of section
199, Code of
Criminal
Procedure,
1898.

52. In section 199 of the said Code, after the word “ absence ” the words “ made with the leave of the Court ” shall be inserted, and to the same section the following proviso shall be added, namely :—

“ Provided that, where such husband is under the age of eighteen years, or is an idiot or lunatic,

or

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or is from sickness or infirmity unable to make a complaint, some other person may, with the leave of the Court, make a complaint on his behalf.”

53. In Chapter XV of the said Code, after section 199 the following section shall be inserted, namely :—

Insertion of new section 199A in the Code of Criminal Procedure, 1898.

“ 199A. When in any case falling under section 198 or section 199, the person on whose behalf the complaint is sought to be made is under the age of eighteen years or is a lunatic, and the person applying for leave has not been appointed or declared by competent authority to be the guardian of the person of the said minor or lunatic, and the Court is satisfied that there is a guardian so appointed or declared, notice shall be given to such guardian, and the Court shall, before granting the application, give him a reasonable opportunity of objecting to the granting thereof.”

Objection by lawful guardian to complaint by person other than person aggrieved.

54. In section 200 of the said Code, the words and figures “ Subject to the provisions of section 476 ” shall be omitted, and after proviso (a) the following proviso shall be inserted, namely :—

Amendment of section 200, Code of Criminal Procedure, 1898.

“ (aa) when the complaint is made in writing, nothing herein contained shall be deemed to require the examination of a complainant in any case in which the complaint has been made by a Court or by a public servant acting or purporting to act in the discharge of his official duties.”

55. In section 202 of the said Code,—

Amendment of section 202, Code of Criminal Procedure, 1898.

(i) for sub-sections (1) and (2) the following sub-sections shall be substituted, namely :—

“ (1) Any Magistrate, on receipt of a complaint of an offence of which he is authorised to take cognizance, or which has been transferred to him under section 192, may, if he thinks fit, for reasons to be recorded in writing, postpone the issue of process for compelling the attendance of the person complained against, and either inquire into the case himself or, if he is a Magistrate other than a Magistrate of the third class, direct an inquiry or investigation to be made

Postponement for issue of process.

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(Amendment).

made by any Magistrate subordinate to him, or by a police-officer, or by such other person as he thinks fit, for the purpose of ascertaining the truth or falsehood of the complaint :

Provided that no such direction shall be made—

(a) unless the complainant has been examined on oath under the provisions of section 200, or

(b) where the complaint has been made by a Court under the provisions of this Code.

(2) If any inquiry or investigation under this section is made by a person not being a Magistrate or a police-officer, such person shall exercise all the powers conferred by this Code on an officer in charge of a police-station, except that he shall not have power to arrest without warrant ”; and

(ii) after sub-section (2) the following sub-section shall be added, namely :—

“ (2A) Any Magistrate inquiring into a case under this section may, if he thinks fit, take evidence of witnesses on oath.”

Amendment
of section
203, Code of
Criminal
Procedure,
1898.

56. In section 203 of the said Code, for the words “ after examining the complainant and considering the result of the investigation (if any) made under section 202 ” the words “ after considering the statement on oath (if any) of the complainant and the result of any investigation or inquiry under section 202 ” shall be substituted.

Amendment
of section
206, Code of
Criminal
Procedure,
1898. †

57. In sub-section (1) of section 206 of the said Code, after the words “ or any Magistrate ” the words and brackets “ (not being a Magistrate of the third class) ” shall be inserted.

Amendment
of section
210, Code of
Criminal
Procedure,
1898.

58. In sub-section (2) of section 210 of the said Code, for the words “ the charge ” the words “ such charge ” shall be substituted.

Amendment
of section
215, Code of
Criminal
Procedure,
1898.

59. In section 215 of the said Code, the words and figures “ or by a Court of Session under section 477 ” shall be omitted.

60. (1) In

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(Amendment).

60. (1) In sub-section (1) of section 219 of the said Code, for the words "The Magistrate" the words "The committing Magistrate or, in the absence of such Magistrate, any other Magistrate empowered by or under section 206" shall be substituted.

Amendment
of section
219, Code of
Criminal
Procedure,
1898.

(2) In sub-section (2) of the same section, for the words "if the accused so require, be given to him free of cost" the words "be given to the accused free of cost" shall be substituted.

61. In sub-section (7) of section 221 of the said Code,—

Amendment
of section
221 Code of
Criminal
Procedure,
1898.

(i) for the words "has been previously convicted of any offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court is competent to award," the following shall be substituted, namely :—

"having been previously convicted of any offence, is liable, by reason of such previous conviction, to enhanced punishment, or to punishment of a different kind, for a subsequent offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court may think fit to award for the subsequent offence," and

(ii) for the words "is omitted" the words "has been omitted" shall be substituted.

62. In section 234 of the said Code,—

Amendment
of section
234, Code of
Criminal
Procedure,
1898.

(i) in sub-section (1), after the words "such offences" the words "whether in respect of the same person or not" shall be inserted; and

(ii) to sub-section (2) the following proviso shall be added, namely :—

XLV of 1860. "Provided that, for the purpose of this section, an offence punishable under section 379 of the Indian Penal Code shall be deemed to be an offence of the same kind as an offence punishable under section 380 of the said Code, and that an offence punishable under any section of the Indian Penal Code, or of any special or local law, shall be deemed to be an offence

XLV of 1860.

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(Amendment).

of the same kind as an attempt to commit such offence, when such an attempt is an offence.”

Amendment of section 237, Code of Criminal Procedure, 1898.

63. Sub-section (2) of section 237 of the said Code shall be omitted:

Amendment of section 238, Code of Criminal Procedure, 1898.

64. After sub-section (2) of section 238 of the said Code the following sub-section shall be inserted, namely:—

“(2A) When a person is charged with an offence, he may be convicted of an attempt to commit such offence although the attempt is not separately charged.”

Substitution of new section for section 239, Code of Criminal Procedure, 1898.

65. For section 239 of the said Code the following section shall be substituted, namely:—

What persons may be charged jointly.

“239. The following persons may be charged and tried together, namely:—

- (a) persons accused of the same offence committed in the course of the same transaction;
- (b) persons accused of an offence and persons accused of abetment, or of an attempt to commit such offence;
- (c) persons accused of more than one offence of the same kind within the meaning of section 234 committed by them jointly within the period of twelve months;
- (d) persons accused of different offences committed in the course of the same transaction;
- (e) persons accused of an offence which includes theft, extortion, or criminal misappropriation, and persons accused of receiving or retaining, or assisting in the disposal or concealment of, property possession of which is alleged to have been transferred by any such offence committed

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(*Amendment*).

committed by the first-named persons,
or of abetment of or attempting to com-
mit any such last-named offence;

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(f) persons accused of offences under sections
411 and 414 of the Indian Penal
Code or either of those sections in
respect of stolen property the possession
of which has been transferred by one
offence; and

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(g) persons accused of any offence under
Chapter XII of the Indian Penal Code
relating to counterfeit coin, and per-
sons accused of any other offence under
the said Chapter relating to the same
coin, or of abetment of or attempting to
commit any such offence;

and the provisions contained in the former part of
this Chapter shall, so far as may be, apply to all
such charges."

66. In section 243 of the said Code, for the
words " shall convict " the words " may convict "
shall be substituted.

Amendment
of section
243, Code of
Criminal
Procedure,
1898.

67. In section 244 of the said Code,—

(i) in sub-section (1), before the words " If
the accused " the words " If the Magistrate
does not convict the accused under the preceding
section or " shall be inserted, and to the same
sub-section the following proviso shall be added,
namely :—

Amendment
of section
244, Code of
Criminal
Procedure,
1898.

" Provided that the Magistrate shall not be
bound to hear any person as complainant in any
case in which the complaint has been made by a
Court "; and

(ii) in sub-section (2), for the words " process
to compel the attendance of any witness or the
production of " the words " a summons to any
witness directing him to attend or to produce "
shall be substituted.

68. For

Code of Criminal Procedure [ACT XVIII
(Amendment)].

Amendment
of section
245, Code of
Criminal
Procedure,
1898.

68. For sub-section (2) of section 245 of the said Code the following shall be substituted, namely:—

“(2) Where the Magistrate does not proceed in accordance with the provisions of section 349 or section 562, he shall, if he finds the accused guilty, pass sentence upon him according to law.”

Amendment
of section
250, Code of
Criminal
Procedure,
1898.

69. In section 250 of the said Code,—

(i) for sub-sections (1) and (2) the following sub-sections shall be substituted, namely:—

False, fri-
volous or
vexatious
accusations.

“(1) If, in any case instituted upon complaint or upon information given to a police-officer or to a Magistrate, one or more persons is or are accused before a Magistrate of any offence triable by a Magistrate, and the Magistrate by whom the case is heard discharges or acquits all or any of the accused, and is of opinion that the accusation against them or any of them was false and either frivolous or vexatious, the Magistrate may, by his order of discharge or acquittal, if the person upon whose complaint or information the accusation was made is present, call upon him forthwith to show cause why he should not pay compensation to such accused or to each or any of such accused when there are more than one, or, if such person is not present, direct the issue of a summons to him to appear and show cause as aforesaid.

(2) The Magistrate shall record and consider any cause which such complainant or informant may show, and if he is satisfied that the accusation was false and either frivolous or vexatious may, for reasons to be recorded, direct that compensation to such amount not exceeding one hundred rupees or, if the Magistrate is a Magistrate of the third class, not exceeding fifty rupees, as he may determine, be paid by such complainant or informant to the accused or to each or any of them.

(2A) The Magistrate may, by the order directing payment of the compensation under sub-section

section

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section (2), further order that, in default of payment, the person ordered to pay such compensation shall suffer simple imprisonment for a period not exceeding thirty days.

(2B) When any person is imprisoned under sub-section (2A), the provisions of sections 68 and CLV of 1860. 69 of the Indian Penal Code shall, so far as may be, apply.

(2C) No person who has been directed to pay compensation under this section shall, by reason of such order, be exempted from any civil or criminal liability in respect of the complaint made or information given by him :

Provided that any amount paid to an accused person under this section shall be taken into account in awarding compensation to such person in any subsequent civil suit relating to the same matter ” ;

(ii) in sub-section (3), for the word and figure “ sub-section (1) ” the word and figure “ sub-section (2) ” shall be substituted, and for the words “ to an accused person ” the following shall be substituted, namely :—

“ or has been so ordered by any other Magistrate to pay compensation exceeding fifty rupees ” ;

(iii) to sub-section (4) after the words “ appeal has been decided ” the following shall be added, namely :—

“ and, where such order is made in a case which is not so subject to appeal, the compensation shall not be paid before the expiration of one month from the date of the order ” ; and

(iv) sub-section (5) shall be omitted.

70. To sub-section (1) of section 252 of the said Code the following proviso shall be added, namely :—

“ Provided that the Magistrate shall not be bound to hear any person as complainant in any case

Amendment
of section
252, Code of
Criminal
Procedure,
1898.

Code of Criminal Procedure [ACT XVIII
(Amendment).

case in which the complaint has been made by a Court.”

Insertion of new section 255A in the Code of Criminal Procedure, 1898.

71. After section 255 of the said Code the following section shall be inserted, namely :—

Procedure in case of previous convictions.

“ 255A. In a case where a previous conviction is charged under the provisions of section 221, sub-section (7), and the accused does not admit that he has been previously convicted as alleged in the charge, the Magistrate may, after he has convicted the said accused under section 255, sub-section (2), or section 258, take evidence in respect of the alleged previous conviction, and shall record a finding thereon.”

Amendment of section 256, Code of Criminal Procedure, 1898.

72. In sub-section (1) of section 256 of the said Code, after the words “ to state ” the words “ at the commencement of the next hearing of the case or, if the Magistrate for reasons to be recorded in writing so thinks fit, forthwith ” shall be inserted.

Amendment of section 258, Code of Criminal Procedure, 1898.

73. For sub-section (2) of section 258 of the said Code the following sub-section shall be substituted, namely :—

“(2) Where in any case under this Chapter the Magistrate does not proceed in accordance with the provisions of section 349 or section 562, he shall, if he finds the accused guilty, pass sentence upon him according to law.”

Amendment of section 259, Code of Criminal Procedure, 1898.

74. In section 259 of the said Code, after the words “ and the offence may be lawfully compounded ” the words “ or is not a cognizable offence ” shall be inserted.

Amendment of section 261, Code of Criminal Procedure, 1898.

75. In section 261 of the said Code,—

(i) in clause (a), for the word and figures “ and 447,” the figures and word “ 447 and 504 ” shall be substituted; and

(ii) to clause (b), after the words “ one month,” the words “ with or without fine ” shall be added.

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76. To section 266 of the said Code, after the words "for the purposes of this Chapter," the words "and of Chapter XVIII" shall be added.

Amendment of section 266, Code of Criminal Procedure, 1898.

77. In the third proviso to section 276 of the said Code, for the words "in the presidency-towns" the words "in a trial before any High Court in the town which is the usual place of sitting of such High Court" shall be substituted.

Amendment of section 276, Code of Criminal Procedure, 1898.

78. In section 288 of the said Code,—

Amendment of section 288, Code of Criminal Procedure, 1898.

(i) for the words "duly taken in the presence of the accused before the committing Magistrate" the words "duly recorded in the presence of the accused under Chapter XVIII" shall be substituted; and

(ii) after the words "as evidence in the case," the words "for all purposes subject to the provisions of the Indian Evidence Act, 1872," shall be added.

1 of 1872.

79. For section 292 of the said Code the following section shall be substituted, namely:—

Substitution of new section for section 292, Code of Criminal Procedure, 1898.

"292. The prosecutor shall be entitled to reply—

Prosecutor's right of reply.

(a) if the accused or any of the accused adduces any oral evidence; or

(b) with the permission of the Court, on a point of law; or

(c) with the permission of the Court, when any document which does not need to be proved is produced by any accused person after he enters on his defence:

Provided that, in the case referred to in clause (c), the reply shall, unless the Court otherwise permits, be restricted to comment on the document so produced."

80. In sub-section (2) of section 306 of the said Code, after the word "shall" where it occurs for the second time, the words "unless he proceeds in accordance

Amendment of section 306, Code of Criminal Procedure, 1898.

Code of Criminal Procedure [ACT XVIII
(Amendment)].

Procedure, 1898. accordance with the provisions of section 562 " shall be inserted.

Amendment of section 307, Code of Criminal Procedure, 1898.

81. In section 307 of the said Code,—

(1) in sub-section (1)—

(i) for the words " the accused " the words " any accused person " shall be substituted;

(ii) after the words " to submit the case " the words " in respect of such accused person " shall be inserted; and

(iii) after the words " considers to have been committed," the following shall be added, namely:—

" and in such case, if the accused is further charged under the provisions of section 310, shall proceed to try him on such charge as if such verdict had been one of conviction "; and

(2) in sub-sections (2) and (3), for the words " the accused " wherever they occur, the words " such accused " shall be substituted.

Amendment of section 309, Code of Criminal Procedure, 1898.

82. In section 309 of the said Code,—

(i) in sub-section (1), after the word " orally " the following shall be inserted, namely:—

" on all the charges on which the accused has been tried," and after the words " such opinion " the following shall be inserted, namely:—

" and for that purpose may ask the assessors such questions as are necessary to ascertain what their opinions are. All such questions and the answers to them shall be recorded "; and

(ii) in sub-section (3), after the word " shall " the words " unless he proceeds in accordance with the provisions of section 562 " shall be inserted.

Substitution of new section for section 310, Code of Criminal Procedure, 1898. Procedure in case of previous conviction.

83. For section 310 of the said Code the following section shall be substituted, namely:—

" 310. In the case of a trial by a jury or with the aid of assessors when the accused is charged with an

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an offence and further charged that he is by reason of a previous conviction liable to enhanced punishment or to punishment of a different kind for such subsequent offence, the procedure prescribed by the foregoing provisions of this Chapter shall be modified as follows, namely :—

- (a) Such further charge shall not be read out in Court and the accused shall not be asked to plead thereto, nor shall the same be referred to by the prosecution, or any evidence adduced thereon unless and until,
 - (i) he has been convicted of the subsequent offence, or
 - (ii) the jury have delivered their verdict, or the opinions of the assessors have been recorded, on the charge of the subsequent offence.
- (b) In the case of a trial held with the aid of assessors, the Court may, in its discretion, proceed or refrain from proceeding with the trial of the accused on the charge of the previous conviction."

84. In sub-section (1) of section 315 of the said Code, for the words "in each presidency-town" the words "in the town which is the usual place of sitting of each High Court" shall be substituted, and for the words "at least twenty-seven of those who are liable to serve on special juries, and fifty-four of those who are liable to serve on common juries," the words "as many of those who are liable to serve on special or common juries respectively as the Clerk of the Crown considers necessary" shall be substituted.

Amendment
of section
315, Code of
Criminal
Procedure,
1898.

85. In section 316 of the said Code, for the words "presidency-towns" the words "town which is the usual place of sitting of such High Court" shall be substituted.

Amendment
of section
316, Code of
Criminal
Procedure,
1898.

86. In

Code of Criminal Procedure [ACT XVIII
(Amendment)].

Amendment
of section
337, Code of
Criminal
Procedure,
1898.

86. In section 337 of the said Code,—

(i) for sub-section (1) the following sub-sections shall be substituted, namely:—

“(1) In the case of any offence triable exclusively by the High Court or Court of Session, or any offence punishable with imprisonment which may extend to ten years, or any offence punishable under section 211 of the Indian Penal Code with imprisonment which may extend to seven years, or any offence under any of the following sections of the Indian Penal Code, namely, sections 216A, 369, 401, 435 and 477A, the District Magistrate, a Presidency Magistrate, a Sub-divisional Magistrate or any Magistrate of the first class may, at any stage of the investigation or inquiry into, or the trial of the offence, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to the offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof: XLV of 1860.

Provided that, where the offence is under inquiry or trial, no Magistrate of the first class other than the District Magistrate shall exercise the power hereby conferred unless he is the Magistrate making the inquiry or holding the trial, and, where the offence is under investigation, no such Magistrate shall exercise the said power unless he is a Magistrate having jurisdiction in a place where the offence might be inquired into or tried and the sanction of the District Magistrate has been obtained to the exercise thereof. XLV of 1860.

(1A) Every Magistrate who tenders a pardon under sub-section (1) shall record his reasons for so doing, and shall, on application made by the accused, furnish him with a copy of such record:

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Provided that the accused shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost ”;

(ii) in sub-section (2), for the words “ the case ” the words “ the Court of the Magistrate taking cognizance of the offence and in the subsequent trial, if any,” shall be substituted;

(iii) after sub-section (2) the following sub-section shall be inserted, namely:—

“(2A) In every case where a person has accepted a tender of pardon and has been examined under sub-section (2), the Magistrate before whom the proceedings are pending shall, if he is satisfied that there are reasonable grounds for believing that the accused is guilty of an offence, commit him for trial to the Court of Session or High Court, as the case may be ”;

(iv) in sub-section (3), for the words “ if not on bail ” the words “ unless he is already on bail ” shall be substituted, and the words “ by the Court of Session or High Court, as the case may be,” shall be omitted; and

(v) sub-section (4) shall be omitted.

87. (1) In sub-section (1) of section 339 of the said Code, after the words and figures “ section 338, and ” the words “ the Public Prosecutor certifies that in his opinion ” shall be inserted; for the words “ he may be ” the words “ such person may be ” shall be substituted; and to the said sub-section the following proviso shall be added, namely:—

Amendment
of section
339, Code of
Criminal
Procedure,
1898.

“ Provided that such person shall not be tried jointly with any of the other accused, and that he shall be entitled to plead at such trial that he has complied with the conditions upon which such tender was made; in which case it shall be for the prosecution to prove that such conditions have not been complied with.”

(2) In sub-section (2) of the same section, for the words “ when the pardon has been forfeited under this section ” the words “ at such trial ” shall be substituted.

88. After

Code of Criminal Procedure [ACT XVIII
(Amendment)].

Insertion of
new section
339A in the
Code of
Criminal
Procedure,
1898.

88. After section 339 of the said Code the following section shall be inserted, namely :—

Procedure in
trial of person
under section
339.

“ 339A. (1) The Court trying under section 339 a person who has accepted a tender of pardon shall—

(a) if the Court is a High Court or Court of Session, before the charge is read out and explained to the accused under section 271, sub-section (1), and

(b) if the Court is the Court of a Magistrate, before the evidence of the witnesses for the prosecution is taken,

ask the accused whether he pleads that he has complied with the conditions on which the tender of the pardon was made.

(2) If the accused does so plead, the Court shall record the plea and proceed with the trial, and the jury, or the Court with the aid of the assessors, or the Magistrate, as the case may be, shall, before judgment is passed in the case, find whether or not the accused has complied with the conditions of the pardon, and, if it is found that he has so complied, the Court shall, notwithstanding anything contained in this Code, pass judgment of acquittal.”

Substitution
of new sec-
tion for sec-
tion 340, Code
of Criminal
Procedure,
1898.

89. For section 340 of the said Code the following section shall be substituted, namely :—

Right of per-
son against
whom pro-
ceedings are
instituted to
be defended
and his com-
petency to be
a witness.

“ 340. (1) Any person accused of an offence before a Criminal Court, or against whom proceedings are instituted under this Code in any such Court, may of right be defended by a pleader.

(2) Any person against whom proceedings are instituted in any such Court under section 107, or under Chapter X, Chapter XI, Chapter XII or Chapter

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Chapter XXXVI, or under section 552, may offer himself as a witness in such proceedings."

90. In section 345 of the said Code,—

(i) in sub-section (1), for the word "described" the word "specified" shall be substituted, and to the table in that sub-section, after the entry relating to criminal intimidation, the following entry shall be added, namely:—

Amendment of section 345, Code of Criminal Procedure, 1893.

Act caused by making a person believe that he will be an object of divine displeasure	508	The person against whom the offence was committed.
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(ii) for sub-section (2) the following sub-section shall be substituted, namely:—

XLV of 1860. (2) The offences punishable under the sections of the Indian Penal Code specified in the first two columns of the table next following may, with the permission of the Court before which any prosecution for such offence is pending, be compounded by the persons mentioned in the third column of that table:—

Offence.	Sections of the Indian Penal Code applicable.	Persons by whom offence may be compounded.
Voluntarily causing hurt by dangerous weapons or means.	324	The person to whom hurt is caused
Voluntarily causing grievous hurt	325	Ditto.
Voluntarily causing grievous hurt on grave and sudden provocation	335	Ditto.
Causing hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others	337	Ditto
Causing grievous hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others	338	Ditto
Wrongfully confining a person for three days or more	343	The person confined.
Wrongfully confining a person in secret	346	Ditto.
Assault or criminal force in attempting wrongfully to confine a person.	357	The person assaulted or to whom the force was used.
Dishonest misappropriation of property	403	The owner of the property misappropriated
Cheating	417	The person cheated
Cheating a person whose interest the offender was bound, by law or by legal contract, to protect.	418	Ditto
Cheating by personation	419	Ditto.
Cheating and dishonestly inducing delivery of property or the making, alteration or destruction of a valuable security.	420	Ditto.
Mischief by injury to work of irrigation by wrongfully diverting water when the only loss or damage caused is loss or damage to a private person.	430	The person to whom the loss or damage is caused.

House-trespass

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Offence.	Sections of the Indian Penal Code applicable.	Persons by whom offence may be compounded.
House-trespass to commit an offence (other than theft) punishable with imprisonment.	451	The person in possession of the house trespassed upon.
Using a false trade or property mark	482	The person to whom loss or injury is caused by such use.
Counterfeiting a trade or property mark used by another.	483	The person whose trade or property mark is counterfeited.
Knowingly selling, or exposing or possessing for sale or for trade or manufacturing purpose, goods marked with a counterfeit trade or property mark.	486	Ditto.
Marrying again during the lifetime of a husband or wife.	494	The husband or wife of the person so marrying.
Uttering words or sounds or making gestures or exhibiting any object intending to insult the modesty of a woman or intruding upon the privacy of a woman.	509	The woman whom it is intended to insult or whose privacy is intruded upon.

(iii) in sub-section (4), for the words " a minor " the words " under the age of eighteen years or is " shall be substituted, and after the word " may " the words " with the permission of the Court " shall be inserted;

(iv) after sub-section (5) the following sub-section shall be inserted, namely:—

" (5A) A High Court acting in the exercise of its powers of revision under section 439 may allow any person to compound any offence which he is competent to compound under this section "; and

(v) to sub-section (6), after the word " accused " the words " with whom the offence has been compounded " shall be added.

Amendment of section 347, Code of Criminal Procedure, 1898.

91. In sub-section (1) of section 347 of the said Code, the words " stop further proceedings and " shall be omitted.

Amendment of section 348, Code of Criminal Procedure, 1898.

92. (1) Section 348 of the said Code shall be re-numbered 348 (1), and in the said section, as re-numbered; after the word " shall " the words " if the Magistrate before whom the case is pending is satisfied that there are sufficient grounds for committing the accused " shall be inserted, and for the words " before whom the proceedings are pending " the

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the words " is competent to try the case and " shall be substituted.

(2) In the proviso to the same section, as re-numbered, for the words " the District Magistrate " the words " any Magistrate in the district " shall be substituted.

(3) To the same section, as re-numbered, the following sub-section shall be added, namely :—

" (2) When any person is committed to the Court of Session or High Court under sub-section (1), any other person accused jointly with him in the same inquiry or trial shall be similarly committed, unless the Magistrate discharges such other person under section 209."

93. After sub-section (1) of section 349 the following sub-section shall be inserted, namely :—

" (1A) When more accused than one are being tried together, and the Magistrate considers it necessary to proceed under sub-section (1) in regard to any of such accused, he shall forward all the accused who are in his opinion guilty to the District Magistrate or Sub-divisional Magistrate."

94. To sub-section (2) of section 350 of the said Code, after the figures " 346 ", the words " or in which proceedings have been submitted to a superior Magistrate under section 349 " shall be added, and after the same sub-section the following sub-section shall be added, namely :—

" (3) When a case is transferred under the provisions of this Code from one Magistrate to another, the former shall be deemed to cease to exercise jurisdiction therein and to be succeeded by the latter within the meaning of sub-section (1)."

95. After section 350 of the said Code the following section shall be inserted, namely :—

" 350A. No order or judgment of a Bench of Magistrates shall be invalid by reason only of a change

Amendment of section 349, Code of Criminal Procedure, 1898. *f. s. 3*

Amendment of section 350, Code of Criminal Procedure, 1898.

Insertion of new section 350A in the Code of Criminal Procedure, 1898.

Changes in constitution of Benches.

Code of Criminal Procedure [ACT XVIII
(Amendment).

change having occurred in the constitution of the Bench in any case in which the Bench by which such order or judgment is passed is duly constituted under sections 15 and 16, and the Magistrates constituting the same have been present on the Bench throughout the proceedings.

Amendment
of section
356, Code of
Criminal
Procedure,
1898.

96. In section 356 of the said Code, after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) When the evidence of such witness is given in any other language, not being English, than the language of the Court, the Magistrate or Sessions Judge may take it down in that language with his own hand, or cause it to be taken down in that language in his presence and hearing and under his personal direction and superintendence, and an authenticated translation of such evidence in the language of the Court or in English shall form part of the record.”

Amendment
of section
362, Code of
Criminal
Procedure,
1898.

97. In section 362 of the said Code,—

(i) in sub-section (1), for the words “in which a Presidency Magistrate imposes a fine exceeding two hundred rupees, or imprisonment for a term exceeding six months, he” the words “tried by a Presidency Magistrate in which an appeal lies, such Magistrate” shall be substituted;

(ia) after sub-section (2) the following sub-section shall be inserted:—

“(2A) In every case referred to in sub-section (1), the Magistrate shall make a memorandum of the substance of the examination of the accused. Such memorandum shall be signed by the Magistrate with his own hand, and shall form part of the record”;

(ii) to sub-section (3), after the word “sentence” the words “unless they are sentences of imprisonment ordered to run concurrently” shall be added; and

(iii) after

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(iii) after sub-section (3) the following sub-section shall be added, namely :—

“ (4) In cases other than those specified in sub-section (1), it shall not be necessary for a Presidency Magistrate to record the evidence or frame a charge.”

98. In sub-section (4) of section 364 of the said Code, after the figures “ 263 ” the words and figures “ or section 362, sub-section (2A), ” shall be inserted.

Amendment
of section
364, Code of
Criminal
Procedure,
1898.

99. In section 365 of the said Code, for the word “ may ” the word “ shall ” shall be substituted, and for the words “ and the Judges of such Court shall take down the evidence or the substance thereof in accordance with the rule (if any) so prescribed ” the words “ and the evidence shall be taken down in accordance with such rule ” shall be substituted.

Amendment
of section
365, Code of
Criminal
Procedure,
1898.

100. In section 367 of the said Code,—

Amendment
of section
367, Code of
Criminal
Procedure,
1898.

(i) in sub-section (1), after the words “ presiding officer of the Court ” the words “ or from the dictation of such presiding officer ” shall be inserted;

(ii) to the same sub-section the following words shall be added, namely :—

“ and where it is not written by the presiding officer with his own hand, every page of such judgment shall be signed by him ”; and

(iii) after sub-section (5) the following sub-section shall be added, namely :—

“ (6) For the purposes of this section, an order under section 118 or section 123, sub-section (3), shall be deemed to be a judgment.”

101. In section 369 of the said Code, for the words “ No Court other than a High Court ” the words “ Save as otherwise provided by this Code or by any other law for the time being in force or, in the case of a High Court established by Royal Charter, by the Letters Patent of such High Court, no Court ” shall be substituted; and the words

Amendment
of section
369, Code of
Criminal
Procedure,
1898.

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words and figures “ as provided in sections 395 and 484 or ” shall be omitted.

Substitution
of new
section for
section 386,
Code of
Criminal
Procedure,
1898.
Warrant for
levy of fine.

102. For section 386 of the said Code the following section shall be substituted, namely :—

“ 386. (1) Whenever an offender has been sentenced to pay a fine, the Court passing the sentence may take action for the recovery of the fine in either or both of the following ways, that is to say, it may—

(a) issue a warrant for the levy of the amount by attachment and sale of any moveable property belonging to the offender;

(b) issue a warrant to the Collector of the District authorising him to realise the amount by execution according to civil process against the moveable or immoveable property, or both, of the defaulter :

Provided that, if the sentence directs that in default of payment of the fine the offender shall be imprisoned, and if such offender has undergone the whole of such imprisonment in default, no Court shall issue such warrant unless for special reasons to be recorded in writing it considers it necessary to do so.

(2) The Local Government may make rules regulating the manner in which warrants under sub-section (1), clause (a), are to be executed, and for the summary determination of any claims made by any person other than the offender in respect of any property attached in execution of such warrant.

(3) Where the Courts issue a warrant to the Collector under sub-section (1), clause (b), such warrant shall be deemed to be a decree, and the Collector to be the decree-holder, within the meaning of the Code of Civil Procedure, 1908, and the nearest Civil Court by which any decree for a like amount could be executed shall, for the purposes of the said Code, be deemed to be the Court which passed

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passed the decree, and all the provisions of that Code as to execution of decrees shall apply accordingly :

Provided that no such warrant shall be executed by the arrest or detention in prison of the offender."

103. In section 387 of the said Code, for the words "Such warrant" the words "A warrant issued under section 386, sub-section (1), clause (a), by any Court" shall be substituted, and for the word "distress" the word "attachment" shall be substituted. Amendment of section 387, Code of Criminal Procedure, 1898.

104. In sub-section (1) of section 388 of the said Code,— Amendment of section 388, Code of Criminal Procedure, 1898.

(i) for the words "and the Court issues a warrant under section 386, it" the words "the Court" shall be substituted; and

(ii) for the words "on the day appointed for the return to such warrant, such day not being" the words "on a date not" shall be substituted.

105. In section 395 of the said Code,—

(i) in sub-section (1), after the words "twelve months" the words "or to a fine not exceeding five hundred rupees" shall be inserted; and Amendment of section 395, Code of Criminal Procedure, 1898.

(ii) in sub-section (2), after the words "for a term" the words "or a fine of an amount" shall be inserted.

106. In section 397 of the said Code,—

(i) after the words "to which he has been previously sentenced" the words "unless the Court directs that the subsequent sentence shall run concurrently with such previous sentence" shall be inserted; and Amendment of section 397, Code of Criminal Procedure, 1898.

(ii) after the proviso the following further proviso shall be added, namely :—

"Provided, further, that where a person who has been sentenced to imprisonment by an order under section 123 in default of furnishing security is, whilst undergoing such sentence, sentenced to imprisonment for an offence committed prior to the making of such order, the latter sentence shall commence immediately."

107. In

Code of Criminal Procedure [ACT XVIII
(Amendment).

Amendment
of section
401, Code of
Criminal
Procedure,
1898.

107. In section 401 of the said Code,—
(i) to sub-section (2), after the words “together with his reasons for such opinion” the following words shall be added, namely:—

“and also to forward with the statement of such opinion a certified copy of the record of the trial or of such record thereof as exists”;

(ii) after sub-section (4) the following sub-section shall be inserted, namely:—

“(4A) The provisions of the above sub-sections shall also apply to any order passed by a Criminal Court under any section of this Code or of any other law, which restricts the liberty of any person or imposes any liability upon him or his property”;

(iii) in sub-section (5), for the words “Her Majesty” the words “His Majesty or of the Governor General when such right is delegated to him” shall be substituted; and

(iv) after sub-section (5) the following sub-section shall be inserted, namely:—

“(5A) Where a conditional pardon is granted by His Majesty or, in virtue of any powers delegated to him, by the Governor General, any condition thereby imposed, of whatever nature, shall be deemed to have been imposed by a sentence of a competent Court under this Code and shall be enforceable accordingly”.

Amendment
of section
402, Code of
Criminal
Procedure,
1898.

108. Section 402 of the said Code shall be re-numbered section 402 (1), and, to the said section, as re-numbered, the following sub-section shall be added, namely:—

“(2) Nothing in this section shall affect the provisions of section 54 or section 55 of the Indian Penal Code.”

Substitution
of new section
for section
406, Code of
Criminal
Procedure,
1898.

109. For section 406 of the said Code the following section shall be substituted, namely:—

Appeal from
order
requiring
security for

“406: Any person who has been ordered under section 118 to give security for keeping the peace

or

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or for good behaviour may appeal against such order—

keeping the
peace or for
good
behaviour.

- (a) if made by a Presidency Magistrate, to the High Court;
- (b) if made by any other Magistrate, to the Court of Session :

Provided that the Local Government may, by notification in the local official Gazette, direct that in any district specified in the notification appeals from such orders made by a Magistrate other than the District Magistrate or a Presidency Magistrate shall lie to the District Magistrate and not to the Court of Session :

Provided, further, that nothing in this section shall apply to persons the proceedings against whom are laid before a Sessions Judge in accordance with the provisions of sub-section (2) or sub-section (3A) of section 123."

110. After section 406 of the said Code the following section shall be inserted, namely :—

Insertion of
new section
406A in the
Code of
Criminal
Procedure,
1898.

" 406A. Any person aggrieved by an order refusing to accept or rejecting a surety under section 122 may appeal against such order,—

Appeal from
order refusing
to accept or
rejecting a
surety.

- (a) if made by a Presidency Magistrate, to the High Court;
- (b) if made by the District Magistrate, to the Court of Session; or
- (c) if made by a Magistrate other than the District Magistrate, to the District Magistrate."

111. In sub-section (1) of section 407 of the said Code, after the figures " 349," the words and figures " or in respect of whom an order has been made or a sentence has been passed under section 380 " shall be inserted.

Amendment
of section
407, Code of
Criminal
Procedure,
1898.

112. In

Code of Criminal Procedure [ACT XVIII
(Amendment).

Amendment
of section
408, Code of
Criminal
Procedure,
1898.

112. In section 408 of the said Code,—

(i) after the figures “349” the words and figures “or in respect of whom an order has been made or a sentence has been passed under section 380” shall be inserted; and

(ii) in clause (b) of the proviso, after the word “appeal” the following words shall be inserted, namely:—

“of all or any of the accused convicted at such trial.”

Amendment
of section
409, Code of
Criminal
Procedure,
1898.

113. To section 409 of the said Code the following proviso shall be added, namely:—

“Provided that an Additional Sessions Judge shall hear only such appeals as the Local Government may, by general or special order, direct or as the Sessions Judge of the division may make over to him.”

Insertion of
new section
415A in the
Code of
Criminal
Procedure,
1898.

114. After section 415 of the said Code the following section shall be inserted, namely:—

Special right
of appeal in
certain cases.

“415A. Notwithstanding anything contained in this Chapter, when more persons than one are convicted in one trial, and an appealable judgment or order has been passed in respect of any of such persons, all or any of the persons convicted at such trial shall have a right of appeal.”

Amendment
of section
418, Code of
Criminal
Procedure,
1898.

115. Section 418 of the said Code shall be re-numbered section 418 (1), and, to the said section as re-numbered, the following sub-section shall be added, namely:—

“(2) Notwithstanding anything contained in sub-section (1) or in section 423, sub-section (2), when, in the case of a trial by jury, any person is sentenced to death, any other person convicted in the same trial with the person so sentenced may appeal on a matter of fact as well as a matter of law.”

116. In

OF 1923.] *Code of Criminal Procedure*
(Amendment).

116. In section 435 of the said Code,—

(i) to sub-section (1), after the words “ proceedings of such inferior Court,” the following words shall be added, namely:—

Amendment
of section
435, Code of
Criminal
Procedure,
1898.

“ and may, when calling for such record, direct that the execution of any sentence be suspended and, if the accused is in confinement, that he be released on bail or on his own bond pending the examination of the record ”;

(ii) after the same sub-section the following *Explanation* shall be added, namely:—

“ *Explanation.*—All Magistrates, whether exercising original or appellate jurisdiction, shall be deemed to be inferior to the Sessions Judge for the purposes of this sub-section and of section 437;”
and

(iii) sub-section (3) shall be omitted.

117. Sections 436 and 437 of the said Code shall be re-numbered 437 and 436, respectively, and, in the latter section, as re-numbered,—

Transposition
of sections
436 and 437
and amend-
ment of sec-
tion 437, Code
of Criminal
Procedure,
1898.

(a) for the words “ accused person ” the words “ person accused of an offence ” shall be substituted; and

(b) after the word “ discharged ” the following proviso shall be added, namely:—

“ Provided that no Court shall make any direction under this section for inquiry into the case of any person who has been discharged unless such person has had an opportunity of shewing cause why such direction should not be made.”

118. In sub-section (2) of section 438 of the said Code, for the words “ by the Sessions Judge ” the words “ by or under any general or special order of the Sessions Judge ” shall be substituted.

Amendment
of section
438, Code of
Criminal
Procedure,
1898.

119. In sub-section (1) of section 439 of the said Code, the figures “ 195 ” shall be omitted, and after sub-section (5) of the same section the following sub-section shall be added, namely:—

Amendment
of section
439, Code of
Criminal
Procedure,
1898.

“ (6) Notwithstanding anything contained in this section, any convicted person to whom

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(Amendment).

whom an opportunity has been given under sub-section (2) of showing cause why his sentence should not be enhanced shall, in showing cause, be entitled also to show cause against his conviction."

Amendment
of section
464, Code of
Criminal
Procedure,
1898.

120. In section 464 of the said Code,—

(i) after sub-section (1) the following sub-section shall be inserted, namely:—

“(1A) Pending such examination and inquiry, the Magistrate may deal with the accused in accordance with the provisions of section 466”; and

(ii) in sub-section (2), after the word “he” the words “shall record a finding to that effect and” shall be inserted.

Amendment
of section
465, Code of
Criminal
Procedure,
1898.

121. In sub-section (1) of section 465 of the said Code, for the words “and, if satisfied of the fact, shall pass judgment accordingly, and thereupon the trial shall be postponed.” the following words shall be substituted, namely:—

“and if the jury or Court, as the case may be, is satisfied of the fact, the Judge shall record a finding to that effect, and shall postpone further proceedings in the case and the jury, if any, shall be discharged.”

Amendment
of section
466, Code of
Criminal
Procedure,
1898.

122. In section 466 of the said Code,—

(i) in sub-section (1), for the words “if the case is one in which bail may be taken,” the words “whether the case is one in which bail may be taken or not” shall be substituted; and

(ii) for sub-section (2) the following sub-section shall be substituted, namely:—

Custody of
lunatic.

“(2) If the case is one in which, in the opinion of the Magistrate or Court, bail should not be taken, or if sufficient security is not given, the Magistrate or Court, as the case may be, shall order the accused to be detained in safe custody in such place and manner as he or it may think fit, and shall report the action taken to the Local Government:

Provided

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(*Amendment*).

IV of 1912. Provided that no order for the detention of the accused in a lunatic asylum shall be made otherwise than in accordance with such rules as the Local Government may have made under the Indian Lunacy Act, 1912."

123. In sub-section (2) of section 468 of the said Code, the word "person" shall be omitted, and the following words shall be added after the words "as the case may be," namely:—

Amendment of section 468, Code of Criminal Procedure, 1898.

"and if the accused is found to be of unsound mind and incapable of making his defence, shall deal with such accused in accordance with the provisions of section 466."

124. (1) In sub-section (1) of section 471 of the said Code,—

Amendment of section 471, Code of Criminal Procedure, 1898.

(i) for the words "such judgment" the words "the finding" shall be substituted;

(ii) for the word "kept" the word "detained" shall be substituted; and

(iii) after the words "Court thinks fit," the words "and shall report the action taken to the Local Government" shall be inserted.

(2) After sub-section (1) of the same section the following proviso shall be inserted, namely:—

IV of 1912. "Provided that no order for the detention of the accused in a lunatic asylum shall be made otherwise than in accordance with such rules as the Local Government may have made under the Indian Lunacy Act, 1912."

(3) Sub-section (4) of the same section shall be re-numbered (2).

125. In section 473 of the said Code, for the word "confined" the word "detained" shall be substituted, and for the words "such Inspector-General or visitors" the words "in the case of a person detained in a jail, the Inspector-General of Prisons, or, in the case of a person detained in a lunatic asylum, the visitors of such asylum, or any two of them" shall be substituted.

Amendment of section 473, Code of Criminal Procedure, 1898.

126. In

Code of Criminal Procedure, [ACT XVIII
(Amendment)].

Amendment
of section
474, Code of
Criminal
Procedure,
1898.

126. In section 474 of the said Code, for the word "confined" the word "detained" shall be substituted, and for the words "discharged" (wherever it occurs) and "discharge" the words "released" and "release", respectively, shall be substituted.

Substitution
of new sec-
tion for sec-
tion 475,
Code of
Criminal
Procedure,
1898.

127. For section 475 of the said Code the following section shall be substituted, namely:—

Delivery of
lunatic to
care of rela-
tive or
friend.

" 475. (1) Whenever any relative or friend of any person detained under the provisions of section 466 or section 471 desires that he shall be delivered to his care and custody, the Local Government may, upon the application of such relative or friend and on his giving security to the satisfaction of such Local Government that the person delivered shall—

- (a) be properly taken care of and prevented from doing injury to himself or to any other person, and
- (b) be produced for the inspection of such officer, and at such times and places, as the Local Government may direct, and
- (c) in the case of a person detained under section 466, be produced when required before such Magistrate or Court,

order such person to be delivered to such relative or friend.

(2) If the person so delivered is accused of any offence the trial of which has been postponed by reason of his being of unsound mind and incapable of making his defence, and the inspecting officer referred to in sub-section (1), clause (b), certifies at any time to the Magistrate or Court that such person is capable of making his defence, such Magistrate or Court shall call upon the relative or friend to whom such accused was delivered to produce him before the Magistrate or Court; and, upon such production

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production, the Magistrate or Court shall proceed in accordance with the provisions of section 468, and the certificate of the inspecting officer shall be receivable as evidence."

128. For section 476 of the said Code the following sections shall be substituted, namely :—

Substitution
of new sec-
tions for sec-
tion 476, Code
of Criminal
Procedure,
1898.

" 476. (1) When any Civil, Revenue or Criminal Court is, whether on application made to it in this behalf or otherwise, of opinion that it is expedient in the interests of justice that an inquiry should be made into any offence referred to in section 195, sub-section (1), clause (b) or clause (c), which appears to have been committed in or in relation to a proceeding in that Court, such Court may, after such preliminary inquiry, if any, as it thinks necessary, record a finding to that effect and make a complaint thereof in writing signed by the presiding officer of the Court, and shall forward the same to a Magistrate of the first class having jurisdiction, and may take sufficient security for the appearance of the accused before such Magistrate or if the alleged offence is non-bailable may, if it thinks necessary so to do, send the accused in custody to such Magistrate, and may bind over any person to appear and give evidence before such Magistrate.

Procedure in
cases men-
tioned in
section 195.

For the purposes of this sub-section, a Chief Presidency Magistrate shall be deemed to be a Magistrate of the first class.

(2) Such Magistrate shall thereupon proceed according to law and as if upon complaint made under section 200.

(3) Where it is brought to the notice of such Magistrate, or of any other Magistrate to whom the case may have been transferred, that an appeal is pending against the decision arrived at in the judicial proceeding out of which the matter has arisen, he may, if he thinks fit, at any stage

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(Amendment)].

adjourn the hearing of the case until such appeal is decided.

Superior Court may complain where subordinate Court has omitted to do so.

476A. The power conferred on Civil, Revenue and Criminal Courts by section 476, sub-section (1), may be exercised, in respect of any offence referred to therein and alleged to have been committed in or in relation to any proceeding in any such Court, by the Court to which such former Court is subordinate within the meaning of section 195, sub-section (3), in any case in which such former Court has neither made a complaint under section 476 in respect of such offence nor rejected an application for the making of such complaint; and, where the superior Court makes such complaint, the provisions of section 476 shall apply accordingly.

Appeals.

476B. Any person on whose application any Civil, Revenue or Criminal Court has refused to make a complaint under section 476 or section 476A, or against whom such a complaint has been made, may appeal to the Court to which such former Court is subordinate within the meaning of section 195, sub-section (3), and the superior Court may thereupon, after notice to the parties concerned, direct the withdrawal of the complaint or, as the case may be, itself make the complaint which the subordinate Court might have made under section 476, and, if it makes such complaint, the provisions of that section shall apply accordingly."

Repeal of section 477, Code of Criminal Procedure, 1898.

129. Section 477 of the said Code shall be omitted.

Amendment of section 487, Code of Criminal Procedure, 1898.

130. In section 487 of the said Code, the figures "477" shall be omitted.

Amendment of section 488, Code of Criminal Procedure, 1898.

131. In section 488 of the said Code,—

(i) in sub-section (1), for the word "fifty" the words "one hundred" shall be substituted;

(ii) in sub-section (3), for the words "wilfully neglects" the words "fails without sufficient cause" shall be substituted;

(iii) to

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(Amendment).

(iii) to the same sub-section the following proviso shall be added, namely :—

“Provided, further, that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Court to levy such amount within a period of one year from the date on which it became due”;

(iv) sub-section (7) shall be omitted; and

(v) sub-sections (8) and (9) shall be re-numbered (7) and (8), respectively, and, in the last-named sub-section, for the words “The accused may be proceeded against” the words “Proceedings under this section may be taken against any person” shall be substituted.

132. (1) Section 489 of the said Code shall be re-numbered as sub-section (1) of section 489 and, in that sub-section, as re-numbered, for the word “fifty” the words “one hundred” shall be substituted. Amendment of section 489, Code of Criminal Procedure, 1898.

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

“(2) Where it appears to the Magistrate that, in consequence of any decision of a competent Civil Court, any order made under section 488 should be cancelled or varied, he shall cancel the order or, as the case may be, vary the same accordingly.”

133. (1) In sub-section (2) of section 492 of the said Code, the words “In any case committed for trial to the Court of Session” shall be omitted, and for the words “such case” the words “any case” shall be substituted. Amendment of section 492, Code of Criminal Procedure, 1898.

(2) In the same sub-section, for the words “the rank of Assistant District Superintendent” the words “such rank as the Local Government may prescribe in this behalf” shall be substituted.

134. In section 494 of the said Code,—

(1) the words “appointed by the Governor General in Council or the Local Government” shall be omitted; Amendment of section 494, Code of Criminal Procedure, 1898.

(ii) after

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(ii) after the words "prosecution of any person" the words "either generally or in respect of any one or more of the offences for which he is tried" shall be inserted;

(iii) after the word "discharged" in clause (a), the words "in respect of such offence or offences" shall be inserted; and

(iv) after the word "acquitted" in clause (b), the words "in respect of such offence or offences" shall be added.

Amendment
of section
496, Code of
Criminal
Procedure,
1898.

135. To section 496 of the said Code the following proviso shall be added, namely:—

"Provided, further, that nothing in this section shall be deemed to affect the provisions of section 107, sub-section (4), or section 117, sub-section (3)."

Amendment
of section
497, Code of
Criminal
Procedure,
1898. j

136. In section 497 of the said Code,—

(i) in sub-section (1), for the words "the offence of which he is accused" the words "an offence punishable with death or transportation for life" shall be substituted; and to the same sub-section the following proviso shall be added, namely:—

"Provided that the Court may direct that any person under the age of sixteen years or any woman or any sick or infirm person accused of such an offence be released on bail";

(ii) in sub-section (2), for the words "such offence" the words "a non-bailable offence" shall be substituted;

(iii) after sub-section (2) the following sub-sections shall be inserted, namely:—

"(3) An officer or a Court releasing any person on bail under sub-section (1) or sub-section (2) shall record in writing his or its reasons for so doing.

(4) If, at any time after the conclusion of the trial of a person accused of a non-bailable offence and before judgment is delivered, the Court is of opinion that there are reasonable grounds for believing that the accused is not guilty of any such offence, it shall release the accused, if he is in custody, on the execution by him of a bond without sureties

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sureties for his appearance to hear judgment delivered.”; and

(iv) for sub-section (3) the following sub-section shall be substituted, namely :—

“ (5) A High Court or Court of Session and, in the case of a person released by itself, any other Court may cause any person who has been released under this section to be arrested and may commit him to custody.”

137. (1) In sub-section (1) of section 504 of the said Code, for the words “ the said Presidency Magistrate ” the words “ such Presidency Magistrate ” shall be substituted. Amendment of section 504, Code of Criminal Procedure, 1898.

(2) After the same sub-section the following sub-section shall be inserted, namely :—

“ (1A) When a commission is issued under this section to a Chief Presidency Magistrate, he may delegate his powers and duties under the commission to any Presidency Magistrate subordinate to him.”

138. In sub-section (1) of section 505 of the said Code, after the word “ directed ” the words “ or to whom the duty of executing such commission has been delegated ” shall be inserted. Amendment of section 505, Code of Criminal Procedure, 1898.

139. In section 514 of the said Code,—

(i) in sub-section (3), for the word “ distress ” the word “ attachment ” shall be substituted; and Amendment of section 514, Code of Criminal Procedure, 1898.

(ii) in sub-section (6), the words “ but the party who gave the bond may be required to find a new surety ” shall be omitted, and, after the said sub-section, the following sub-section shall be inserted, namely :—

“(7) When any person who has furnished security under section 106 or section 118 or section 562 is convicted of an offence the commission of which constitutes a breach of the conditions of his bond, or of a bond executed in lieu of his bond under section 514B, a certified copy of the judgment of the Court by which he was convicted of such offence may be used as evidence in proceedings under this section against his surety or sureties, and, if such certified

copy

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copy is so used, the Court shall presume that such offence was committed by him unless the contrary is proved.”

Insertion of new sections 514A and 514B in the Code of Criminal Procedure, 1898.

140. After section 514 of the said Code the following sections shall be inserted, namely :—

Procedure in case of insolvency or death of surety or when a bond is forfeited.

“ 514A. When any surety to a bond under this Code becomes insolvent or dies, or when any bond is forfeited under the provisions of section 514, the Court, by whose order such bond was taken, or a Presidency Magistrate or Magistrate of the first class, may order the person from whom such security was demanded to furnish fresh security in accordance with the directions of the original order, and, if such security is not furnished, such Court or Magistrate may proceed as if there had been a default in complying with such original order.

Bond required from a minor.

514B. When the person required by any Court or officer to execute a bond is a minor, such Court or officer may accept, in lieu thereof, a bond executed by a surety or sureties only.”

Insertion of new section 516A in the Code of Criminal Procedure, 1898.

141. In Chapter XLIII of the said Code, before section 517 the following section shall be inserted, namely :—

Order for custody and disposal of property pending trial in certain cases.

“ 516A. When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before any Criminal Court during any inquiry or trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the inquiry or trial, and, if the property is subject to speedy or natural decay, may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.”

Amendment of section 517, Code of Criminal Procedure, 1898.

142. In section 517 of the said Code,—

(i) in sub-section (1), after the word “ disposal ” the words “ by destruction, confiscation, or delivery to

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to any person claiming to be entitled to possession thereof or otherwise" shall be inserted;

(ii) for sub-section (3) the following sub-section shall be substituted, namely:—

"(3) When an order is made under this section such order shall not, except where the property is livestock or subject to speedy and natural decay, and save as provided by sub-section (4), be carried out for one month, or, when an appeal is presented, until such appeal has been disposed of"; and

(iii) after sub-section (3) the following sub-section shall be inserted, namely:—

"(4) Nothing in this section shall be deemed to prohibit any Court from delivering any property under the provisions of sub-section (1) to any person claiming to be entitled to the possession thereof, on his executing a bond with or without sureties to the satisfaction of the Court, engaging to restore such property to the Court if the order made under this section is modified or set aside on appeal."

143. In section 522 of the said Code,—

(i) in sub-section (1), after the word "force" where it first occurs, the words "or show of force or by criminal intimidation" shall be inserted, and after the word "force," where it occurs for the second time, the words "or show of force or criminal intimidation" shall be inserted, and for the words "such person" the words "the person dispossessed" shall be substituted;

Amendment
of section
522, Code of
Criminal
Procedure,
1898.

(ii) in the same sub-section, after the words "thinks fit" the words "when convicting such person or at any time within one month from the date of the conviction" shall be inserted; and

(iii) after sub-section (2) the following sub-section shall be added, namely:—

"(3) An order under this section may be made by any Court of appeal, confirmation, reference or revision."

144. In section 525 of the said Code, for the words "or the Magistrate" the words "or if the Magistrate" shall be substituted, and after the

Amendment
of section
525, Code of
Criminal

word

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1898.

word "owner" the words "or that the value of such property is less than ten rupees" shall be inserted.

Amendment
of section
528, Code of
Criminal
Procedure,
1898.

145. In section 526 of the said Code,—

(i) in sub-clauses (ii) and (iii) of sub-section (1), the word "criminal" before the word "case," and in sub-clause (ii), the word "such" before the word "cases," shall be omitted;

(ii) in sub-section (5), for the word "convicted" the words "so ordered" shall be substituted, and for the words "the costs of the prosecutor" the words "any amount which the High Court has power under this section to award by way of costs to the person opposing the application" shall be substituted;

(iii) after sub-section (6) the following sub-section shall be inserted, namely :—

"(6A) Where any application for the exercise of the power conferred by this section is dismissed, the High Court may, if it is of opinion that the application was frivolous or vexatious, order the applicant to pay by way of costs to any person who has opposed the application any expenses reasonably incurred by such person in consequence of the application"; and

(iv) for sub-section (8) the following sub-sections shall be substituted, namely :—

"(8) If, in the course of any inquiry or trial, or before the commencement of the hearing of any appeal, the Public Prosecutor, the complainant or the accused notifies to the Court before which the case or appeal is pending his intention to make an application under this section in respect of such case or appeal, the Court shall adjourn the case or postpone the appeal for such a period as will afford a reasonable time for the application to be made and an order to be obtained thereon.

(9) Notwithstanding anything hereinbefore contained, a Judge presiding in a Court of Session shall not be required to adjourn a trial under sub-section (8) if he is of opinion that the person notifying his intention of making an application under this section has had a reasonable opportunity of making such

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such an application and has failed without sufficient cause to take advantage of it."

146. In sub-section (1) of section 527 of the said Code, the word "criminal," where it occurs before the word "case", shall be omitted.

Amendment of section 527, Code of Criminal Procedure, 1898.

147. In section 528 of the said Code,—

(i) sub-sections (1), (2), (3) and (4) shall be re-numbered (2), (3), (5) and (6), respectively, and the following shall be inserted as sub-section (1), namely:—

Amendment of section 528, Code of Criminal Procedure, 1898.

"(1) Any Sessions Judge may withdraw any case from, or recall any case which he has made over to, any Assistant Sessions Judge subordinate to him";

Sessions Judge may withdraw cases from Assistant Sessions Judge.

(ii) after sub-section (3), as re-numbered, the following sub-section shall be inserted, namely:—

"(4) Any Magistrate may recall any case made over by him under section 192, sub-section (2), to any other Magistrate and may inquire into or try such case himself"; and

(iii) for sub-section (6), as re-numbered, the following sub-section shall be substituted, namely:—

"(6) The head of a village under the Madras Village-police Regulation, 1816, or the Madras Village-police Regulation, 1821, is a Magistrate for the purposes of this section."

XI of 1816.
IV of 1821.

148. In section 537 of the said Code,—

(i) clause (b) shall be omitted;

(ii) the word "want", where it occurs for the second time, shall be omitted; and

(iii) the *Illustration* shall be omitted.

Amendment of section 537, Code of Criminal Procedure, 1898.

149. In section 538 of the said Code, for the word "distress", wherever it occurs, the word "attachment" shall be substituted.

Amendment of section 538, Code of Criminal Procedure, 1898.

150. After section 539 of the said Code the following sections shall be inserted, namely:—

Insertion of new sections 539A and 539B in the Code of Criminal Procedure, 1898.

"539A. (1) When any application is made to any Court in the course of any inquiry, trial or other proceeding

Affidavit in proof of

Code of Criminal Procedure [ACT XVIII
(Amendment)].

conduct of
public
servant.

proceeding under this Code, and allegations are made therein respecting any public servant, the applicant may give evidence of the facts alleged in the application by affidavit, and the Court may, if it thinks fit, order that evidence relating to such facts be so given.

An affidavit to be used before any Court other than a High Court under this section may be sworn or affirmed in the manner prescribed in section 539, or before any Magistrate.

Affidavits under this section shall be confined to, and shall state separately, such facts as the deponent is able to prove from his own knowledge and such facts as he has reasonable grounds to believe to be true, and, in the latter case, the deponent shall clearly state the grounds of such belief.

(2) The Court may order any scandalous and irrelevant matter in an affidavit to be struck out or amended.

Local
inspection.

539B. (1) Any Judge or Magistrate may, at any state of any inquiry, trial or other proceeding, after due notice to the parties, visit and inspect any place in which an offence is alleged to have been committed, or any other place which it is in his opinion necessary to view for the purpose of properly appreciating the evidence given at such inquiry or trial, and shall without unnecessary delay record a memorandum of any relevant facts observed at such inspection.

(2) Such memorandum shall form part of the record of the case. If the Public Prosecutor, complainant or accused so desires, a copy of the memorandum shall be furnished to him free of cost :

Provided that, in the case of a trial by jury or with the aid of assessors, the Judge shall not act under this section, unless such jury or assessors are also allowed a view under section 293."

151. After section 540 of the said Code the following section shall be inserted, namely :—

Insertion of
new section
540A, in the
Code of
Criminal Pro-
cedure, 1898.
Provision for
inquiries and
trial being
held in

" 540A. (1) At any stage of an inquiry or trial under this Code, where two or more accused are before,

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before the Court, if the Judge or Magistrate is satisfied, for reasons to be recorded, that any one or more of such accused is or are incapable of remaining before the Court, he may, if such accused is represented by a pleader, dispense with his attendance and proceed with such inquiry or trial in his absence, and may, at any subsequent stage of the proceedings, direct the personal attendance of such accused.

the absence
of accused in
certain cases.

(2) If the accused in any such case is not represented by a pleader, or if the Judge or Magistrate considers his personal attendance necessary, he may, if he thinks fit, and for reasons to be recorded by him, either adjourn such inquiry or trial, or order that the case of such accused be taken up or tried separately."

152. In section 545 of the said Code,—

(i) for clause (b) of sub-section (1) the following clause shall be substituted, namely:—

Amendment
of section
545, Code of
Criminal
Procedure,
1898.

"(b) in the payment to any person of compensation for any loss or injury caused by the offence, when substantial compensation is, in the opinion of the Court, recoverable by such person in a Civil Court;" and

(ii) to sub-section (1) the following clause shall be added, namely:—

"(c) when any person is convicted of any offence which includes theft, criminal misappropriation, criminal breach of trust, or cheating, or of having dishonestly received or retained, or of having voluntarily assisted in disposing of, stolen property knowing or having reason to believe the same to be stolen, in compensating any *bonâ fide* purchaser of such property for the loss of the same if such property is restored to the possession of the person entitled thereto."

153. After section 546 of the said Code the following section shall be inserted, namely:—

Insertion of
new section
546A in the
Code of
Criminal Pro-
cedure, 1898.
Order of
payment of
certain fees

"546A. (1) Whenever any complaint of a non-cognizable offence is made to a Court, the Court, if it

Code of Criminal Procedure [ACT XVIII
(Amendment)].

paid by complainant in non-cognizable cases. it convicts the accused, may, in addition to the penalty imposed upon him, order him to pay to the complainant—

(a) the fee (if any) paid on the petition of complaint, or for the examination of the complainant, and

(b) any fees paid by the complainant for serving processes on his witnesses or on the accused,

and may further order that, in default of payment, the accused shall suffer simple imprisonment for a period not exceeding thirty days.

(2) An order under this section may also be made by an Appellate Court, or by the High Court, when exercising its powers of revision."

Amendment of section 547, Code of Criminal Procedure, 1898.

154. In section 547 of the said Code, after the word " Code " the words " and the method of recovery of which is not otherwise expressly provided for " shall be inserted.

Substitution of new section for section 559, Code of Criminal Procedure, 1898.

155. For section 559 of the said Code the following section shall be substituted, namely:—

Provision for powers of Judges and Magistrates being exercised by their successors in office.

" 559. (1) Subject to the other provisions of this Code, the powers and duties of a Judge or Magistrate may be exercised or performed by his successor in office.

(2) When there is any doubt as to who is the successor in office of any Magistrate, the Chief Presidency Magistrate in a Presidency-town, and the District Magistrate outside such towns, shall determine by order in writing the Magistrate who shall, for the purposes of this Code or of any proceedings or order thereunder, be deemed to be the successor in office of such Magistrate.

(3) When there is any doubt as to who is the successor in office of any Additional or Assistant Sessions Judge, the Sessions Judge shall determine by order in writing the Judge who shall, for the purposes

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(Amendment).

purposes of this Code or of any proceedings or order thereunder, be deemed to be the successor in office of such Additional or Assistant Sessions Judge.”

156. After section 561 of the said Code the following section shall be inserted, namely :—

Insertion of new section 561A in the Code of Criminal Procedure, 1898.

“ 561A. Nothing in this Code shall be deemed to limit or affect the inherent power of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.”

Saving of inherent power of High Court.

157. For section 562 of the said Code the following section shall be substituted, namely :—

Substitution of new section for section 562. Code of Criminal Procedure, 1898.

“ 562. (1) When any person not under twenty-one years of age is convicted of an offence punishable with imprisonment for not more than seven years, or when any person under twenty-one years of age or any woman is convicted of an offence not punishable with death or transportation for life, and no previous conviction is proved against the offender, if it appears to the Court before which he is convicted, regard being had to the age, character or antecedents of the offender, and to the circumstances in which the offence was committed, that it is expedient that the offender should be released on probation of good conduct, the Court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period (not exceeding three years) as the Court may direct, and in the meantime to keep the peace and be of good behaviour :

Power of Court to release certain convicted offenders on probation of good conduct instead of sentencing to punishment.

Provided, that, where any first offender is convicted by a Magistrate of the third class, or a Magistrate

Code of Criminal Procedure [ACT XVIII
(Amendment)].

Magistrate of the second class not specially empowered by the Local Government in this behalf, and the Magistrate is of opinion that the powers conferred by this section should be exercised, he shall record his opinion to that effect, and submit the proceedings to a Magistrate of the first class or Sub-divisional Magistrate, forwarding the accused to, or taking bail for his appearance before, such Magistrate, who shall dispose of the case in manner provided by section 380.

(2) An order under this section may be made by any Appellate Court or by the High Court when exercising its power of revision.

(3) When an order has been made under this section in respect of any offender, the High Court may, on appeal when there is a right of appeal to such Court, or when exercising its powers of revision, set aside such order, and in lieu thereof pass sentence on such offender according to law :

Provided that the High Court shall not under this sub-section inflict a greater punishment than might have been inflicted by the Court by which the offender was convicted.

(4) The provisions of sections 122, 126A and 406A shall, so far as may be, apply in the case of sureties offered in pursuance of the provisions of this section."

Substitution
of new sec-
tion for sec-
tion 565,
Code of
Criminal
Procedure,
1898.
Order for
notifying
address of
previously
convicted
offender.

158. For section 565 of the said Code the following section shall be substituted, namely :—

" 565. (1) When any person having been convicted—

(a) by a Court in British India of an offence punishable under section 215, section 489A, section 489B, section 489C, or section 489D of the Indian Penal Code, XLV of 1860. or of any offence punishable under Chapter XII or Chapter XVII of that Code,

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(*Amendment*).

Code, with imprisonment of either description for a term of three years, or upwards, or

(b) by a Court or Tribunal in the territories of any Prince or State in India acting under the general or special authority of the Governor General in Council, or of any Local Government, of any offence which would, if committed in British India, have been punishable under any of the aforesaid sections or Chapters of the Indian Penal Code with like imprisonment for a like term,

XLV of 1860.

is again convicted of any offence punishable under any of those sections or Chapters with imprisonment for a term of three years or upwards by a High Court, Court of Session, Presidency Magistrate, District Magistrate, Sub-divisional Magistrate, or Magistrate of the first class, such Court or Magistrate may, if it or he thinks fit, at the time of passing sentence of transportation or imprisonment on such person, also order that his residence and any change of or absence from such residence after release be notified as hereinafter provided for a term not exceeding five years from the date of the expiration of such sentence.

(2) If such conviction is set aside on appeal or otherwise, such order shall become void.

(3) The Local Government may make rules to carry out the provisions of this section relating to the notification of residence or change of or absence from residence by released convicts.

(4) An order under this section may also be made by an Appellate Court or by the High Court when exercising its powers of revision.

(5) Any person against whom an order has been made under this section and who refuses or neglects to comply with any rule so made shall be deemed, within the meaning of section 176 of the Indian Penal Code, to have omitted to give a notice

XLV of 1860.

Code of Criminal Procedure [ACT XVIII
(Amendment).

notice required for the purpose of preventing the commission of an offence.

(6) Any person charged with a breach of any such rule may be tried by a Magistrate of competent jurisdiction in the district in which the place last notified by him as his place of residence is situated."

Amendment
of Schedule
II. Code of
Criminal
Procedure,
1898.

159. In Schedule II to the said Code,—

(1) in column 1, the figures "405" occurring between the figures "404" and "406" shall be omitted;

(2) for the first entry in column 3, against section 213, the words "may arrest without warrant" shall be substituted;

(3) for the entry in column 3, against section 214, the words "shall not arrest without warrant" shall be substituted;

(4) for the entry in column 3, against section 215, the words "May arrest without warrant" shall be substituted;

(5) for the entry in column 3, against section 374, the words "Shall not arrest without warrant" shall be substituted;

(6) for each of the entries in column 5, against sections 118, 119 and 120 occurring opposite the entries "If the offence be not committed" in column 2, the word "Bailable" shall be substituted; and for the entry in column 5 opposite the entry "120 Concealing a design to commit an offence punishable with imprisonment, if the offence be committed" the words "According as the offence concealed is bailable or not" shall be substituted;

(7) for the entry in column 5, against section 363, the word "Bailable" shall be substituted; and, for the entry in the same column, against section 364, the words "Not bailable" shall be substituted;

(8) for the entry in column 5, against section 477A, the word "Bailable" shall be substituted;

(9) for the entry in column 5, against section 495, the word "Bailable" shall be substituted;

(10) for

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(*Amendment*).

(10) for each of the entries in column 6, against sections 343, 346 and 357, the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted; and, for each of the entries in the same column, against sections 344 and 347, the words "Not compoundable" shall be substituted;

(11) for the entry in column 6, against section 403, the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted;

(12) for each of the entries in column 6, against sections 417, 418, 419 and 420, the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted;

(13) for the entry in column 6, against section 430, the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted; and for the entry in the same column, against section 431, the words "Not compoundable" shall be substituted;

(14) for the first entry in column 6, against section 451, the following shall be substituted, namely:—"Compoundable when permission is given by the Court before which the prosecution is pending"; and, for the second entry in that column, against the same section, the words "Not compoundable" shall be substituted;

(15) for the entry in column 6, against section 482, the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted; and, for the entry in the same column, against section 484, the words "Not compoundable" shall be substituted;

(16) for the entry in column 6, against section 486, the words "Compoundable with permission of the Court before which the prosecution is pending" shall be substituted; and, for the entry in the same column, against section 487, the words "Not compoundable" shall be substituted:

(17) for

Code of Criminal Procedure [ACT XVIII
(Amendment).

(17) for the entry in column 6, against section 494, the words "Compoundable with permission of the Court before which the prosecution is pending" shall be substituted; and, for the entry in the same column, against section 495, the words "Not compoundable" shall be substituted;

(18) for the entry in column 6, against section 508, the word "Compoundable" shall be substituted;

(19) for the entry in column 6, against section 509, the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted; and, for the entry in the same column, against section 510, the words "Not compoundable" shall be substituted;

(20) in the entry in column 7, against section 121, for the words "forfeiture of property" the word "fine" shall be substituted;

(21) in the entry in column 7, against section 121A, after the word "years" the words "and fine" shall be inserted;

(22) in the entry in column 7, against section 122, for the words "forfeiture of property" the word "fine" shall be substituted;

(23) for the entry in column 7, against section 477A, the words "Imprisonment of either description for seven years, or fine, or both" shall be substituted;

(24) for the entry in column 8, against section 294, the words "Any Magistrate" shall be substituted;

(25) for the entry in column 8, against section 317, the words "Court of Session, Presidency Magistrate or Magistrate of the first class" shall be substituted;

(26) in the entry in column 8, against section 318, the words "or second" shall be omitted;

(27) for the entry in column 8, against section 327, the words "Court of Session, Presidency Magistrate

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(Amendment).

Magistrate, or Magistrate of the first class " shall be substituted; and, for the entry in the same column, against section 328, the words " Court of Session " shall be substituted;

(28) for the entry in column 8, against section 368, the words " Court of Session, Presidency Magistrate or Magistrate of the first class " shall be substituted;

(29) for the entry in column 8, against section 477A, the words " Court of Session, Presidency Magistrate or Magistrate of the first class " shall be substituted;

(30) for the entry in column 8, against section 494, the words " Court of Session, Presidency Magistrate or Magistrate of the first class " shall be substituted; and, for the entry in the same column, against section 495, the words " Court of Session " shall be substituted.

160. In Schedule III to the said Code,—

Amendment
of Schedule
III. Code
of Criminal
Procedure,
1898.

(i) under Head I (*Ordinary Powers of a Magistrate of the Third Class*)—

(1) in item (5), after the word " property " the words " and to dispose of claims to attached property " shall be inserted;

(2) item (13) shall be omitted:

(3) in item (14), after the word " detention " the words " not being detention in the custody of the police " shall be inserted;

(4) the following item shall be inserted between items (14) and (15), namely:—

" (14a) Power to postpone issue of process and inquire into case himself, section 202;"

(5) to item (18), the words, figures and letter " and to require fresh security, section 514A " shall be added;

(6) after item (18) the following item shall be inserted, namely:—

" (18a) power to make order as to custody and disposal of property pending inquiry or trial, section 516A;"

(7) in

Code of Criminal Procedure [ACT XVIII
(Amendment)].

(7) in item (20), the word "perishable" shall be omitted;

(8) after item (20) the following items shall be added, namely:—

"(21) Power to require affidavit in support of application, section 539A;

(22) Power to make local inspection, section 539B;"

(ii) under Head II (*Ordinary Powers of a Magistrate of the Second Class*)—

(1) for item (3) the following item shall be substituted, namely:—

"(3) Power to postpone issue of process and to inquire into a case or direct investigation, section 202;"

(2) item (4) shall be omitted;

(iii) under Head III (*Ordinary Powers of a Magistrate of the First Class*)—

(1) in item (6), for the figures "126" the figures and letter "126A" shall be substituted;

(2) between items (6) and (7) the following item shall be inserted, namely:—

"(6a) Power to make orders as to local nuisances, section 133;"

(3) between items (7) and (8), the following items shall be inserted, namely:—

"(7a) Power to record statements and confessions during a police investigation, section 164;

(7aa) Power to authorise detention of a person in the custody of the police during a police investigation, section 167;

(7b) Power to hold inquests, section 174;"

(4) After item (9) the following item shall be inserted, namely:—

"(9a) Power to tender pardon to accomplice during inquiry into case by himself, section 337;"

(5) after

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(Amendment).

(5) after item (12) the following items shall be inserted, namely:—

“ (12a) Power to require fresh security, section 514A;

(12b) Power to re-call case made over by him to another Magistrate, section 528 (4); ”

(6) after item (13) the following item shall be added, namely:—

“ (14) Power to order released convicts to notify residence, section 565; ”

(iv) in Head IV (*Ordinary Powers of a Sub-divisional Magistrate*)—

(1) in the head note, after the words “ Sub-divisional Magistrate,” the words “ appointed under section 13 ” shall be inserted;

(2) the following items shall be omitted, namely:—

“ (4) Power to make orders as to local nuisances, section 133; ”

“ (10) Power to hold inquest, section 174; ”

“ (20) Power to order released convicts to notify residence, section 565; ”

(v) in Head V (*Ordinary Powers of a District Magistrate*)—

(1) after item (1) the following item shall be inserted, namely:—

“ (1a) Power to try juvenile offenders, section 29A; ”

(2) after item (6) the following item shall be inserted, namely:—

“ (6a) Power to order preliminary investigation by police-officer not below the rank of Inspector in certain cases, section 196B; ”

(3) after

Code of Criminal Procedure [ACT XVIII
(Amendment)].

(3) after item (7) the following item shall be inserted, namely:—

“ (7a) Power to tender pardon to accomplice at any stage of a case, section 337; ”

(4) in item (9), after the word “ for ” the words “ keeping the peace or ” shall be inserted;

(5) after item (9) the following item shall be inserted, namely:—

“ (9a) Power to hear appeals from orders of Magistrates refusing to accept or rejecting sureties, section 406A; ”

(6) in item (12), for the figures “ 436 ” the figures “ 437,” and, in item (13), for the figures “ 437 ” the figures “ 436 ” shall be substituted, and items (12) and (13) shall be re-numbered (13) and (12), respectively.

Amendment
of Schedule
IV, Code of
Criminal
Procedure,
1898.

161. In Schedule IV to the said Code,—

(i) from the list of powers with which a Magistrate of the first class may be invested by the Local Government, the following shall be omitted, namely:—

“ (3) Power to make orders as to local nuisances, section 133; ”

“ (6) Power to hold inquests, section 174; ”

“ (14) Power to order released convicts to notify residence, section 565; ”

(ii) from the list of powers with which a Magistrate of the first class may be invested by the District Magistrate, item (3), namely, “ Power to hold inquests, section 174,” shall be omitted;

(iii) in the list of powers with which a Magistrate of the second class may be invested by the Local Government—

between items (3) and (4) the following items shall be inserted, namely:—

“ (3a) Power to record statements and confessions during a police investigation, section 164;

(3b) Power

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(3b) Power to authorise detention of a person in the custody of the police during a police investigation, section 167; ”

(iv) from the list of powers with which a Magistrate of the third class may be invested by the Local Government, the following shall be omitted, namely :—

“ (2) Power to make orders under section 144; ”

“ (6) Power to commit for trial, section 206; ”

and from the list of powers with which such Magistrates may be invested by the District Magistrate, the following shall be omitted, namely :—

“ (2) Power to make orders under section 144. ”

162. In Schedule V to the said Code,—

(i) in Form VI—

(a) in the ORDER OF ATTACHMENT TO COMPEL THE ATTENDANCE OF A WITNESS, for the words “ Proclamation was duly issued ” the words “ Proclamation has been or is being duly issued ” shall be substituted, and the words “ and he has failed to appear ” shall be omitted;

(b) in the ORDER OF ATTACHMENT TO COMPEL THE APPEARANCE OF A PERSON ACCUSED, for the words “ Proclamation was duly issued ” the words “ Proclamation has been or is being duly issued ” shall be substituted;

(c) in the ORDER AUTHORISING AN ATTACHMENT BY THE DEPUTY COMMISSIONER AS COLLECTOR, for the words “ Proclamation was duly issued ” the words “ Proclamation has been or is being duly issued ” shall be substituted, and the words “ but he has not appeared ” shall be omitted;

(ii) in

Amendment
of Schedule
V, Code of
Criminal
Procedure,
1898.

Code of Criminal Procedure [ACT XVIII
(Amendment).

(ii) in Forms X and XI, after the words “ for the term of _____ ,” wherever they occur, the words “ or until the completion of the inquiry in the matter of _____ now pending in the Court of _____ ;” and after the words “ said term,” wherever they occur, the words “ or until the completion of the said inquiry ” shall be inserted;

(iii) in Form XXX—

(a) in the heading for the word “ DISTRESS ” the words “ ATTACHMENT AND SALE ” shall be substituted;

(b) after the words “ dismissed as ” the words “ false and ” shall be inserted; and

(c) the words “ and cannot be recovered by distress of the moveable property of the said (name of complainant) ” shall be omitted;

(iv) in Form XXXVII, after the figures “ 386 ” the figure, letter and brackets “ (1) (a) ” shall be inserted;

(v) in each of Forms XXXVII and XLI, the following amendments shall be made, namely:—

(a) in the heading, for the word “ DISTRESS ” the word “ ATTACHMENT ” shall be substituted;

(b) for the words “ make distress by seizure of any ” the words “ attach any ” shall be substituted;

(c) for the words “ such distress ” the words “ such attachment ” shall be substituted; and

(d) for the words “ property distrained ” the words “ property attached ” shall be substituted;

(vi) after

Code of Criminal Procedure [ACT XVIII OF 1923.]
(Amendment).

(vi) after Form XXXVII the following Form shall be inserted, namely:—

“ XXXVIIA.—BOND FOR APPEARANCE OF OFFENDER
RELEASED PENDING REALISATION OF FINE.

(See section 388.)

WHEREAS I, (name), inhabitant of (place), have been sentenced to pay a fine of rupees and in default of payment thereof to undergo imprisonment for ; and whereas the Court has been pleased to order my release until the day of on condition of my executing a bond for my appearance on that day;

I hereby bind myself to appear before the Court of at o'clock on the said day of next, and, in case of making default herein, I bind myself to forfeit to His Majesty the King, Emperor of India, the sum of Rupees

Dated this day of 19 .

(Signature.)

Where a bond with sureties is to be executed, add—

We do hereby declare ourselves sureties for the above-named that he will appear before the Court of on the day of next; and, in case of his making default therein, we bind ourselves jointly and severally to forfeit to His Majesty the King, Emperor of India, the sum of Rupees .

(Signature.) ”

VII of 1870. 163. Section 31 of the Court-fees Act, 1870, is hereby repealed.

Repeal of section 31, Court-fees Act, 1870.

164. This Act shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

Commencement.

CALCUTTA
SUPERINTENDENT GOVERNMENT PRINTING, INDIA
8, HASTINGS STREET

ACT NO. XIX OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 2nd April, 1923.)

An Act to consolidate and amend the law in British India relating to official secrets.

WHEREAS the law in British India relating to official secrets is at present contained in two Acts of the Governor General in Council, namely, the Indian Official Secrets Act, 1889, and the Indian Official Secrets (Amendment) Act, 1904, and one Statute of Parliament, namely, the Official Secrets Act, 1911; and

XV of 1889.

V of 1904.

,

1 & 2 Geo.

V, c. 28.

1 & 2 Geo.

V, c. 28.

10 & 11 Geo.

V, c. 75.

WHEREAS the Official Secrets Act, 1911, has been amended by the Official Secrets Act, 1920, which Statute applies to the United Kingdom and to certain British possessions, but not to British India; and

WHEREAS it is expedient that the law relating to official secrets in British India should be consolidated and amended;

It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Official Secrets Act, 1923.

Short title,
extent and
application.

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

(a) to all subjects of His Majesty and servants of the Crown within the dominions of Princes and States in India in alliance with His Majesty; and

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

2. In

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[Price four annas and six pies.]

Definitions.

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

- (1) any reference to a place belonging to His Majesty includes a place occupied by any department of the Government, whether the place is or is not actually vested in His Majesty;
- (2) expressions referring to communicating or receiving include any communicating or receiving, whether in whole or in part, and whether the sketch, plan, model, article, note, document, or information itself or the substance, effect or description thereof only be communicated or received; expressions referring to obtaining or retaining any sketch, plan, model, article, note or document, include the copying or causing to be copied of the whole or any part of any sketch, plan, model, article, note, or document; and expressions referring to the communication of any sketch, plan, model, article, note or document include the transfer or transmission of the sketch, plan, model, article, note or document;
- (3) “ document ” includes part of a document;
- (4) “ model ” includes design, pattern and specimen;
- (5) “ munitions of war ” includes the whole or any part of any ship, submarine, aircraft, tank or similar engine, arms and ammunition, torpedo, or mine intended or adapted for use in war, and any other article, material, or device, whether actual or proposed, intended for such use;
- (6) “ Office under His Majesty ” includes any office or employment in or under any department of the Government or of the Government

Government of the United Kingdom or of any British possession;

(7) "photograph" includes an undeveloped film or plate;

(8) "prohibited place" means—

(a) any work of defence, arsenal, naval, military or air force establishment or station, mine, minefield, camp, ship or aircraft belonging to, or occupied by or on behalf of, His Majesty, any military telegraph or telephone so belonging or occupied, any wireless or signal station or office so belonging or occupied and any factory, dockyard or other place so belonging or occupied and used for the purpose of building, repairing, making or storing any munitions of war, or any sketches, plans, models or documents relating thereto, or for the purpose of getting any metals, oil or minerals of use in time of war;

(b) any place not belonging to His Majesty where any munitions of war or any sketches, models, plans or documents relating thereto, are being made, repaired, gotten or stored under contract with, or with any person on behalf of, His Majesty, or otherwise on behalf of His Majesty;

(c) any place belonging to or used for the purpose of His Majesty which is for the time being declared by the Governor General in Council, by notification in the Gazette of India, to be a prohibited place for the purposes of this Act on the ground that information with respect thereto, or damage thereto, would be useful to

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an enemy, and to which a copy of the notification in respect thereof has been affixed in English and in the vernacular of the locality;

- (d) any railway, road, way or channel, or other means of communication by land or water (including any works or structures being part thereof or connected therewith) or any place used for gas, water or electricity works or other works for purposes of a public character, or any place where any munitions of war or any sketches, models, plans, or documents relating thereto, are being made, repaired, or stored otherwise than on behalf of His Majesty, which is for the time being declared by the Governor General in Council, by notification in the Gazette of India, to be a prohibited place for the purposes of this Act on the ground that information with respect thereto, or the destruction or obstruction thereof, or interference therewith, would be useful to an enemy, and to which a copy of the notification in respect thereof has been affixed in English and in the vernacular of the locality;
- (9) " sketch " includes any photograph or other mode of representing any place or thing; and
- (10) " Superintendent of Police " includes any police officer of a like or superior rank, and any person upon whom the powers of a Superintendent of Police are for the purposes of this Act conferred by the Governor General in Council or by any Local Government.

3. (1) If any person for any purpose prejudicial to the safety or interests of the State— Penalties for spying.

- (a) approaches, inspects, passes over or is in the vicinity of, or enters, any prohibited place; or
- (b) makes any sketch, plan, model, or note which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy; or
- (c) obtains, collects, records or publishes or communicates to any other person any secret official code or pass word, or any sketch, plan, model, article or note or other document or information which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy;

he shall be punishable with imprisonment for a term which may extend, where the offence is committed in relation to any work of defence, arsenal, naval, military or air force establishment or station, mine, minefield, factory, dockyard, camp, ship or aircraft or otherwise in relation to the naval, military or air force affairs of His Majesty or in relation to any secret official code, to fourteen years and in other cases to three years.

(2) On a prosecution for an offence punishable under this section with imprisonment for a term which may extend to fourteen years, it shall not be necessary to show that the accused person was guilty of any particular act tending to show a purpose prejudicial to the safety or interests of the State, and, notwithstanding that no such act is proved against him, he may be convicted if, from the circumstances of the case or his conduct or his known character as proved, it appears that his purpose was a purpose prejudicial to the safety or interests of the State; and if any sketch, plan, model, article, note, document, or information relating to or used in any prohibited place, or relating to anything in such a place, or any secret official code or pass word is made, obtained,

obtained, collected, recorded, published or communicated by any person other than a person acting under lawful authority, and from the circumstances of the case or his conduct or his known character as proved it appears that his purpose was a purpose prejudicial to the safety or interests of the State such sketch, plan, model, article, note, document or information shall be presumed to have been made, obtained, collected, recorded, published or communicated for a purpose prejudicial to the safety or interests of the State.

Communica-
tions with
foreign
agents to be
evidence of
commission
of certain
offences.

4. (1) In any proceedings against a person for an offence under section 3, the fact that he has been in communication with, or attempted to communicate with, a foreign agent, whether within or without British India, shall be relevant for the purpose of proving that he has, for a purpose prejudicial to the safety or interests of the State, obtained or attempted to obtain information which is calculated to be or might be, or is intended to be, directly or indirectly, useful to an enemy.

(2) For the purpose of this section, but without prejudice to the generality of the foregoing provision,—

(a) a person may be presumed to have been in communication with a foreign agent if—

(i) he has, either within or without British India, visited the address of a foreign agent or consorted or associated with a foreign agent, or

(ii) either within or without British India, the name or address of, or any other information regarding, a foreign agent has been found in his possession, or has been obtained by him from any other person;

(b) the expression "foreign agent" includes any person who is or has been or in respect of whom it appears that there are reasonable grounds for suspecting him

him of being or having been employed by a foreign power, either directly or indirectly, for the purpose of committing an act, either within or without British India, prejudicial to the safety or interests of the State, or who has or is reasonably suspected of having, either within or without British India, committed, or attempted to commit, such an act in the interests of a foreign power;

- (c) any address, whether within or without British India, in respect of which it appears that there are reasonable grounds for suspecting it of being an address used for the receipt of communications intended for a foreign agent, or any address at which a foreign agent resides, or to which he resorts for the purpose of giving or receiving communications, or at which he carries on any business, may be presumed to be the address of a foreign agent, and communications addressed to such an address to be communications with a foreign agent.

5. (1) If any person having in his possession of control any secret official code or pass word or any sketch, plan, model, article, note, document or information which relates to or is used in a prohibited place or relates to anything in such a place, or which has been made or obtained in contravention of this Act, or which has been entrusted in confidence to him by any person holding office under His Majesty, or which he has obtained or to which he has had access owing to his position as a person who holds or has held office under His Majesty, or as a person who holds or has held a contract made on behalf of His Majesty, or as a person who is or has been employed under a person who holds or has held such an office or contract—

- (a) wilfully communicates the code or pass word, sketch, plan, model, article, note, document

Wrongful
communica-
tion, etc., of
information.

document or information to any person other than a person to whom he is authorised to communicate it, or a Court of Justice or a person to whom it is, in the interests of the State, his duty to communicate it; or

- (b) uses the information in his possession for the benefit of any foreign power or in any other manner prejudicial to the safety of the State; or
- (c) retains the sketch, plan, model, article, note or document in his possession or control when he has no right to retain it, or when it is contrary to his duty to retain it, or wilfully fails to comply with all directions issued by lawful authority with regard to the return or disposal thereof; or
- (d) fails to take reasonable care of, or so conducts himself as to endanger the safety of, the sketch, plan, model, article, note, document, secret official code or pass word or information;

he shall be guilty of an offence under this section.

(2) If any person voluntarily receives any secret official code or pass word or any sketch, plan, model, article, note, document or information knowing or having reasonable ground to believe, at the time when he receives it, that the code, pass word, sketch, plan, model, article, note, document or information is communicated in contravention of this Act, he shall be guilty of an offence under this section.

(3) If any person having in his possession or control any sketch, plan, model, article, note, document or information, which relates to munitions of war, communicates it, directly or indirectly, to any foreign power or in any other manner prejudicial to the safety or interests of the State, he shall be guilty of an offence under this section.

(4) A person guilty of an offence under this section shall be punishable with imprisonment for a term

term which may extend to two years, or with fine, or with both.

6. (1) If any person for the purpose of gaining admission or of assisting any other person to gain admission to a prohibited place or for any other purpose prejudicial to the safety of the State—

Unauthoris-
ed use of
uniforms;
falsification
of reports,
forgery,
personation,
and false
documents.

- (a) uses or wears, without lawful authority, any naval, military, air force, police or other official uniform; or any uniform so nearly resembling the same as to be calculated to deceive, or falsely represents himself to be a person who is or has been entitled to use or wear any such uniform; or
- (b) orally, or in writing in any declaration or application, or in any document signed by him or on his behalf, knowingly makes or connives at the making of any false statement or any omission; or
- (c) forges, alters, or tampers with any passport or any naval, military, air force, police, or official pass, permit, certificate, licence, or other document of a similar character (hereinafter in this section referred to as an official document) or knowingly uses or has in his possession any such forged, altered, or irregular official document; or
- (d) personates, or falsely represents himself to be, a person holding, or in the employment of a person holding, office under His Majesty, or to be or not to be a person to whom an official document or secret official code or pass word has been duly issued or communicated, or with intent to obtain an official document, secret official code or pass word, whether for himself or any other person, knowingly makes any false statement; or
- (e) uses, or has in his possession or under his control, without the authority of the department

department of the Government or the authority concerned, any die, seal or stamp of or belonging to, or used, made or provided by, any department of the Government, or by any diplomatic, naval, military, or air force authority appointed by or acting under the authority of His Majesty, or any die, seal or stamp so nearly resembling any such die, seal or stamp as to be calculated to deceive, or counterfeits any such die, seal or stamp, or knowingly uses, or has in his possession or under his control, any such counterfeited die, seal or stamp;

he shall be guilty of an offence under this section.

(2) If any person for any purpose prejudicial to the safety of the State—

(a) retains any official document, whether or not completed or issued for use, when he has no right to retain it, or when it is contrary to his duty to retain it, or wilfully fails to comply with any directions issued by any department of the Government or any person authorised by such department with regard to the return or disposal thereof; or

(b) allows any other person to have possession of any official document issued for his use alone, or communicates any secret official code or pass word so issued, or, without lawful authority or excuse, has in his possession any official document or secret official code or pass word issued for the use of some person other than himself, or, on obtaining possession of any official document by finding or otherwise, wilfully fails to restore it to the person or authority by whom or for whose use it was issued, or to a police officer; or

(c) without

(c) without lawful authority or excuse, manufactures or sells, or has in his possession for sale, any such die, seal or stamp as aforesaid;

he shall be guilty of an offence under this section.

(3) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(4) The provisions of sub-section (2) of section 3 shall apply, for the purpose of proving a purpose prejudicial to the safety of the State, to any prosecution for an offence under this section relating to the naval, military or air force affairs of His Majesty, or to any secret official code in like manner as they apply, for the purpose of proving a purpose prejudicial to the safety or interests of the State to prosecutions for offences punishable under that section with imprisonment for a term which may extend to fourteen years.

7. (1) No person in the vicinity of any prohibited place shall obstruct, knowingly mislead or otherwise interfere with or impede, any police officer, or any member of His Majesty's forces engaged on guard, sentry, patrol, or other similar duty in relation to the prohibited place.

Interfering with officers of the police or members of His Majesty's forces.

(2) If any person acts in contravention of the provisions of this section, he shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

8. (1) It shall be the duty of every person to give on demand to a Superintendent of Police, or other police officer not below the rank of Inspector, empowered by an Inspector-General or Commissioner of Police in this behalf, or to any member of His Majesty's forces engaged on guard, sentry, patrol or other similar duty, any information in his power relating to an offence or suspected offence under section 3 or under section 3 read with section 9 and, if so required, and upon tender of his reasonable

Duty of giving information as to commission of offences.

reasonable expenses, to attend at such reasonable time and place as may be specified for the purpose of furnishing such information.

(2) If any person fails to give any such information or to attend as aforesaid, he shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

Attempts,
incitements,
etc.

9. Any person who attempts to commit or abets the commission of an offence under this Act shall be punishable with the same punishment, and be liable to be proceeded against in the same manner as if he had committed such offence.

Penalty for
harbouring
spies.

10. (1) If any person knowingly harbours any person whom he knows or has reasonable grounds for supposing to be a person who is about to commit or who has committed an offence under section 3 or under section 3 read with section 9 or knowingly permits to meet or assemble in any premises in his occupation or under his control any such persons, he shall be guilty of an offence under this section.

(2) It shall be the duty of every person having harboured any such person as aforesaid, or permitted to meet or assemble in any premises in his occupation or under his control any such persons as aforesaid, to give on demand to a Superintendent of Police or other police officer not below the rank of Inspector empowered by an Inspector-General or Commissioner of Police in this behalf, any information in his power relating to any such person or persons, and if any person fails to give any such information, he shall be guilty of an offence under this section.

(3) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

Search war-
rants.

11. (1) If a Presidency Magistrate, Magistrate of the first class or Sub-divisional Magistrate is satisfied by information on oath that there is reasonable ground for suspecting that an offence under

under this Act has been or is about to be committed, he may grant a search-warrant authorising any police officer named therein, not being below the rank of an officer in charge of a police station, to enter at any time any premises or place named in the warrant, if necessary, by force, and to search the premises or place and every person found therein, and to seize any sketch, plan, model, article, note or document, or anything of a like nature, or anything which is evidence of an offence under this Act having been or being about to be committed which he may find on the premises or place or any such person, and with regard to or in connection with which he has reasonable ground for suspecting that an offence under this Act has been or is about to be committed.

(2) Where it appears to a police officer, not being below the rank of Superintendent, that the case is one of great emergency, and that in the interests of the State immediate action is necessary, he may by a written order under his hand give to any police officer the like authority as may be given by the warrant of a Magistrate under this section.

(3) Where action has been taken by a police officer under sub-section (2) he shall, as soon as may be, report such action, in a Presidency town to the Chief Presidency Magistrate, and outside such town to the District or Sub-divisional Magistrate.

V of 1898. 12. Notwithstanding anything in the Code of Criminal Procedure, 1898,— Power to arrest.

(a) an offence punishable under section 3 or under section 3 read with section 9 with imprisonment for a term which may extend to fourteen years shall be a cognizable and non-bailable offence;

(b) an offence under clause (a) of sub-section (1) of section 6 shall be a cognizable and bailable offence; and

(c) every

(c) every other offence under this Act shall be a non-cognizable and bailable offence, in respect of which a warrant of arrest shall ordinarily issue in the first instance.

Restriction
on trial of
offences.

13. (1) No Court (other than that of a Magistrate of the first class specially empowered in this behalf by the Local Government) which is inferior to that of a District or Presidency Magistrate shall try any offence under this Act.

(2) If any person under trial before a Magistrate for an offence under this Act at any time before a charge is framed claims to be tried by the Court of Session, the Magistrate shall, if he does not discharge the accused, commit the case for trial by that Court, notwithstanding that it is not a case exclusively triable by that Court.

(3) No Court shall take cognizance of any offence under this Act unless upon complaint made by order of, or under authority from, the Governor General in Council, the Local Government, or some officer empowered by the Governor General in Council in this behalf :

Provided that a person charged with such an offence may be arrested, or a warrant for his arrest may be issued and executed, and any such person may be remanded in custody or on bail, notwithstanding that such complaint has not been made, but no further or other proceedings shall be taken until such complaint has been made.

(4) For the purposes of the trial of a person for an offence under this Act, the offence may be deemed to have been committed either at the place in which the same actually was committed or at any place in British India in which the offender may be found.

Exclusion of
public from
proceedings.

14. In addition and without prejudice to any powers which a Court may possess to order the exclusion of the public from any proceedings if, in the course of proceedings before a Court against any person for an offence under this Act or the proceedings

on

of 1923.] *Indian Official Secrets.*

on appeal, or in the course of the trial of a person under this Act, application is made by the prosecution, on the ground that the publication of any evidence to be given or of any statement to be made in the course of the proceedings would be prejudicial to the safety of the State, that all or any portion of the public shall be excluded during any part of the hearing, the Court may make an order to that effect, but the passing of sentence shall in any case take place in public.

15. Where the person guilty of an offence under this Act is a company or corporation, every director and officer of the company or corporation with whose knowledge and consent the offence was committed shall be guilty of the like offence. Offences by companies, etc.

XV of 1889. 16. The Indian Official Secrets Act, 1889, and Repeals.
V of 1904. the Indian Official Secrets (Amendment) Act, 1904, are hereby repealed.

CALCUTTA
SUPERINTENDENT GOVERNMENT PRINTING, INDIA
8, HASTINGS STREET

ACT No. XX OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 2nd April, 1923.)

An Act to give effect to certain Articles of the International Convention for the suppression of the traffic in women and children.

WHEREAS it is expedient further to amend the Indian Penal Code in order to give effect to the International Convention for the suppression of the traffic in women and children signed at Geneva on behalf of the Governor General in Council on the twenty-eighth day of March, 1922; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 1923. Short title and commencement

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

2. To section 366 of the said Code the following paragraph shall be added, namely:— Amendment of section 366, Act XLV of 1860.

“ and whoever, by means of criminal intimidation as defined in this Code or of abuse of authority or any other method of compulsion, induces any woman to go from any place with intent that she may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall also be punishable as aforesaid.”

3. After section 366 of the said Code the following sections shall be inserted, namely:— Insertion of new sections 366A and 366B in Act XLV of 1860.

“ 366A. Whoever, by any means whatsoever, induces any minor girl under the age of eighteen Procurement of minor girl.

Indian Penal Code (Amendment). [ACT XX OF 1923.]

eighteen years to go from any place or to do any act with intent that such girl may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall be punishable with imprisonment which may extend to ten years and shall also be liable to fine.

Importation of girl from foreign country.

366B. Whoever imports into British India from any country outside India any girl under the age of twenty-one years with intent that she may be, or knowing it to be likely that she will be, forced or seduced to illicit intercourse with another person,

and whoever with such intent or knowledge imports into British India from any State in India any such girl who has with the like intent or knowledge been imported into India, whether by himself or by another person,

shall be punishable with imprisonment which may extend to ten years and shall also be liable to fine."

Amendment of Schedule II, Code of Criminal Procedure, 1898.

4. In the Second Schedule to the Code of Criminal Procedure, 1898, after the entry relating to section 366 of the Indian Penal Code the following entries shall be inserted, namely :—

366A	Procurator of minor girl.	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Imprisonment of either description for ten years and fine.	Court of Session.
366B	Importation of girl from foreign country.	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Imprisonment of either description for ten years and fine.	Court of Session.

ACT No. XXII OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 2nd April, 1923.)

An Act to declare the law in force in certain territories of the district of Sambalpur and to provide that the past administration of those territories shall not be called in question on the ground that they were not included in the territories administered by the Government of the Central Provinces.

WHEREAS by Proclamation published under Notification No. 2833, dated the first day of September, 1905, the Governor General in Council was pleased to declare and appoint that, with effect from the sixteenth day of October, 1905, the district of Sambalpur (except the Chandarpur-Padampur Zamindari and the Phuljhar Zamindari) which then formed part of the Central Provinces, should cease to form part of those Provinces and should be included within the limits of the Bengal Division of the Presidency of Fort William; and

WHEREAS by Proclamation published under Notification No. 289, dated the twenty-second day of March, 1912, the Governor General in Council, with the sanction of His Majesty, was pleased to constitute certain territories, including the said district of Sambalpur, a province under the name of the Province of Bihar and Orissa; and

WHEREAS it has appeared that by the above mentioned Proclamations certain territories were included within the Presidency of Fort William in Bengal and thereafter within the Province of Bihar and Orissa which territories have nevertheless continued to be administered in all respects as if they had continued to be included in the Central Provinces; and

WHEREAS

1

[Price one anna and nine pies,]

Malkharoda and Gaontia Villages Laws. [ACT XXII

WHEREAS the Governor General in Council has, by Notification No. F.-950 (Public), dated the eighth day of March, 1923, and made under section 60 of the Government of India Act with the approval of the Secretary of State for India in Council, been pleased to declare and appoint that the said territories shall again be included in the Central Provinces; and

WHEREAS it is expedient to declare the law which shall be applicable to the said territories and to provide that nothing done by any authority, executive or judicial, in, for or in relation to the said territories since the sixteenth day of October, 1905, shall be brought in question on the ground that the said territories did not form part of the Central Provinces; and to transfer the said territories from the jurisdiction of the High Court of Judicature at Patna to the jurisdiction of the Court of the Judicial Commissioner of the Central Provinces; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Malkharoda and Gaontia Villages Laws Act, 1923.

Declaration of law in force in the said territories.

2. Notwithstanding anything contained in the Bengal, Bihar and Orissa and Assam Laws Act, 1912, the territories specified in the Schedule (hereinafter referred to as the said territories) shall not be deemed to be included within the Province of Bihar and Orissa and nothing in that Act shall be deemed to be applicable to the said territories; but all enactments made by any authority in British India, and all notifications, orders, schemes, rules, forms and bye-laws issued, made or prescribed under such enactments, which immediately before the commencement of this Act were in force in the Central Provinces and would have been in force in the said territories if they had been part of the Bilaspur district of the Central Provinces shall be in force in the said territories.

Transference of said territories to the jurisdiction of the Court of Judicial Commissioner.

3. On and from the commencement of this Act, the High Court of Judicature at Patna shall cease to exercise within the said territories the jurisdiction and powers which the said High Court exercises from

OF 1923.] *Malkharod and Gaontia Villages Laws.*

C. P. Act I
of 1917.

from time to time within the limits of the places for which the said High Court was established; and the said territories are hereby declared for all the purposes of the Central Provinces Courts Act, 1917, to form part of the territories to which that Act extends.

4. No suit or other legal proceeding whatsoever, whether civil or criminal, shall lie against any officer of the Government or against any person acting under the orders of any such officer for or on account of or in respect of any act, matter or thing ordered or done in or in relation to the said territories on the ground that the said territories were not, at the time at which such act, matter or thing was so ordered or done, included in the Central Provinces or that the law in force in the said territories was not at such time the law in force in the said Provinces, but was the law in force in the Sambalpur district of the Bengal Division of the Presidency of Fort William in Bengal or in the Sambalpur District of the Province of Bihar and Orissa.

5. No Court or authority, whether civil, criminal or revenue shall entertain any suit, claim, appeal or application whatsoever for the re-trial of any suit or case tried by any Court in the Central Provinces, or shall reverse, annul, amend, declare invalid, or refuse to give effect to, anything done by any such Court or by any authority whatsoever established in the Central Provinces, or shall annul, amend, declare invalid, or refuse to give effect to, any notification, order, rule, bye-law, instrument or document whatsoever, merely on the ground that at the time at which such suit or case was tried, or such thing was done, or such notification, order, rule, bye-law, instrument or document was issued, made or executed, the said territories were not included in the Central Provinces or that the law in the said territories was not at such time the law for the time being in force in the Central Provinces, but was the law for the time being in force in the Sambalpur district of the Bengal Division of the Presidency of Fort William in Bengal or in the Sambalpur district of the Province of Bihar and Orissa.

THE SCHEDULE.

Malkharoda and Gaontia Villages.
Laws. [ACT XXII OF 1923.]

THE SCHEDULE.

(SEE SECTION 2.)

Malkharoda Jagir.

Serial Number.	Name of Village.	Settlement Number.	Patwari Circle.	Total area of the village in acres.
1	Ameradih	1190	262	402-80
2	Kurda	1278	261	1376-39
3	Kurdi	1279	261	323-65
4	Kalmi	1249	263	1041-14
5	Charpara	1392	263	639-77
6	Chhapura	1418	261	1385-13
7	Dongridhi	1479	261	335-87
8	Nuagaon	1553	262	832-88
9	Pirdha	1606	261	1469-92
10	Pihirid	1608	262	1776-70
11	Bardhata	1663	261	244-90
12	Birbhata	1687	263	362-73
13	Bhatora	1722	262	830-96
14	Mohtara	1797	262	809-21
15	Malkharoda	1770	263	1445-48
16	Mukta	1776	263	901-72
17	Sipat (Bad)	1872	261	1871-96
18	Sipat (San)	1873	262	618-53
19	Sarasdol	1866	262	581-78
20	Senduras	1893	262	1364-35
	TOTAL . . . . .	...	...	18315-87

Gaontia Villages.

Serial Number.	Name of Village.	Settlement Number.	Patwari Circle.	Total area of the village in acres.
1	Kuhakunda	1287	284	616-57
2	Chharra	1419	278	665-85
3	Jogni	1441	287	701-09
4	Thakurpali	1466	287	149-48
5	Panchpurgia	1570	287	38-27
6	Panchpurgia	1571	282	24-10
7	Brahmapura	1664	285	63-41
8	Badimal	1675	284	1233-92
9	Mahadebpali	1761	280	205-58
	TOTAL . . . . .	...	...	3698-27

ACT No. XXIII OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 2nd April, 1923.)

An Act for the removal of doubts regarding the right of women to be enrolled and to practise as legal practitioners.

WHEREAS it is expedient to remove certain doubts which have arisen as to the right of women to be enrolled and to practise as legal practitioners; It is hereby enacted as follows:—

1. (1) This Act may be called the Legal Practitioners (Women) Act, 1923. Short title and extent.

(2) It extends to the whole of British India, including British Baluchistan and the Santhal Parganas.

2. In this Act, "legal practitioner" means a legal practitioner as defined in section 3 of the Legal Practitioners Act, 1879. Definition.

3. Notwithstanding anything contained in any enactment in force in British India or in the letters patent of any High Court or in any rule or order made under or in pursuance of any such enactment or letters patent, no woman shall, by reason only of her sex, be disqualified from being admitted or enrolled as a legal practitioner or from practising as such; and any such rule or order which is repugnant to the provisions of this Act shall, to the extent of such repugnancy, be void. Women not to be disqualified by reason only of sex.

XVIII of
1879.

[Price one anna.]

ACT NO. XXIV OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 19th July, 1923.)

An Act to provide for the forfeiture of the estates and other property of Mahendra Partab Singh and for their grant to his son, subject to certain conditions.

WHEREAS Mahendra Partab Singh, formerly a resident of Hathras in the District of Aligarh in the United Provinces, son of the late Raja Ghansham Singh Bahadur and adopted son of the late Raja Har Narayan Singh, did treasonably ally himself with and assist His Majesty's enemies in the late war and is now a fugitive from justice; and

WHEREAS the estates of the said Mahendra Partab Singh have been and are now attached under the provisions of the Bengal State Prisoners Regulation, 1818; and

WHEREAS the said Mahendra Partab Singh was, at the date of the attachment, possessed of certain moveable property and other such property has been acquired since the said attachment; and

WHEREAS it is expedient for the purpose of the proper administration of the said estates and property and for preventing the use of the same or the income thereof in a manner prejudicial to the safety and good government of British India that all the right, title, interest, claim and demand of the said Mahendra Partab Singh in the said estates and property should be forfeited and thereafter be transferred to his son, Prem Partab Singh, subject nevertheless to certain conditions; It is hereby enacted as follows:—

1. This Act may be called the Mahendra Partab Singh Estates Act, 1923. Short title

2. With

1

[Price four annas and nine pies.]

Forfeiture of
the property
of Mahendra
Partab Singh.

2. With effect from the commencement of this Act, the whole of the estate, right, title, interest, claim and demand whatsoever of the said Mahendra Partab Singh in, to or upon the property specified in the Schedule and in, to or upon any other immoveable or moveable property of whatever description in British India, and in, to or upon all liberties, privileges, benefits, easements and appurtenances whatsoever belonging or in anywise appertaining thereto or usually held or enjoyed therewith (all which estate, right, title, interest, claim and demand is hereinafter referred to as the property) shall absolutely cease and be extinguished, and thereupon the property shall become vested in His Majesty.

Grant of the
property to
son of late
owner.

3. The Governor General in Council, as soon as may be after the commencement of this Act, shall grant the property to Prem Partab Singh, son of the said Mahendra Partab Singh, subject to such provisions, restrictions, conditions and limitations over as he may think fit.

THE SCHEDULE.

(See section 2.)

PART I.

IMMOVEABLE PROPERTY.

A.—Muttra District.

Serial No.	Description of property.	Area or extent.	Revenue and cess			Tahsi.
			Rs.	A.	P.	
1	Ojhani	Whole	1,320	0	0	Chhata.
2	Jatwari	17½ Biswas	2,037	0	0	„
3	Hussaini	Whole	2,456	0	0	„
4	Karhari	„	700	0	0	„
5	Khursi	„	495	0	0	„
6	Rampur	„	890	0	0	„
7	Majhoi	„	1,000	0	0	„
8	Basai (Shergarh)	„	534	0	0	„

OF 1923.] *Mahendra Partab Singh Estates.*

THE SCHEDULE—*contd.**B.—Aligarh District.*

Serial No.	Description of property.	Area or extent.	Revenue and cess.	Tahsil.
1	Qasba Koil property—	Big. Bis. Bisi.	Rs. A. P.	
	(a) Patti Khalsa	1,073 13 17	1,291 7 11	Koil.
	(b) Miscellaneous property	1 4 2	0 5 10	"
	(c) Patti Muafi Munzabta	31 7 7	84 10 0	"
	(d) Patti for Dargah expenses	0 8 0		
	(e) Muafi Kam-az-dah bigha	0 2 19 and 10 Kachwansis.	Revenue free— { The cesses are— (d) 0 2 5 (e) 0 0 11 (f) 1 6 5 (g) Nil.	"
	(f) Patti Muafi Dawam	4 15 0		
	(g) Block No. 16	7 3 0	Rent roll 24 0 0	"
	(h) Chawni Dayaram Mazra Mauza Gambhirpura	51 5 0	12 4 10	"

2	Tochigarh Mohal Ghairkhwastgaran (Muafi) . . .	83 4 0	Cess . . .	12 0 0	Iglas.
3	Patti Sanwant (Whole village) . . .	384 17 0	Rent roll . . .	1,260 8 0	Hathras.
			Revenue] . . .	580 0 0	
			Cesses . . .	58 0 0	
4	Sokhana	25 12 0	" . . .	5 8 0	"
5	Garhi Kandhari	16 11 0	" . . .	2 6 4	"
6	Bala Patti Sheikh Jafar	9 9 0	" . . .	4 5 2	"
7	Garhi Garab (Muafi) .	4 3 0	" . . .	0 5 5	"
8	Garden in Qasba Hathras situated in different mahals as below :—				
	(a) Mahal 15 biswa	124 13 0	" . . .	15 14 5	"
	(b) Mahal 5 biswa	65 5 0	" . . .	13 4 5	"
	(c) Mahal 5 biswa (mortgagor rights)	10 19 16	" . . .	32 2 4	"

OF 1923.] Mahendra Partab Singh Estates.

THE SCHEDULE—*contd.**C.—Koil Municipality.*

Serial No.	Municipal number (if any) and description of property.	Situation.	BOUNDARIES OF SHOPS.			
			North.	South.	East.	West.
1	Shop 60	Under school	Shop of Kunwar Mahendra Pratab Singh.	Door and Road	Shop of Municipal boundary.	Shop of Kunwar Sahib.
2	Do. 61	Ditto	School building	Ditto	Shop of Kunwar Sahib	Ditto.
3	Do. 62	Ditto	Ditto	Ditto	Ditto	Ditto.
4	Do. 63	Ditto	Ditto	Ditto	Ditto	Ditto.
5	Do. 64	Ditto	Ditto	Ditto	Ditto	Ditto.
6	Do. 65	Ditto	Ditto	Ditto	Ditto	Ditto.
7	Do. 65	Ditto	Ditto	Ditto	Ditto	Ditto.
8	Do. 66	Ditto	Ditto	Ditto	Ditto	Ditto.
9	Do. 67	Ditto	Ditto	Ditto	Ditto	Ditto.
10	Do. 68	Ditto	Ditto	Ditto	Ditto	Ditto.
11	Do. 69	Ditto	Ditto	Ditto	Ditto	Ditto.
12	Do. 70	Ditto	Ditto	Ditto	Ditto	Shop of Bansi Dtar.
13	Do. 41	Ditto	Door and Road	School building	Shop of Municipal boundary.	Shop of Kunwar Sahib.
14	Do. 40	Ditto	Ditto	Ditto	Shop of Kunwar Sahib	Ditto.
15	Do. 39	Ditto	Ditto	Ditto	Ditto	Ditto.

16	Do.	. . . . . 38	Ditto	Ditto	Ditto	Ditto	Ditto
17	Do.	. . . . . 37	Ditto	Ditto	Ditto	Ditto	Ditto.
18	Do.	. . . . . 36	Ditto	Ditto	Ditto	Ditto	Ditto.
19	Do.	. . . . . 35	Ditto	Ditto	Ditto	Ditto	Ditto.
20	Do.	. . . . . 34	Ditto	Ditto	Ditto	Ditto	Ditto.
21	Do.	. . . . . 33	Ditto	Ditto	Ditto	Ditto	Ditto
22	Do.	. . . . . 32	Ditto	Ditto	Ditto	Ditto	Ditto
23	Do.	. . . . . 31	Ditto	Ditto	Ditto	Ditto	Shop of Jugal Kishor.
24	Do.	. . . . . 73	Bazar Pathar	Shop of Choba Mathura.	Door and Road	Ditto	Shop of Gobind Saran.
25	Do.	. . . . . 72	Ditto.	Shop of Kanhai Lal	Ditto	Shop of Banai Dhar	Shop of Kunwar Sahib.
26	Do.	. . . . . 81	Bazar Kaserath	Shop of Pasratha .	Ditto	Shop of Jeth Mal .	Shop of Prashadi Lal.
27	Do.	. . . . . 87	Ditto	Ditto	Ditto	Shop of Bansi .	Shop of Sita Ram
28	Do.	. . . . . 96	Ditto	Ditto	Ditto	Shop of Babu Nathi Lal	Shop of Jagar Nath.
29	Do.	. . . . . 84	Bazar Lohat.	Shop of Nand Kishore .	Shop of Basdeo .	Shop of Basdeo .	Door and Road
30	Do.	. . . . . 9	Mandi Rai .	Shop of Nathi Mal	Shop of Mool Chand .	Door and Road .	House
31	Do.	. . . . . 6	Ditto	Shop of Kunwar Sahib .	Shop of Tara Chand .	Ditto .	Ditto.
32	Do.	. . . . . 5	Ditto	Ditto	Shop of Kunwar Sahib .	Ditto .	Ditto.
33	Do.	. . . . . 4	Ditto	Ditto	Ditto	Ditto .	Shop of Maidawala.
34	Do.	. . . . . 8	Ditto	Shop of Lachman Das .	Ditto	Ditto .	Ditto.
35	Do.	. . . . . 15	Zer Kotwali	Kotwali .	Door and Road .	Shop .	Shop.
36	Do.	. . . . . 105	Najhai .	Door and Road .	House of Kothiwala .	Shop of Lala Ram .	Shop of Kunwar Sahib.
37	Do.	. . . . . 104	Ditto	Ditto	Ditto	Ditto .	Ditto
38	Do.	. . . . . 103	Ditto	Ditto	Ditto	Shop of Kunwar Sahib .	Ditto.

OF 1923.] Mahendra Partab Singh Estates.

THE SCHEDULE—*contd.*C.—*Koil Municipality—contd.*

Serial No.	Municipal number (if any) and description of property.	Situation.	BOUNDARIES OF SHOPS.			
			North.	South.	East.	West.
39	Shop 102	Najhai	Door and Road	House of Kothiwala	Shop of Kunwar Sahib	Shop of Piere Lal.
40	Do. 95	Ditto	Ditto	House of Puran	Shop of Bhola Nath	Shop of Kunwar Sahib.
41	Do. 96	Ditto	Ditto	Shop of Kunwar Sahib	Ditto	Ditto.
42	Do. 95	Ditto	Ditto	Ditto	Ditto	Ditto.
43	Do. 94	Ditto	Ditto	Ditto	Ditto	Shop of Mandir Saraogi.
44	Do. 76	Ditto	Ditto	Ditto	Ditto	Shop of Ramchand.
45	Do. 77	Ditto	Ditto	Siak Nagran	Shop of Natha Ram	Shop of Kunwar Sahib.
46	Do. 23	Ditto	Ditto	Ditto	Shop of Jagarnath	Ditto.
47	Do. 22	Ditto	Shop of Halwaikhana	Door and Road	Shop of Kunwar Sahib	Shop of Churanji Lal.
48	Do. 20	Ditto	Ditto	Ditto	Shop of Gobind Ram	Shop of Jagarnath.
49	Do. 12	Ditto	Ditto	Ditto	Shop of Kunwar Sahib	Shop of Radha Manohar.
50	Do. 11	Ditto	Ditto	Ditto	Shop of Har Prasad	Shop of Kunwar Sahib.
51	Do. 103	Halwaikhana	Shop of Kunwar Sahib	Ditto	Door and Road	Shop of Munna Lal.
52	Do. 1	Ditto	Shop of Piere Lal	Shop of Thakur Sahib	Ditto	Ditto.
53	Do. 84	Ditto	Door and Road	Well	Shop of Natha Lal	Street.
54	Do. 82	Ditto	Ditto	Shop of Najhai	Shop of Radha Ballabh	Shop of Brahman.

55	Do.	. . . . .	.107	Sasni Darwaza	Shop of Kunwar Sahib .	Shop of Ganeshi	House of Thakura	Door and Road.
56	Do.	. . . . .	.106	Ditto	Ditto	Ditto	Ditto	Ditto.
57	Do.	. . . . .	.105	Ditto	Ditto	Ditto	House of Bijal Mal	Ditto.
58	Do.	. . . . .	.104	Ditto	Ditto	Ditto	House	Ditto.
59	Do.	. . . . .	. 43	Ditto	Road Bandarban	Ditto	Door and Road	House of Budhgen.
60	Do.	. . . . .	. 44	Ditto	Shop of Kunwar Sahib .	Street Balakhana	Ditto	Ditto.
61	Do.	. . . . .	.103	Ditto	Ditto	Street	House of Natha	Door and Road.
62	Do.	. . . . .	. 20	Gurhal	Ditto	Shop of Ramwarup j	Door and Road	House of Natha Ram.
63	Do.	. . . . .	. 32	Ditto	Shop of Jaiswal	Shop of Nemi Mal ,	Ditto	Shop of Halwalkhana.
64	Do.	. . . . .	. 30	Ditto	Shop of Kunwar Sahib .	Shop of Ramwarup j	Ditto	House of Thathera.
65	Do.	. . . . .	. 19	Ditto	Door and Balakhana	Shop of Kunwar Sahib	Ditto	Shop of Halwalkhana.
66	Do.	. . . . .	. 69	Ditto	Shop of Kunwar Sahib .	Shop	House of Phulchand	Door and Road.
67	Do.	. . . . .	. 68	Ditto	Shop of Madan Lal	Shop of Kunwar Sahib	Ditto	Ditto.
68	Do.	. . . . .	. 66	Ditto	Shop of Sunar	Shop of Gobindsaran	Ditto	Ditto.
69	Do.	. . . . .	. 8	Pasaratha	Door and Road	Shop of Kaserath Bazar	Shop of Sannu Lal	Shop of Kunwar Sahib.
70	Do.	. . . . .	. 4	Ditto	Ditto	Ditto	Shop of Kunwar Sahib	Shop of Ganeshi Lal.
71	Do.	. . . . .	. 12	Ditto	Ditto	Ditto	Shop of Buddha	Shop of Angan Lal.
72	Do.	. . . . .	. 51	Ditto	House of Darbari Lal	Door and Road	Shop of Kanhaya Lal	Shop of Kesodeo.
73	Do.	. . . . .	. 63	Chauk Daulat Ram	Door and Road	Temple of Ganeshi Lal	Street	Shop of Lala Panna Lal.
74	Do.	. . . . .	. 82	Bazar Chakki	Shop of Gillo Mal	Shop of Kunwar Sahib	Kothi Ram Lal	Door and Road.
75	Do.	. . . . .	. 83	Ditto	Shop of Kunwar Sahib	Shop of Tika Ram	Ditto	Ditto.
75 (a)	Do.	. . . . .	Balakhana	Gurhal	Temple of Gangaji	Shop of Ramsarup	Door and Road	Shop of Thathera.
76	Do.	. . . . .	. 3	Zer Kotwall	Door and Road	House of Bhojraj	Shop of Ganga Prasad	Shop of Chhitar Mal.

OF 1923.] Mahendra Partab Singh Estates.

THE SCHEDULE—*contd.**C.—Koil Municipality—concl'd.*

Serial No.	Municipal number (if any) and description of property.	Situation.	BOUNDARIES OF SHOPS.			
			North.	South.	East.	West.
76 (a)	Shop . . . Balakhana	Najhai	Street	Balakhana	Door and Road	House of Buddha.
77	Do. 40	Lohat	Shop of Kunwar Sahib	Shop of Moti Ram	Ditto	Shop of Debi Sahae.
78	Do. 39	Ditto	Shop of Jamna Sahae	Ditto	Ditto	Shop of Rui-ki Mandi.
79	Madrassa	Bazar Patthar	Bazar Pasratha	Bazar Patthar	Municipal Well	House of Dhanpat Rae.

D.—Koil Tahsil.

Serial No.	Municipal number (if any) and description of property.	Situation.	BOUNDARIES.			
			North.	South.	East.	West.
1	Sarai of Labruyan of 60 houses.	Mohalla Ghuriabagh	Field of Haji Chand	Field of Ganga Sahai	Field of Haji Chand	Public Road.
2	Sarai Intizam Ali of 13 houses.	Mohalla Madar Darwaza	Flour Mill of Tika Ram	House of Nannu Bhatia- ra. . . .	Public Road	House of Khwaj Bakhsh Bhatara.
3	Do. 1 house	Ditto	House of Tika Ram	Ditto	Ditto	Ditto.

4	Do. 1 house	Do.	Ditto	Ditto	Ditto	Ditto
5	Shop	Sarai Intizam Ali	Sarai Intizam Ali	Road	Shop of Babu Lal	Shop of B. Panna Lal.
6	Do.	Balae Kila	House of Weavers	Do.	Shop of Maula Dad Khan	Shop of Jahangir.
7	Ahata (enclosure)	Madar Darwaza	Flour Mill of Tika Ram	House of Nana Bhatia	House of Khwaj Baksh	Road.
8	Proprietary rights of the land on which public latrines are situated in Mohalla Khirn Darwaza.					
9	Proprietary rights of the house of Babu Maluk Chand in Mohalla Sarai Rahman.					
10	Proprietary rights of the land on which the workshop of <i>ant</i> is situated in Panna Debi.					

E.—Dehra Dun.

Serial No.	Name of mauza.	Pargana.	Khasra No.	Area in acres.	Name of houses.	Municipal No.	House rent yearly accruing.	AMOUNT PAID ON ACCOUNT OF		Municipal tax.	Boundaries.
								Land Revenue	Rent.		
1	2	3	4	5	6	7	8	9	10	11	12
							Rs.	Rs. A. P.	Rs. A. P.	Rs. A. P.	
1	Karanpur khas	Western Dun	158 159 160 161	2 47 -14 -16 -78	Dilkhusha	44 Rajpur Road, Dehra Dun	1,080	16 6 9	..	..	North . Kothi Inverness. South . House of Mr. T. Grey. East . Canal West . Mauza Salawala.
			4	3 55							
2	Ditto	Ditto	157	2 24	Inverness	43 Rajpur Road, Dehra Dun.	600	16 6 9	..	..	North . Church and Kothi Daya South . Kothi Dilkhusha. East . Canal West . Mauza Salawala.

OF 1923.] Mahendra Parth Singh Estates.

THE SCHEDULE—*contd.**E.—Dehra Dun—contd.*

Serial No.	Name of mauza.	Pargana.	Khasra No.	Area in acres.	Name of houses.	Municipal No.	House rent yearly accruing.	AMOUNT PAID ON ACCOUNT OF		Municipal tax.	Boundaries.
								Land Revenue.	Rent.		
1	2	3	4	5	6	7	8	9	10	11	12
							Rs.	Rs. A. P.	Rs. A. P.	Rs. A. P.	
3	Karanpur khas	Western Dun .	147 148 149 150 151 152	-44 -03 -73 -08 -30 -03	Daya or Parsonage.	42 Rajpur Road, Dehra Dun.	840	16 6 9	..	..	North . Kothi Dharma. South . Kothi Inverness. East . Church. West . Mauza Salawala.
4	Ditto	Ditto	6 141 142 143 144 145 146 254 162	1-61 -03 -12 -11 1-04 -39 -02 -46 1-73	Dharma or Church side.	41 Rajpur Road, Dehra Dun.	840	16 6 9	..	..	North . Footpath. South . Church. East . Canal. West . Mauza Salawala.
5	Dhak patti	Western Dun .	8 885 884 887 892 893	3 95 -23 -16 -24 -05 -84	Ellenborough Hotel, Rajpur	..	2,400	..	11 15 6	48 0 0	North . Chapman's hotel. South . Land belonging to Lala Mut-saddi Lal. East . Rizpana river.

OF 1923.] Mahendra Parth Singh Estates.

West . Rajour road.
Occupancy rights of the
first 19 plots Nos.
885—907 and non-occu-
pancy of the last seven
numbers.

		898	-12				
		894	-02				
		897	-02				
		895	-04				
		896	-01				
		899	-02				
		900	-14				
		901	-01				
		902	-08				
		903	-02				
		904	-07				
		905	-01				
		906	-10				
		907	-31				
		19	2.40				
		883	-41				
		877	2.16				
		878	-02				
		879	-75				
		880	-01				
		881	-24				
		882	03				
		7	3.62				
					12 4 6		

THE SCHEDULE—*concl'd.*

PART II.

MOVEABLE PROPERTY.

Serial No.	Nature of securities.	Face value.	Price paid.	Date of purchase.	In whose possession the securities, scripts, certificates, deeds, etc., are.
		Rs.	Rs. A. P.		
1	Post Office Cash Certificates payable on 27th September 1923, <i>viz.</i> — <div style="text-align: right; margin-right: 20px;">Rs.</div> Nos. A.D.-008471 to A.D.-008480 for Rs. 500 each 5,000 Nos. A.B.-005789 to A.B.-005790 for Rs. 500 each 1,000 <u>U</u> 045222 to <u>U</u> 045225 of Rs. 100 each 400 N.1725 50 <hr style="width: 10%; margin-left: auto; margin-right: 0;"/> 6,450	6,450	4,998 12 0	27th September 1918	Collector, Muttra.
2	6 per cent. United Provinces Bonds, Nos. C-004640 to C-004648 for Rs. 1,000 each B.-000910 to B.-000912 for Rs. 500 each A.-004378 to A.-004379 for Rs. 100 each, dated the 15th November 1921.	10,700	9,951 0 0	18th October 1921	Collector, Muttra.
3	5 per cent. War Loan 1921—1947, No. 013192	7,350	10,973 0 0	15th August 1917	Collector, Aligarh.
4	Inscribed stock No. 742 of 5 per cent. War Loan 1929—1947	4,200		10th October 1917	Public Debt Office.

5	Inscribed stock No. 1753 of 5 per cent. War Loan, 1929—1947	1,500	..	10th April 1920	Ditto.
6	5½ per cent. War Bond, 1923	₹ 2,000	..	11th November 1920 } . .	Assistant Accountant-General, Posts and Telegraphs, Calcutta. Safe custody receipt No. PDD/ 281, dated 14th October 1920.
7	6 per cent. United Provinces Bonds for Rs. 1,000 each, Nos. C.-004358 and C-004359 dated	₹ 2,000	1,860 0 0	15th November 1921 . . .	Collector, Aligarh.
	Post Office Cash Certificates payable in 1924—	650	508 12 0	15th November 1919 . . .	Collector, ditto.
	Rs.				
	No. T -037910	50			
	No. $\frac{V}{V}$: 017987	100			
	No. A.B.-047074	500			
	650				
8	5½ per cent. War Loan 1929—1947, No. 018050	1,000	950 0 0	1917	Superintendent, Dehra Dun.
9	Post Office Cash Certificates payable on 12th September 1923—				
	1 of Rs. 10—No. $\frac{P}{4}$ 09103	1,930	1,496 0 0	12th September 1918 . . .	Ditto.
	1 of Rs. 20—No. K.-039543.				
	4 of Rs. 100 each Nos. $\frac{X}{X}$ -088192 to 088195				
	3 of Rs. 500 each Nos. A. D.-008368 to A.D.-008370.				

OF 1923.] Mahendra Partab Singh Estates.

CALCUTTA
SUPERINTENDENT GOVERNMENT PRINTING, INDIA
8, HASTINGS STREET

ACT No. XXV OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
25th July, 1923.)

An Act to modify certain provisions of the
Indenture confirmed by the Moorshedabad
Act, 1891.

WHEREAS it is expedient to modify certain provisions of the Indenture confirmed by the Moorshedabad Act, 1891; It is hereby enacted as follows:—

XV of 1891.

1. This Act may be called the Moorshedabad Short title.
(Amendment) Act, 1923.

XV of 1891.

2. The provisions of the Indenture set out in the Modification of Indenture.
Schedule to the Moorshedabad Act, 1891, which provide that the Nawab Bahadur of Moorshedabad shall not, nor shall any of his successors, sell, mortgage, devise or alienate certain properties referred to in the said Indenture respectively or any of them otherwise than by lease or demise for a term not exceeding twenty-one years and under a rent without bonus or salamee shall have effect as if for the words "for a term not exceeding twenty-one years and under a rent without bonus or salamee" the following words were substituted, namely:—

" the terms and conditions of which have been
previously approved by the Governor of
Bengal in Council " :

Provided that nothing herein contained shall affect anything done, or any right or liability which has accrued or been incurred, under any such lease or demise before the commencement of this Act.

[Price one anna.]

ACT No. XXVI OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the
25th July, 1923.)*

An Act further to amend the Code of Civil Procedure, 1908, for certain purposes.

v of 1908. **W**HEREAS it is expedient further to amend the Code of Civil Procedure, 1908, for certain purposes hereinafter appearing; It is hereby enacted as follows :—

1. This Act may be called the Code of Civil Procedure (Amendment) Act, 1923. ^{Short title.}

v of 1908. 2. In clause (i) of sub-section (1) of section 60 of the Code of Civil Procedure, 1908, for the word "twenty", wherever it occurs, the word "forty", and for the word "forty" the word "eighty", shall be substituted. ^{Amendment of section 60, Act V of 1908.}

[Price one anna.]

ACT, No. XXVII OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 25th July, 1923.)

An Act further to amend the Indian Income-tax Act, 1922, for certain purposes.

XI of 1922. **W**HEREAS it is expedient further to amend the Indian Income-tax Act, 1922, for certain purposes hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Indian Income-tax (Further Amendment) Act, 1923. Short title.

XI of 1922. 2. In sub-section (2) of section 4 of the Indian Income-tax Act, 1922 (hereinafter referred to as the said Act), for the words "shall be deemed to be profits and gains of the year in which they are received or brought into British India," the following words shall be substituted, namely:—

"shall, if they are received in or brought into British India, be deemed to have accrued or arisen in British India and to be profits and gains of the year in which they are so received or brought."

3. After Chapter V of the said Act the following Chapter shall be inserted, namely:— Insertion of new Chapter VA in Act XI of 1922.

" CHAPTER VA.

SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES OF SHIPPING.

44A. The provisions of this Chapter shall, notwithstanding anything contained in the other provisions of this Act, apply for the purpose of the levy and recovery of tax in the case of any person who resides out of British India and carries on business in British India in any year as the owner or charterer of a ship (such person hereinafter in this Chapter being referred to as the principal), unless the Income-tax Officer is satisfied that there is an

agent

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[Price one anna and three pies.]

Indian Income-tax [ACT XXVII OF 1923.]
(Further Amendment).

agent of such principal from whom the tax will be recoverable in the following year under the other provisions of this Act.

Return of
profits and
gains.

44B. (1) Before the departure from any port in British India of any ship in respect of which the provisions of this Chapter apply, the master of the ship shall prepare and furnish to the Income-tax Officer a return of the full amount paid or payable to the principal, or to any person on his behalf, on account of the carriage of all passengers, live-stock or goods shipped at that port since the last arrival of the ship thereat.

(2) On receipt of the return, the Income-tax Officer shall assess the amount referred to in subsection (1), and for this purpose may call for such accounts or documents as he may require, and one-twentieth of the amount so assessed shall be deemed to be the amount of the profits and gains accruing to the principal on account of the carriage of the passengers, live-stock and goods shipped at the port.

(3) When the profits and gains have been assessed as aforesaid, the Income-tax Officer shall determine the sum payable as tax thereon at the rate for the time being applicable to the total income of a company, and such sum shall be payable by the master of the ship, and a port-clearance shall not be granted to the ship until the Customs-collector, or other officer duly authorised to grant the same, is satisfied that the tax has been duly paid.

Adjustment.

44C. Nothing in this Chapter shall be deemed to prevent a principal from claiming, in any year following that in which any payment has been made on his behalf under this Chapter, that an assessment be made of his total income in the previous year, and that the tax payable on the basis thereof be determined in accordance with the other provisions of this Act, and, if he so claims, any such payment as aforesaid shall be treated as a payment in advance of the tax and the difference between the sum so paid, and the amount of tax found payable by him shall be paid by him or refunded to him, as the case may be."

ACT No. XXVIII OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
25th July, 1923.)

An Act to repeal the Acts which provide for
the levy of a cess on indigo exported from
British India.

WHEREAS it is expedient to repeal the Acts
which provide for the levy of a cess on indigo
exported from British India; It is hereby enacted
as follows:—

1. (1) This Act may be called the Indigo Cess Short title
and com-
mencement.
(Repealing) Act, 1923.

(2) It shall come into force on the first day of
August, 1923.

III of 1918.
V of 1921.

2. The Indigo Cess Act, 1918, and the Indigo Repeal.
Cess (Amendment) Act, 1921, are hereby repealed.

[Price one anna.]

ACT No. XXIX OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
27th July, 1923.)

An Act further to amend the Code of Civil Procedure, 1908.

V of 1908. **WHEREAS** it is expedient further to amend the
Code of Civil Procedure, 1908; It is hereby
enacted as follows:—

1. This Act may be called the Code of Civil Procedure (Amendment) Act, 1923. Short title.

V of 1908. 2. In sub-rule (1) of rule 32 of Order XXI in
the First Schedule to the Code of Civil Procedure,
1908 (hereinafter referred to as the said Order), after
the word "enforced" the following shall be in-
serted, namely:— Amendment
of rule 32 of
Order XXI
in Schedule
I, Act V of
1908.

" in the case of a decree for restitution of con-
jugal rights by the attachment of his
property or, in the case of a decree for
the specific performance of a contract or
for an injunction "

3. In rule 33 of the said Order,—

(a) in sub-rule (1), after the words " passing a
decree " the words " against a husband " Amendment
of rule 33 of
Order XXI
in Schedule I,
Act V of
1908.
shall be inserted, and for the words
" shall not be executed by detention in
prison " the words " shall be executed
in the manner provided in this rule " 3
shall be substituted; and

(b) in sub-rule (2), the words " and the decree-
holder is the wife " shall be omitted.

[Price one anna.]

ACT No. XXX OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
30th July, 1923.)

An Act further to amend the Special Marriage Act, 1872.

III of 1872. **W**HEREAS it is expedient further to amend the
Special Marriage Act, 1872; It is hereby en-
acted as follows :—

1. This Act may be called the Special Marriage Short title.
(Amendment) Act, 1923.

III of 1872. 2. In the preamble to the Special Marriage Act, Amendment
of preamble,
Act III of
1872. 1872 (hereinafter referred to as the said Act), after
the words “ Jaina religion ” the following words
shall be inserted, namely :—

“ and for persons who profess the Hindu,
Buddhist, Sikh or Jaina religion ”.

3. In section 2 of the said Act, after the words Amendment
of section 2,
Act III of
1872. “ Jaina religion ” the following words shall be
inserted, namely :—

“ or between persons each of whom professes
one or other of the following religions,
that is to say, the Hindu, Buddhist, Sikh
or Jaina religion ”.

4. After section 21 of the said Act the following Addition of
new sections
to Act III
of 1872. sections shall be inserted, namely :—

“ 22. The marriage under this Act of any mem- Effect of
certain
marriages
on copar-
cenary.
ber of an undivided family who professes the Hindu,
Buddhist, Sikh or Jaina religion shall be deemed to
effect his severance from such family.

23. A
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[Price one anna and three pies.]

Special Marriage (Amendment). [ACT XXX OF 1923.]

Rights of succession in certain cases of marriage under Act.

23. A person professing the Hindu, Buddhist, Sikh or Jaina religion who marries under this Act shall have the same rights and be subject to the same disabilities in regard to any right of succession to any property as a person to whom the Caste Disabilities Removal Act, 1850, applies :

XXI of 1850

Provided that nothing in this section shall confer on any person any right to any religious office or service, or to the management of any religious or charitable trust.

Succession to the property of parties married under Act.

24. Succession to the property of any person professing the Hindu, Buddhist, Sikh or Jaina religion who marries under this Act, and to the property of the issue of such marriage, shall be regulated by the provisions of the Indian Succession Act, 1865.

X of 1865

Person marrying under Act not to have right of adoption.

25. No person professing the Hindu, Buddhist, Sikh or Jaina religion who marries under this Act shall have any right of adoption.

Adoption by father of person marrying under Act.

26. When a person professing the Hindu, Buddhist, Sikh or Jaina religion marries under this Act, his father shall, if he has no other son living, have the right to adopt another person as a son under the law to which he is subject."

Amendment of Second Schedule to Act III of 1872.

5. In the Second Schedule to the said Act, after the words " Jaina religion " in both places where they occur, the following shall be inserted, namely :—

" or (as the case may be) I profess the Hindu, or the Buddhist, or the Sikh, or the Jaina religion " .

ACT No. XXXI OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the
31st July, 1923.)*

An Act to amend the Indian Territorial Force Act, 1920, and the Auxiliary Force Act, 1920, for certain purposes.

XLVIII of
1920.
XLIX of
1920.

WHEREAS it is expedient to amend the Indian Territorial Force Act, 1920, and the Auxiliary Force Act, 1920, for certain purposes hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Indian Territorial and Auxiliary Forces (Amendment) Act, 1923. Short title.

XLVIII of
1920.

2. To section 11 of the Indian Territorial Force Act, 1920, the following sub-section shall be added, namely:— Amendment of section 11, Act XLVIII of 1920.

VIII of 1911.

“(3) Where an offence punishable under the Indian Army Act, 1911, or, as the case may be, under that Act as modified under sub-section (2), has been committed by any person whilst subject to that Act under the provisions of this section, such person may be taken into and kept in military custody and tried and punished for such offence under that Act, although he has ceased to be so subject as aforesaid, in like manner as he might have been taken into and kept in military custody, tried or punished, if he had continued to be so subject :

Provided that no such person shall be kept in military custody after he has ceased to belong to the Indian Territorial Force, unless he has been taken into or kept in military custody on account of

*Indian Territorial and Aux- [ACT XXXI OF 1923.]
iliary Forces (Amendment).*

of the offence before the date on which he ceased so to belong, nor shall he be kept in military custody or be tried or punished for the offence after the expiry of two months from that date, unless his trial had already commenced before such expiry."

Amendment
of section
21, Act #
XLIX of
1920.

3. Section 21 of the Auxiliary Force Act, 1920, XLIX of 1920, shall be re-numbered as sub-section (1) of section 21, and to that section as so re-numbered the following sub-section shall be added, namely:—

"(2) Where an offence punishable under the Army Act has been committed by any person whilst subject to that Act under the provisions of sub-section (1), such person may be taken into and kept in military custody and tried and punished for such offence, although he has ceased to be so subject as aforesaid, in like manner as he might have been taken into and kept in military custody, tried or punished if he had continued to be so subject :

Provided that no such person shall be kept in military custody after he has ceased to belong to the Auxiliary Force, India, unless he has been taken into or kept in military custody on account of the offence before the date on which he ceased so to belong, nor shall he be kept in military custody or be tried or punished for the offence after the expiry of two months from that date, unless his trial had already commenced before such expiry."

ACT No. XXXII OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
31st July, 1923.)

An Act further to amend the Indian Lunacy Act, 1912.

IV of 1912. **WHEREAS** it is expedient further to amend the
Indian Lunacy Act, 1912; It is hereby enacted
as follows :—

1. This Act may be called the Indian Lunacy Short title.
(Amendment) Act, 1923.

• IV of 1912. 2. To section 20 of the Indian Lunacy Act, Amendment
of section
20, Act IV
of 1912.
1912, the following proviso shall be added,
namely :—

“ Provided that no reception order shall con-
tinue to have effect—

(a) after the expiry of thirty days from
the date on which it was made,
unless the lunatic has been admitted
to the place mentioned therein with-
in that period, or

(b) after the discharge, under the provi-
sions of this Act, of the lunatic
from such place or from any asylum
to which he may have been
removed.”

[Price one anna.]

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ACT NO. XXXIII OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 31st July, 1923.)

An Act further to amend the Indian Army Act, 1911, and the Indian Lunacy Act, 1912, for certain purposes.

VIII of
1911.
IV of 1912.

WHEREAS it is expedient further to amend the Indian Army Act, 1911, and the Indian Lunacy Act, 1912, for certain purposes hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Indian Army Short title.
(Amendment) Act, 1923.

VIII of
1911.

2. In section 7 of the Indian Army Act, 1911 Amendment of section 7, Act VIII of 1911
(hereinafter referred to as the said Act),—

(a) to clause (1) after the words “land forces” the following words shall be added, namely:—

“and includes, in relation to a person subject to this Act when serving under such conditions as may be prescribed, a person holding a commission in His Majesty’s Air Force”; and

(b) in clause (?), after the words “Army Act” the words “or the Air Force Act” shall be added.

3. To section 91A of the said Act the following Amendment of section 91A, Act VIII of 1911.
sub-section shall be added, namely:—

“(7) Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner

to

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[Price one anna and six pies.]

Indian Army (Amendment). * [ACT XXXIII

to Government upon any matter or thing duly submitted to him for examination or analysis and report may be used as evidence in any proceeding under this Act.”

Insertion of new section 103A in Act VIII of 1911.

Provision in the case of accused being lunatic.

4. In Chapter VIII of the said Act, after section 103 the following section shall be inserted, namely :—

“ 103A. (1) Whenever, in the course of a trial by court-martial, it appears to the Court that the person charged is of unsound mind and consequently incapable of making his defence, or that such person committed the act alleged but was by reason of unsoundness of mind incapable of knowing the nature of the act or that it was wrong or contrary to law, the Court shall record a finding accordingly, and the President of the Court or the officer holding the trial, as the case may be; shall forthwith report the case to the confirming officer, or, in the case of a court-martial whose finding does not require confirmation, to the prescribed officer.

(2) A confirming officer to whom a case is reported under sub-section (1) may, if he does not confirm the finding, take steps to have the accused person tried by the same or another court-martial for the offence with which he was originally charged.

(3) A prescribed officer to whom a case is reported under sub-section (1) and a confirming officer confirming a finding in any case so reported to him shall order the accused person to be kept in custody in the prescribed manner, and shall report the case for the orders of the Governor General in Council.

(4) On receipt of a report under sub-section (3), the Governor General in Council may order the accused person to be detained in a lunatic asylum or other suitable place of safe custody.

(5) Where an accused person, having been found by reason of unsoundness of mind to be incapable
of

OF 1923.] *Indian Army (Amendment).*

of making his defence, is in custody or under detention, the prescribed officer may—

(a) if such person is in custody under sub-section (3), on the report of a medical officer that he is capable of making his defence, or

(b) if such person is detained under sub-section (4), on a certificate such as is referred to in section 473 of the Code of Criminal Procedure, 1898,

V of 1898.

take steps to have such person tried by the same or another court-martial for the offence with which he was originally charged or, provided that the offence is a civil offence, by a Criminal Court.

(6) A copy of every order made by the prescribed officer under sub-section (5) shall forthwith be sent to the Governor General in Council."

IV of 1912

5. In the Indian Lunacy Act, 1912—

Amendment
of sections
3, 24, 30 and
35, Act IV
of 1912.

(a) to clause (4) of section 3 after the figures " 1900 " the words and figures " or of section 103A of the Indian Army Act, 1911 " shall be added;

VIII of 1911

(b) in section 24, after the figures " 1900 " the words and figures " or under section 103A of the Indian Army Act, 1911 " shall be inserted;

(c) in sub-section (1) of section 30, after the figures " 1898 " the words and figures " or under the provisions of section 103A of the Indian Army Act, 1911 " shall be inserted; and

(d) in sub-section (2) of section 35, after the figures " 1898 " the words and figures " or under section 103A of the Indian Army Act, 1911 " shall be inserted.

ACT NO. XXXIV OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the
31st July, 1923.)*

An Act to amend the Cutchi Memons Act, 1920.

XLVI of
1920.

WHEREAS it is expedient to amend the Cutchi Memons Act, 1920; It is hereby enacted as follows:—

1. This Act may be called the Cutchi Memons Short title.
(Amendment) Act, 1923.

XLVI of
1920.

2. (1) Section 2 of the Cutchi Memons Act, 1920 Amendment
of section 2,
Act XLVI of
1920. shall be re-numbered as sub-section (1) of section 2, and in that sub-section as re-numbered for the words "Any Cutchi Memon who—

- (a) has attained the age of majority, and
- (b) is resident in British India,"

the following shall be substituted, namely:—

"Any person who satisfies the prescribed authority—

- (a) that he is a Cutchi Memon and is the person whom he represents himself to be;
- (b) that he is competent to contract within the meaning of section 11 of the Indian Contract Act, 1872; and
- (c) that he is resident in British India,"

IX of 1872.

(2) To

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[Price one anna, and three pies.]

Cutchi Memons (Amendment). [ACT XXXIV OF 1923.]

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

“(2) Where the prescribed authority refuses to accept a declaration under sub-section (1), the person desiring to make the same may appeal to such officer as the Local Government may, by general or special order, appoint in this behalf, and such officer may, if he is satisfied that the appellant is entitled to make the declaration, order the prescribed authority to accept the same.”

Amendment
of section 3,
Act XLVI of
1920.

3. Sub-section (2) of section 3 of the said Act shall be re-numbered as sub-section (3), and for sub-section (1) of the same section the following sub-sections shall be substituted, namely:—

“(1) The Local Government may make rules to carry into effect the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) for prescribing the authority before whom and the form in which declarations under this Act shall be made;

(b) for prescribing the fees to be paid for the filing of declarations and for the attendance at private residences of any person in the discharge of his duties under this Act; and for prescribing the times at which such fees shall be payable and the manner in which they shall be levied.”

ACT No. XXXV OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
31st July, 1923.)

An Act further to amend the Code of Criminal Procedure, 1898.

V of 1898. **W**HEREAS it is expedient to give to mukhtars the right to practise in certain Criminal Courts and further to amend the Code of Criminal Procedure, 1898, for that purpose; It is hereby enacted as follows :—

1. This Act may be called the Code of Criminal Procedure (Further Amendment) Act, 1923. Short title.

V of 1898. 2. In clause (r) of sub-section (1) of section 4 of the Code of Criminal Procedure, 1898, after the words “means a pleader” the words “or a mukhtar” shall be inserted, and the words “mukhtar or” shall be omitted. Amendment of section 4, Act V of 1898.

[Price one anna.]

ACT No. XXXVI OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
3rd August, 1923.)

An Act further to amend the Indian Paper Currency Act, 1923.

X of 1923. **W**HEREAS it is expedient further to amend the
Indian Paper Currency Act, 1923; It is hereby
enacted as follows:—

1. This Act may be called the Indian Paper Short title.
Currency (Amendment) Act, 1923.

X of 1923. 2. To clause (a) of sub-section (8) of section 18 Amendment
of section 18,
Act X of
1923.
of the Indian Paper Currency Act, 1923 (hereinafter
referred to as the said Act), after the word
“purchased” the following words shall be added,
namely:—

“or, in the case of bullion obtained by melting
down silver coin issued under the author-
ity of the Governor General in Council,
at the rate of one rupee for 165 grains
troy of fine silver.”

3. To sub-section (3) of section 19 of the said Amendment
of section 19,
Act X of
1923.
Act the following *Explanation* shall be added,
namely:—

“*Explanation.*—For the purposes of this sub-
section, the sum expended in the purchase
of silver bullion obtained by melting down
silver coin issued under the authority of
the Governor General in Council shall be
deemed to be the value of the bullion
calculated at the rate of one rupee for
165 grains troy of fine silver.”

4. In section 20 of the said Act, for the word Amendment
of section
20, Act X of
1923.
“fifty” the words “one hundred and twenty”
shall be substituted.

[Price one anna.]

ACT No. XXXVII OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
3rd August, 1923.)

An Act further to amend the Code of Criminal Procedure, 1898, for certain purposes.

V of 1898. **W**HEREAS it is expedient further to amend the Code of Criminal Procedure, 1898, for certain purposes hereinafter appearing; It is hereby enacted as follows:—

1. (1) This Act may be called the Code of Criminal Procedure (Second Amendment) Act, 1923. Short title and commencement.

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

V of 1898. 2. In section 364 of the Code of Criminal Procedure, 1898 (hereinafter referred to as the said Code),— Amendment of section 364, Act V of 1898.

(a) in sub-section (3) the words “ unless he is a Presidency Magistrate,” shall be omitted; and

(b) in sub-section (4), for the words and figures “ or section 362, sub-section (2A) ” the following shall be substituted, namely:—
“ or in the course of a trial held by a Presidency Magistrate.”

3. For section 388 of the said Code the following section shall be substituted, namely:— Substitution of new section for section 388, Act V of 1898.

“ 388. (1) When an offender has been sentenced to fine only and to imprisonment in default of payment Suspension of execution of sentence of imprisonment.

Code of Criminal Procedure [ACT XXXVII
(*Second Amendment*).

ment of the fine, and the fine is not paid forthwith, the Court may—

(a) order that the fine shall be payable either in full on or before a date not more than thirty days from the date of the order, or in two or three instalments, of which the first shall be payable on or before a date not more than thirty days from the date of the order and the other or others at an interval or at intervals, as the case may be, of not more than thirty days, and

(b) suspend the execution of the sentence of imprisonment and release the offender, on the execution by the offender of a bond, with or without sureties, as the Court thinks fit, conditioned for his appearance before the Court on the date or dates on or before which payment of the fine or the instalments thereof, as the case may be, is to be made; and, if the amount of the fine or of any instalment, as the case may be, is not realised on or before the latest date on which it is payable under the order, the Court may direct the sentence of imprisonment to be carried into execution at once.

(2) The provisions of sub-section (1) shall be applicable also in any case in which an order for the payment of money has been made on non-recovery of which imprisonment may be awarded and the money is not paid forthwith; and, if the person against whom the order has been made, on being required to enter into a bond such as is referred to in that sub-section, fails to do so, the Court may at once pass sentence of imprisonment."

4. After sub-section (1) of section 562 of the said Code, the following sub-section shall be inserted, namely :—

"(1A) In any case in which a person is convicted of theft, theft in a building, dishonest misappropriation,

Amendment
of section
562, Act V
of 1898.

Conviction
and release
with admo-
nition.

OF 1923] *Code of Criminal Procedure*
(*Second Amendment*).

XLV of
1860.

misappropriation, cheating or any offence under the Indian Penal Code punishable with not more than two years' imprisonment and no previous conviction is proved against him, the Court before whom he is so convicted may, if it thinks fit, having regard to the age, character, antecedents or physical or mental condition of the offender and to the trivial nature of the offence or any extenuating circumstances under which the offence was committed, instead of sentencing him to any punishment, release him after due admonition."

5. In Schedule V to the said Code, in Form Amendment
of Schedule
V, Act V
of 1898.
XXXVIIA,—

- (a) the words " until the day of ,"
shall be omitted; and
- (b) for the words " on that day;" and for the
words " on the said day of
next," and for the words " on the
day of next;" the words " on the
following date (*or* dates), namely :— "
shall be substituted.

XVIII of
1923.

6. Sections 98 and 104 of the Code of Criminal Repeal.
Procedure (Amendment) Act, 1923, are hereby
repealed.

ACT No. XXXVIII OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
5th August, 1923.)

An Act further to amend the Land Acquisition Act, 1894, for certain purposes.

I of 1894. **W**HEREAS it is expedient further to amend the Land Acquisition Act, 1894, for certain purposes hereinafter appearing; It is hereby enacted as follows:—

1. (1) This Act may be called the Land Acquisition (Amendment) Act, 1923. Short title and commencement.

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

I of 1894. 2. In sub-section (1) of section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the said Act), after the word "locality", where it first occurs, the words "is needed or" shall be inserted. Amendment of section 4, Act I of 1894.

3. After section 5 of the said Act the following heading and section shall be inserted, namely:— Insertion of new section 5A in Act I of 1894.

"Objections.

5A. (1) Any person interested in any land which has been notified under section 4, sub-section (1), as being needed or likely to be needed for a public purpose or for a Company may, within thirty days after the issue of the notification, object to the acquisition of the land or of any land in the locality, as the case may be. Hearing of objections.

(2) Every objection under sub-section (1) shall be made to the Collector in writing, and the Collector shall give the objector an opportunity of being heard either

Land Acquisition (Amendment). [ACT XXXVIII

either in person or by pleader and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, submit the case for the decision of the Local Government, together with the record of the proceedings held by him and a report containing his recommendations on the objections. The decision of the Local Government on the objections shall be final.

(3) For the purposes of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land were acquired under this Act."

Amendment
of section 6,
Act I of 1894.

4. In sub-section (1) of section 6 of the said Act, for the words " whenever it appears to the Local Government " the following shall be substituted, namely :—

" when the Local Government is satisfied, after considering the report, if any, made under section 5A, sub-section (2)."

Amendment
of section 11,
Act I of 1894.

5. In section 11 of the said Act, after the words " the value of the land," the words " at the date of the publication of the notification under section 4, sub-section (1) " shall be inserted.

Amendment
of section 17,
Act I of 1894.

6. To section 17 of the said Act the following sub-section shall be added, namely :—

" (4) In the case of any land to which, in the opinion of the Local Government, the provisions of sub-section (1) or sub-section (2) are applicable, the Local Government may direct that the provisions of section 5A shall not apply, and, if it does so direct, a declaration may be made under section 6 in respect of the land at any time after the publication of the notification under section 4, sub-section (1)."

Amendment
of section 23,
Act I of 1894.

7. In clause *first* of sub-section (1) of section 23 of the said Act, for the words " declaration relating thereto under section 6; " the words " notification under section 4, sub-section (1), " shall be substituted.

Amendment
of section 24,
Act I of 1894.

8. In clause *seventhly* of section 24 of the said Act, for the words " declaration under section 6 " the

OF 1923.] *Land Acquisition (Amendment).*

the words " notification under section 4, sub-section (1)," shall be substituted.

9. In sub-section (1) of section 40 of the said Act, after the word "satisfied," the words "either on the report of the Collector under section 5A, sub-section (2), or " shall be inserted. Amendment of section 40, Act I of 1894.

10. In section 41 of the said Act,—

- (a) the words " Such officer shall report to the Local Government the result of the inquiry, and," shall be omitted; and Amendment of section 41, Act I of 1894.
- (b) after the word "satisfied" the following words shall be inserted, namely:—

" after considering the report, if any, of the Collector under section 5A, sub-section (2), or on the report of the officer making an inquiry under section 40."

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ACT No. XXXIX OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
5th August, 1923.)

An Act further to amend the Indian Ports Act, 1908.

XV of 1908. **WHEREAS** it is expedient further to amend the
Indian Ports Act, 1908; It is hereby enacted
as follows:—

1. This Act may be called the Indian Ports Short title.
(Amendment) Act, 1923.

XV of 1908 2. In sub-section (1) of section 6 of the Indian Amendment
of section 6,
Act XV of
1908.
Ports Act, 1908 (hereinafter referred to as the said
Act), after clause (e) the following clause shall be
inserted, namely:—

“ (ee) for regulating the manner in which oil or
water mixed with oil shall be discharged in any such
port and for the disposal of the same;”.

3. In section 21 of the said Act—

(a) to sub-section (1) after the word “ land-
floods ” the following shall be added,
namely:—

“ and no oil or water mixed with oil shall
be discharged in or into any such
port, to which any rules made under
clause (ee) of sub-section (1) of sec-
tion 6 apply, otherwise than in
accordance with such rules ”;

(b) in sub-section (2)—

(i) after the words “ such other thing ”
the words “ or so discharges any oil
or water mixed with oil ” shall be
inserted, and

(ii) for

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[Price one anna and three pies.]

Indian Ports (Amendment). [ACT XXXIX OF 1923.]

- (ii) for the words “ or thrown ” the words “ thrown or discharged ” shall be substituted; and
- (c) in sub-section (3)—
 - (i) after the words “ such other thing ” the words “ or from so discharging any oil or water mixed with oil ” shall be inserted, and
 - (ii) for the words “ or throw it ” the words “ throw or discharge the same ” shall be substituted; and
- (d) in sub-section (4), after the words “ thrown into ” the words “ or the oil or water mixed with oil is discharged in or into ” shall be inserted.

ACT No. XL OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
5th August, 1923.)

An Act further to amend the Indian Electricity Act, 1910.

IX of 1910. WHEREAS it is expedient further to amend the Indian Electricity Act, 1910; It is hereby enacted as follows:—

1. This Act may be called the Indian Electricity Short title.
(Amendment) Act, 1923.

• IX of 1910. 2. After section 29 of the Indian Electricity Act, Insertion of new section 29A in Act IX of 1910. 1910, the following section shall be inserted, namely:—

“ 29A. The provisions of sub-sections (3) and Application of section 18 to aerial lines maintained by railways. (4) of section 18 and of the *Explanation* thereto shall apply in the case of any aerial line placed by any railway administration as defined in section 3 of the IX of 1890. Indian Railways Act, 1890, as if references therein to the licensee were references to the railway administration.”

[Price one anna.]

ACT NO. XLI OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
5th August, 1923.)

An Act to amend the Charitable and Religious Trusts Act, 1920.

XIV of 1920. **W**HEREAS it is expedient to amend the Charitable and Religious Trusts Act, 1920; It is hereby enacted as follows:—

1. This Act may be called the Charitable and Religious Trusts (Amendment) Act, 1923. Short title.

XIV of 1920. 2. In section 2 of the Charitable and Religious Trusts Act, 1920, after the words "the Court of the District Judge", the words "or any other Court empowered in that behalf by the Local Government" shall be inserted. Amendment of section 2, Act XIV of 1920.

{Price one anna.}

CALCUTTA : PRINTED BY SUPDT. GOVT. PRINTING, INDIA, 8, HASTINGS STREET.

ACT No. XLII OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
5th August, 1923.)

An Act to make provision for the better management of wakf property and for ensuring the keeping and publication of proper accounts in respect of such properties.

WHEREAS it is expedient to make provision for the better management of wakf property and for ensuring the keeping and publication of proper accounts in respect of such properties; It is hereby enacted as follows:—

Preliminary.

1. (1) This Act may be called the Mussalman Wakf Act, 1923;

Short title,
extent and
commence-
ment.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas;

(3) This section shall come into force at once; and

(4) The Local Government may, by notification in the local official Gazette, direct that the remaining provisions of this Act, or any of them which it may specify, shall come into force in the Province, or any specified part thereof, on such date as it may appoint in this behalf.

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

Definitions.

(a) "benefit" does not include any benefit which a mutwalli is entitled to claim solely

[Price two annas and nine pies.]

solely by reason of his being such mutwalli;

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Act
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(b) "Court" means the Court of the District Judge or, within the limits of the ordinary original civil jurisdiction of a High Court, such Court, subordinate to the High Court, as the Local Government may, by notification in the local official Gazette, designate in this behalf;

(c) "mutwalli" means any person appointed either verbally or under any deed or instrument by which a wakf has been created or by a Court of competent jurisdiction to be the mutwalli of a wakf, and includes a naib-mutwalli or other person appointed by a mutwalli to perform the duties of the mutwalli, and, save as otherwise provided in this Act, any person who is for the time being administering any wakf property;

(d) "prescribed" means prescribed by rules made under this Act; and

(e) "wakf" means the permanent dedication by a person professing the Mussalman faith of any property for any purpose recognised by the Mussalman law as religious, pious or charitable, but does not include any wakf, such as is described in section 3 of the Mussalman Wakf Validating Act, 1913, under which any benefit is for the time being claimable for himself by the person by whom the wakf was created or by any of his family or descendants. VI of 1913.

Statements of Particulars.

Obligation to furnish particulars relating to wakf.

3. (1) Within six months from the commencement of this Act every mutwalli shall furnish to the Court within the local limits of whose jurisdiction the

the property of the wakf of which he is the mutwalli is situated or to any one of two or more such Courts, a statement containing the following particulars, namely :—

- (o) a description of the wakf property sufficient for the identification thereof;
- (b) the gross annual income from such property;
- (c) the gross amount of such income which has been collected during the five years preceding the date on which the statement is furnished, or of the period which has elapsed since the creation of the wakf, whichever period is shorter;
- (d) the amount of the Government revenue and cesses, and of all rents, annually payable in respect of the wakf property;
- (e) an estimate of the expenses annually incurred in the realisation of the income of the wakf property, based on such details as are available of any such expenses incurred within the period to which the particulars under clause (c) relate;
- (f) the amount set apart under the wakf for—
 - (i) the salary of the mutwalli and allowances to individuals;
 - (ii) purely religious purposes;
 - (iii) charitable purposes;
 - (iv) any other purposes; and
- (g) any other particulars which may be prescribed.

(2) Every such statement shall be accompanied by a copy of the deed or instrument creating the wakf or, if no such deed or instrument has been executed or a copy thereof cannot be obtained shall contain full particulars, as far as they are known to

the

the mutwalli, of the origin, nature and objects of the wakf.

(3) Where—

(a) a wakf is created after the commencement of this Act, or

(b) in the case of a wakf such as is described in section 3 of the Wakf Validating Act, VI of 1913, the person creating the wakf or any member of his family or any of his descendants is at the commencement of this Act alive and entitled to claim any benefit thereunder,

the statement referred to in sub-section (1) shall be furnished, in the case referred to in clause (a), within six months of the date on which the wakf is created or, if it has been created by a written document, of the date on which such document is executed, or, in the case referred to in clause (b), within six months of the date of the death of the person entitled to such benefit as aforesaid, or of the last survivor of any such persons, as the case may be.

Publication of particulars and requisition of further particulars.

4. (1) When any statement has been furnished under section 3, the Court shall cause notice of the furnishing thereof to be affixed in some conspicuous place in the Court-house and to be published in such other manner, if any, as may be prescribed, and thereafter any person may apply to the Court by a petition in writing, accompanied by the prescribed fee, for the issue of an order requiring the mutwalli to furnish further particulars or documents.

(2) On such application being made, the Court may, after making such inquiry, if any, as it thinks fit, if it is of opinion that any further particulars or documents are necessary in order that full information may be obtained regarding the origin, nature or objects of the wakf or the condition or management of the wakf property, cause to be served on the mutwalli an order requiring him to furnish such particulars or documents within such time as the Court may direct in the order.

Statement

-Statement of Accounts, and Audit.

5. Within three months after the thirty-first day of March next following the date on which the statement referred to in section 3 has been furnished, and thereafter within three months of the thirty-first day of March in every year, every mutwalli shall prepare and furnish to the Court to which such statement was furnished a full and true statement of accounts, in such form and containing such particulars as may be prescribed, of all moneys received or expended by him on behalf of the wakf of which he is the mutwalli during the period of twelve months ending on such thirty-first day of March or, as the case may be, during that portion of the said period during which the provisions of this Act have been applicable to the wakf : Statement of accounts.

Provided that the Court may, if it is satisfied that there is sufficient cause for so doing, extend the time allowed for the furnishing of any statement of accounts under this section.

6. Every statement of accounts shall, before it is furnished to the Court under section 5, be audited— Audit of account.

(a) in the case of a wakf the gross income of which during the year in question, after deduction of the land-revenue and cesses, if any, payable to the Government, exceeds two thousand rupees, by a person who is the holder of a certificate granted by the Local Government under section 144 of the Indian Companies Act, 1913, or is a member of any institution or association the members of which have been declared under that section to be entitled to act as auditors of companies throughout British India; or

(b) in the case of any other wakf, by any person authorised in this behalf by general or special order of the said Court.

General Provisions.

Mutwalli
entitled to
pay cost of
audit, etc.,
from wakf
funds.

7. Notwithstanding anything contained in the deed or instrument creating any wakf, every mutwalli may pay from the income of the wakf property any expenses properly incurred by him for the purpose of enabling him to furnish any particulars, documents or copies under section 3 or section 4 or in respect of the preparation or audit of the annual accounts for the purposes of this Act.

Verification.

8. Every statement of particulars furnished under section 3 or section 4, and every statement of accounts furnished under section 5, shall be written in the language of the Court to which it is furnished, and shall be verified in the manner provided in the Code of Civil Procedure, 1908, for the signing ^v of 1908. and verification of pleadings.

Inspection
and copies.

9. Any person shall, with the permission of the Court and on payment of the prescribed fee, at any time at which the Court is open, be entitled to inspect in the prescribed manner, or to obtain a copy of, any statement of particulars or any document furnished to the Court under section 3 or section 4, or any statement of accounts furnished to it under section 5, or any audit report made on an audit under section 6.

Penalty.

Penalties.

10. Any person who is required by or under section 3 or section 4 to furnish a statement of particulars or any document relating to a wakf, or who is required by section 5 to furnish a statement of accounts, shall, if he, without reasonable cause the burden of proving which shall lie upon him, fails to furnish such statement or document, as the case may be, in due time, or furnishes a statement which he knows or has reason to believe to be false, misleading or untrue in any material particular, or, in the case of a statement of accounts, furnishes a statement which has not been audited in the manner required by section 6, be punishable with fine which may extend to five hundred rupees, or, in the case
of

of a second or subsequent offence, with fine which may extend to two thousand rupees.

Rules.

11. (1) The Local Government may, after pre-^{Power to}vious publication, by notification in the local official ^{make rules.} Gazette, make rules to carry into effect the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

- (a) the additional particulars to be furnished by mutwallis under clause (g) of sub-section (1) of section 3;
- (b) the fees to be charged upon applications made to a Court under sub-section (1) of section 4;
- (c) the form in which the statement of accounts referred to in section 5 shall be furnished, and the particulars which shall be contained therein;
- (d) the powers which may be exercised by auditors for the purpose of any audit referred to in section 6, and the particulars to be contained in the reports of such auditors;
- (e) the fees respectively chargeable on account of the allowing of inspections and of the supply of copies under section 9;
- (f) the safe custody of statements, audit reports and copies of deeds or instruments furnished to Courts under this Act; and
- (g) any other matter which is to be or may be prescribed.

12. Nothing in this Act shall—

Savings.

- (a) affect any other enactment for the time being in force in British India providing for the

Mussalman Wakf. [ACT XLII OF 1923.]

the control or supervision of religious or charitable endowments; or

(b) apply in the case of any wakf the property of which—

(i) is being administered by the Treasurer of Charitable Endowments, the Administrator General, or the Official Trustee; or

(ii) is being administered either by a receiver appointed by any Court of competent jurisdiction, or under a scheme for the administration of the wakf which has been settled or approved by any Court of competent jurisdiction or by any other authority acting under the provisions of any enactment.

Exemption.

13. The Local Government may, by notification in the local official Gazette, exempt from the operation of this Act or of any specified provision thereof any wakf or wakfs created or administered for the benefit of any specified section of the Mussalman community.

ACT NO. XLIII OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 1st October, 1923.)

An Act further to amend the Indian Stamp Act, 1899.

II of 1899. **W**HEREAS it is expedient further to amend the Indian Stamp Act, 1899; It is hereby enacted as follows:—

1. This Act may be called the Indian Stamp Short title.
(Amendment) Act, 1923.

II of 1899. 2. In Schedule I to the Indian Stamp Act, Amendment of Schedule I, Act II of 1899.
1899,—

(i) In each of the following Articles, namely, No. 19, No. 36, No. 37 and No. 52, in the second column, for the words “ One anna ” the words “ Two annas ” shall be substituted;

(ii) In Article No. 47—

(a) in Division B, in the first column, for the words “ Fire-Insurance ” the words “ Fire-Insurance and other classes of Insurance, not elsewhere included in this Article, covering goods, merchandise, personal effects, crops, and other property against loss or damage; ” and

(b) in Division E, in the first column, for the words “ of sea-insurance or a policy of fire-insurance ” the words “ of the nature specified in Division A or Division B of this Article ”

shall be substituted;

(iii) For

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[Price one anna and three pies.]

Indian Stamp (Amendment). [ACT XLIII OF 1923.]

(iii) For Article No. 49 the following shall be substituted, namely :—

“ Promissory note [as defined by section 2 (22)]—

(a) when payable on demand—

(i) when the amount or value does not exceed Rs. 250; One anna.

(ii) when the amount or value exceeds Rs. 250 but does not exceed Rs. 1,000; Two annas.

(iii) in any other case Four annas.

(b) when payable otherwise than on demand. The same duty as a Bill of Exchange (No. 13) for the same amount payable otherwise than on demand.”